



NEW YORK STATE SENATOR

Jeffrey D. Klein

## Senate Passes Klein Bill to Protect Homeowners

JEFFREY D. KLEIN April 26, 2010

| ISSUE: **CONSUMER PROTECTION, HOUSING, FORECLOSURE, PREDATORY LENDING, LOANS**

*Bill Will Significantly Decrease Pervasive Loan Modification Scams*

ALBANY, NY – State Senator and Deputy Majority Leader Jeff Klein (D-Bronx/Westchester) announced on Monday that the Senate passed his bill aimed at significantly decreasing, and in some cases eliminating, the pervasive practice of loan modification scams. Klein's bill (S.5896/NYS Assembly companion bill A. 9784) requires all companies advertising as loan modification companies to include a disclaimer on all advertisements alerting consumers that they can receive the same services for free through the New York State Banking Department.

“Hundreds of scam artists are out there trying to earn a quick buck and rob New Yorkers at this vulnerable time. By putting a disclaimer on these scam notices, we get the word out wider and faster to struggling homeowners that the services they are looking for can be provided free of charge. I urge my Assembly colleagues to join in this fight to protect hardworking homeowners across our state,” said State Senator and Deputy Majority Leader Jeffrey D. Klein (D-Bronx/Westchester).

Earlier this month, Senator Klein released the following public service announcement to alert New York residents to these dangerous and persuasive scams, and to urge the Senate to pass his legislation:

Protecting Your Money: Avoid Foreclosure Scams

[http://www.youtube.com/watch?v=EtMVt\\_noIDo](http://www.youtube.com/watch?v=EtMVt_noIDo)

Currently under Real Property Law 265-b, New York State regulates distressed property consultants and the terms and requirements they must abide by or risk prosecution by the Office of the Attorney General. Under Senator Klein's bill, a company that fails to display this disclaimer on their advertisements would be subject to the enforcement of the Attorney General as laid out in RPL 235-b.

"NeighborWorks' partner organizations across New York State provide foreclosure prevention counseling for free. Anything that can be done to protect people from going to irresponsible distressed property consultants, and to encourage them to instead go to free, not-for-profit professional counselors is a good thing," said Hilary Lamishaw, Director, NeighborWorks Alliance of New York State.

In June 2009, the FBI revealed that more than 2,000 companies nationwide allegedly scammed troubled homeowners with fake “rescue” offers. That’s a 400-percent increase from 2005. The Federal Trade Commission also launched an investigation of nationwide online and print advertisements offering mortgage foreclosure rescue assistance and discovered that about 70 separate companies were running questionable advertisements

“Our non-profit housing counseling agency provides services to homeowners in distress throughout the Hudson Valley and New York City. Over the past two years, our department has encountered countless clients who have been victims of “modification” and other “saving your home”-related scams. Fortunately, through heightened media awareness, spearheaded by Senator Klein and his Senate colleagues, more homeowners are wary of these scammers’ tactics and have been able to avoid them,” said Frengiz Surty, Home Retention Counselor, Housing Action Council.

“We strongly believe that this timely bill will further strengthen the already progressive and well-crafted consumer protection laws in New York State, helping to minimize fraudulent loan modification scams incurred by homeowners. Ultimately, this bill can also help reduce the overall number of foreclosures in New York as more homeowners will access free and reliable counseling services,” said Michael Hickey, Executive Director, Center for New York City Neighborhoods.

“Westchester Residential Opportunities Inc. supports Senator Klein’s legislation. Our organization has received numerous requests from struggling homeowners facing foreclosure after they have contacted a distressed property consultant who has not obtained

a workout for them. These homeowners have generally worked with one of these companies for six to twelve months, and have often paid upfront fees, which are illegal in New York State. The ads that our homeowners bring to our attention are misleading and deceptive,” said Veronica Raphael, Director of Foreclosure Prevention, Westchester Residential Opportunities Inc.

Senator Klein has long led the fight to protect homeowners in New York State. Beginning on April 15th, homeowners and communities affected by foreclosure began receiving housing protections in new and important ways as vital provisions of landmark foreclosure laws take effect. Included are key provisions taken from Klein sponsored legislation, among them a new law (S66007, Section 6) which requires banks to clean and maintain properties they already own, known as Real Estate Owned Properties (REOs), as well as properties that enter a judgment of foreclosure and sale. Banks will carry that responsibility until ownership is transferred through the closing of a title in foreclosure, or other disposition, and the deed for the property has been recorded. If a tenant currently occupies the property, the law states banks must also keep the property in a safe and habitable condition. The obligation may be enforced by any tenant, board of managers of a condominium or homeowners association where the property is located.

In addition to requiring banks to maintain foreclosed properties, this law also includes expanding the 90-day notice requirement to all distressed borrowers, expanding the mandatory settlement conference to include all loan types and requiring lenders, services and assignees of mortgage loans to make regular data filings with the NYS Superintendents of Banks.

