

Real Estate Sales in a Troubled Market: Need for Creativity Continues Despite New Laws

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Introduction

As the real estate market continues to swirl, state and federal lawmakers are weighing in on a wide variety of supposed solutions.

Last year, the Minnesota Legislature enacted reforms to state mortgage origination laws designed to prevent "predatory lending" practices. More recently, the Housing and Economic Recovery Act of 2008 was introduced. Signed into law by President Bush on July 30, 2008, the new act includes a wide variety of reforms designed to aid homeowners in foreclosure.

Highlights of the Housing and Economic Recovery Act of 2008

Among the highlights of the act are the following:

- An increase in the permanent conforming loan limits for government financial services corporations (such as Fannie Mae and Freddie Mac) up to the greater of \$417,000 or 115 percent of the local area median home price, capped at \$625,500.
- An increase in permanent FHA loan limits at the greater of \$271,050 or 115 percent of local area median home price, capped at \$625,500.
- A \$7,500 tax credit for first time homebuyers, repayable over 15 years (in other words, an interest free loan).
- A refinance program for homebuyers with problematic subprime loans.
- Prohibition of seller-funded down payment assistance programs.

Whether the act will satisfy stated objectives is a matter of debate. Critics cite the fact that lenders holding the defaulted loans would need to consent to the borrower's participation in the refinance program, and holders of second mortgages would be required to write off the entire balance of the loan in giving their consent.

Practically speaking, despite legislative efforts, the complicated market for residential real estate - particularly distressed properties - will continue for the foreseeable future.

This means that the need for creative thinking and a team of experienced advisors is critical to effecting sales of these properties.

A Collaborative, Creative Approach to a Complicated Market

To aid in this effort, Walgrave & Yardley Real Estate Group has created, what it hopes to be, a seller-friendly process for effecting short sales of residential real estate (NOTE TO READERS: a "short sale" refers to the sale of a piece of property for a price which is less than the aggregate outstanding mortgage loan balance).

Assisting in this effort are their attorneys, Mansfield Tanick & Cohen. The package of documentation and information which is compiled and submitted to each lender in the process is based upon Mansfield Tanick & Cohen attorneys' own experiences negotiating lender consents to short sales of property. Aiding in the effort are other professionals including credit counselors and title companies.

It is our joint hope that this program proves to be a hassle-free, cost effective and expeditious way for troubled homeowners to sell their property and move forward in rebuilding their financial lives.

About the Authors

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