



# OFFICE OF THE ATTORNEY GENERAL STATE OF MISSOURI

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Consumer Protection Division

# Missouri's 2007 Mortgage Fraud Task Force

- Created in Department of Insurance, Financial Institutions and Professional Registration
- Chaired by Richard Weaver, now Missouri's Commissioner of Finance
- Members –
  - Finance Division
  - Real Estate Commission
  - Real Estate Appraisers Commission
  - Insurance Consumer Affairs Division – Title Insurance
- Coordinated mortgage fraud investigations
- Drafted mortgage fraud legislation

# House Bill 2188 (2008)

- Sponsored by Representative David Pearce
- Created the state crime of mortgage fraud:
  - 570.310. 1. It is unlawful for a person, in connection with the application for or procurement of a loan secured by real estate to willfully:
    - (1) Employ a device, scheme, or artifice to defraud;
    - (2) Make an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statement made, in the light of the circumstances under which it is made, not misleading;
    - (3) Receive any portion of the purchase, sale, or loan proceeds, or any other consideration paid or generated in connection with a real estate closing that such person knew involved a violation of this section; or

- (4) Influence, through extortion or bribery, the development, reporting, result, or review of a real estate appraisal, except that this subsection does not prohibit a mortgage lender, mortgage broker, mortgage banker, real estate licensee, or other person from asking the appraiser to do one or more of the following:
  - (a) Consider additional property information;
  - (b) Provide further detail, substantiation, or explanation for the appraiser's value conclusion; or
  - (c) Correct errors in the appraisal report in compliance with the Uniform Standards of Professional Appraisal Practice.

# House Bill 2188 (2008)

- Class C Felony
- Strengthened investigative, administrative and court enforcement powers for Finance, Real Estate and Real Estate Appraisers commissions in mortgage fraud cases
- Authorized collective investigations among the regulatory divisions in DIFP

# Mortgage Loan Originators

- Low standards for individuals to enter the mortgage loan business
- State uniformity

# House Bill 382 (2009)

- Sponsored by Rep. Stanley Cox
- Missouri Secure and Fair Enforcement for Mortgage Licensing and Residential Mortgage Brokers Licensing Act
- Nationally integrated state-based licensing system – “Nationwide Mortgage Licensing System and Registry”
- Similar to the CRD (Central Registration Depository) securities licensing system
- Built under contract with FINRA (Financial Industry Regulatory Authority)

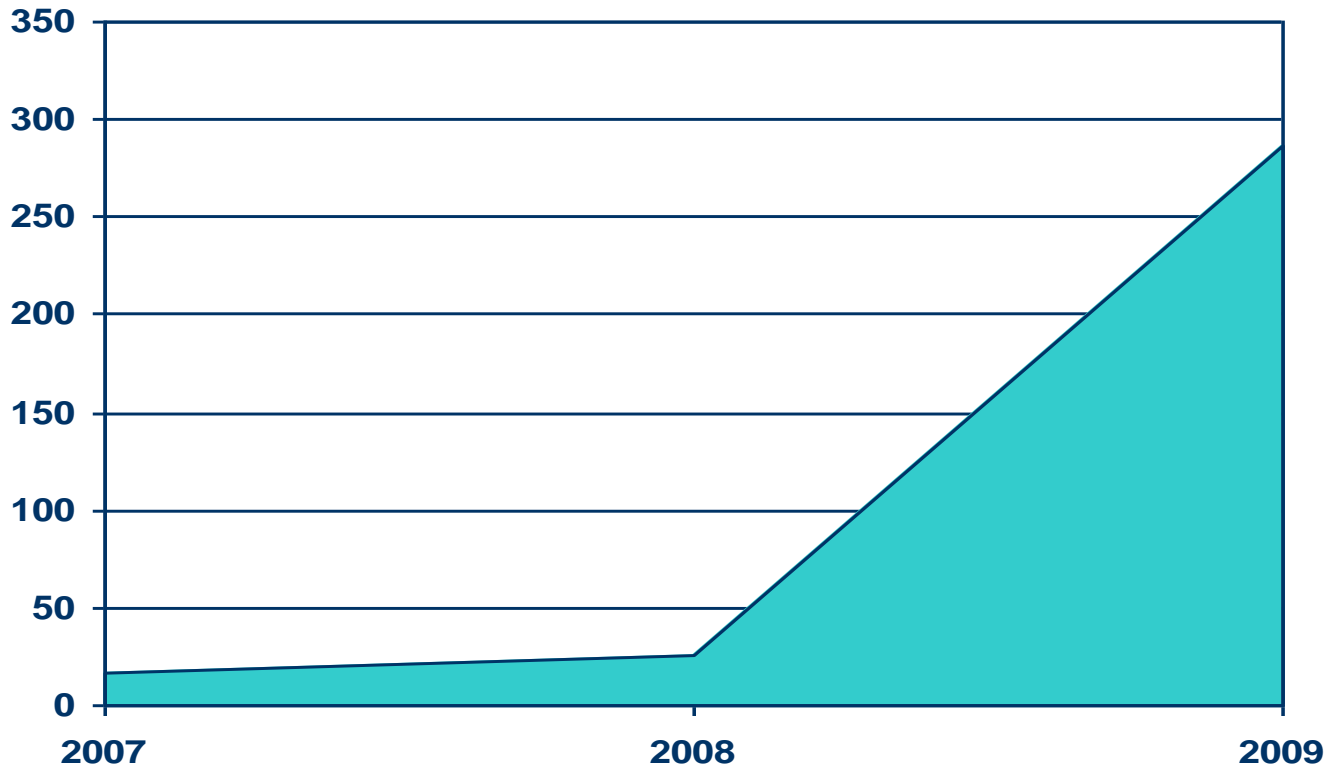
# Mortgage Loan Originator Licensing

- Financial responsibility, character and fitness
- Criminal convictions
- Training and written examination
- Bonding requirements
- Continuing education

# AGO Enforcement Mortgage Scams

- Consumer Protection Act
  - Sec. 407.020.1 – “deception, fraud, misrepresentation, unfair practice or concealment, suppression or omission of material fact.”
  - Sec. 407.100 – injunctions, consumer restitution, penalties, costs.
  - Sec. 407.020.3 – class D felony.

# Foreclosure Rescue Complaints



# “Zero Tolerance” Campaign

- In April, Attorney General Koster announced his "zero tolerance" campaign against mortgage scams in Missouri.
- Complaints were showing that consumers were particularly vulnerable to mortgage scams:
  - foreclosures continued to increase
  - interest rates dropped to historic lows for refinancing
  - federal government had launched a plan to help struggling homeowners.
- Complaints were showing that unscrupulous businesses were luring consumers into scams, leaving them in worse financial condition than caused by the economic slowdown.

# Deceptive Advertising

- Primarily direct mail
- Use of clever references to consumer's own bank
- Misleading references to federal government stimulus programs or housing agencies

# Foreclosure Rescue Cases

- Companies promising to negotiate:
  - A “new, workable solution” on the client’s existing mortgage.
  - A change in the terms of a loan in order to help the borrower avoid foreclosure and stay in the home.
- Charged large sums of money in advance of service.

# Civil Prosecutions

Section 407.935 to 407.943

- It shall be unlawful for a foreclosure consultant to knowingly:
- (1) Claim, demand, charge, collect, or receive any compensation until after the foreclosure consultant has fully performed each and every service the foreclosure consultant contracted to perform or represented he would perform;
- (2) Claim, demand, charge, collect, or receive any fee, interest, or any other compensation for any reason which exceeds ten percent per annum of the amount of any loan which the foreclosure consultant may make to the owner;

# Consultant Restrictions

- (3) Take any wage assignment, any lien of any type on real or personal property, or other security to secure the payment of compensation. Any such security shall be void and unenforceable;
- (4) Receive any consideration from any third party in connection with services rendered to an owner unless such consideration is fully disclosed to the owner;
- (5) Acquire any interest in a residence in foreclosure from an owner with whom the foreclosure consultant has contracted...
- (6) Take any power of attorney from an owner for any purpose, except to inspect documents as provided by law; ...

# Criminal Punishment?

- 2. Any violation of any of the acts enumerated in subsection 1 of this section shall be a class A misdemeanor.

# Consumer Restitution

- Filed a number of cases in Missouri courts.
- Joined with the Federal Trade Commission and the California Attorney General in obtaining a Temporary Restraining Order in a California federal court against US Foreclosure Relief and individuals running the fraudulent operation
  - Froze millions in assets
  - Funds now available for consumer restitution

## More to Do

- State – Federal cooperation is essential.
- Attorney General Koster testified before the United States Senate urging a federal prohibition on high advance fees by foreclosure rescue and mortgage modification operations.
- The Missouri General Assembly may also wish to review strengthening Missouri's foreclosure consultant laws.