



# OFFICE OF THE ATTORNEY GENERAL

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## **Assembly Bill 322 Targets Mortgage Rescue Scams by Attorney General Catherine Cortez Masto**

The Scam:

The Scam Artists create a mortgage rescue operation targeting homeowners soon to lose their homes to foreclosure. The homeowners are desperate – they are looking for ways to save their property and stay in their homes. The criminals know this and know just how to appeal to these desperate people looking for a lifeline.

The Scammers advertise their mortgage rescue service and ask for money to be paid up front to “rescue” a homeowner who is in mortgage trouble. Often they offer a “100% money back guarantee” if they are unsuccessful in saving the home. They sometimes encourage the victim to pay mortgage payments directly to them during the “transaction.” This could continue until the victim is served a foreclosure notice from their bank or mortgage company and must vacate the property. Further, the scam artists sometimes illegally rent the vacated property, collecting several months rent before these unsuspecting victims are forced to vacate the foreclosed property.

These scam artists know they should register their organization with the Nevada Mortgage Lending Division, but don't. They know getting paid upfront fees prior to completing the mortgage repair is illegal. Scammers know there is a lot of money to be made off of this scam. They know that they will not do anything to “rescue” their customers' mortgages but will draft some paperwork so that they have a good defense against any possible theft charges. However, they also know that under existing Nevada law, the most they can be charged with is a misdemeanor violation of Nevada's deceptive trade law. These scam artists – who reside out of state - also know Nevada is unlikely to find them in order to prosecute for a misdemeanor deceptive trade charge due to the high costs of extradition.

Everything changes on October 1, 2009. That is the date Assembly Bill 322 becomes law. AB 322 was a joint effort between Assemblyman Joseph Hogan (D-Clark County) and the Attorney General's Office.

The bill will allow Nevada to prosecute these mortgage repair scammers as felons under the new racketeering law contained in Assembly Bill 322. No longer is Nevada limited to misdemeanor charges. AB 322 focuses on the fraudulent enterprise and not the amount of money lost, as in the case of theft charges. The State need only show an intent to defraud and a loss to any one or more person relying on the fraud, in two or more transactions within four years. The aggregate loss must only be in excess of \$250. The mortgage scam artists often charge \$4,000 or more from each victim – well above the \$250 limit in AB 322.

In addition to the possibility of felony charges, AB 322 describes such schemes as “racketeering” which includes the remedies of forfeiture of property and the proceeds of the criminal racketeering.

The new law takes the profit out of this crime. Not only do the criminals face prison time, but they lose anything tied to the perpetration of this fraudulent scheme. AB 322 is not only limited to mortgage repair fraud, but can also include phony voicemail schemes, fraudulent grant writing schemes, fraudulent charity solicitation schemes, schemes to debit credit card accounts for unauthorized transaction and any scheme related to fraud in the sale of goods or services as identified in Nevada's Deceptive Trade Statutes.

The relationship of the fraudulent scheme to a deceptive trade practice means that the Office of the Nevada Attorney General will focus on transactions involving the sale or lease of goods or services. Real estate transactions, landlord tenant transactions, transactions by national banks, debt collecting, bad customer service and other transactions not specifically described in NRS Chapter 589, Nevada's Deceptive Trade Act will not be considered.

Assembly Bill 322 provides a broad new tool to address organized schemes to defraud customers and the Attorney General warns fraudsters that her office intends to use this law in the ongoing fight to protect Nevada citizens.