325N.01 DEFINITIONS.

The definitions in paragraphs (a) to (h) apply to sections 325N.01 to 325N.09.

(a) "Solicitor" means any person who, directly or indirectly, makes any solicitation, representation, or offer to any owner to perform for compensation or who, for compensation, performs any service which the person in any manner represents will in any manner do any of the following:

(1) stop or postpone a foreclosure sale, a tax forfeiture sale, or a contract for deed termination;

(2) obtain any forbearance from any beneficiary, local unit of government, association of apartment owners, contract for deed seller, or mortgagee regarding:

(i) taxes;

(ii) dues owed to an association of apartment owners; or

(iii) contract for deed, mortgage, or any other payments;

(3) assist the owner to:

(i) exercise the right of reinstatement provided in section 580.30 or the right of redemption provided in section 580.25;

(ii) exercise the right of redemption under chapter 281 or the right to repurchase under sections 282.241 to 282.324;

(iii) cure a default that has resulted in a termination notice issued under section 559.21, subdivision 2a; or

(iv) cure a default that resulted in a lien secured by a common interest community or a master association;

(4) obtain any extension of the period within which the owner may reinstate the owner's obligation;

(5) obtain any waiver of an acceleration clause contained in any promissory note or contract secured by a mortgage on a residence in foreclosure or contained in the mortgage;

(6) assist the owner in foreclosure, tax forfeiture, or default on a loan, contract for deed payments, or dues owed to an association of apartment owners, to obtain a loan or advance of funds;

(7) avoid or ameliorate the impairment of the owner's credit resulting from the recording of a notice of default on taxes or any debt secured by the covered residence or the conduct of a foreclosure or tax forfeiture sale;

(8) save the owner's residence from foreclosure, tax forfeiture, or contract for deed termination; or

(9) negotiate or modify the terms or conditions of an existing residential mortgage loan, a repayment agreement on taxes owed, a repurchase agreement of tax-forfeited real property, or a contract for deed.

(b) A solicitor does not include any of the following:

(1) a person licensed to practice law in this state when the person renders service in the course of the person's practice as an attorney-at-law;

(2) a person licensed as a debt management services provider under chapter 332A, when the person is acting as a debt management services provider as defined in that chapter;

(3) a person licensed as a real estate broker or salesperson under chapter 82 when the person engages in acts whose performance requires licensure under that chapter unless the person is engaged in offering services designed to, or purportedly designed to, enable the owner to retain possession of the covered residence;

(4) a person licensed as an accountant under chapter 326A when the person is acting in any capacity for which the person is licensed under those provisions;

(5) a person or the person's authorized agent acting under the express authority or written approval of the Department of Housing and Urban Development or other department or agency of the United States or this state to provide services;

(6) a person who holds or is owed an obligation secured by a lien on any covered residence when the person performs services in connection with this obligation or lien if the obligation or lien did not arise as the result of or as part of a proposed property reconveyance;

(7) any person or entity doing business under any law of this state, or of the United States relating to banks, trust companies, savings and loan associations, industrial loan and thrift companies, regulated lenders, credit unions, insurance companies, or a mortgagee which is a United States Department of Housing and Urban Development approved mortgagee and any subsidiary or affiliate of these persons or entities, and any agent or employee of these persons or entities while engaged in the business of these persons or entities;

(8) a person licensed as a residential mortgage originator or servicer pursuant to chapter 58, when acting under the authority of that license, except that the provisions of sections 325N.01 to 325N.06, 325N.08, and 325N.09 shall apply to any person operating under a mortgage originator license who negotiates or offers to negotiate the terms or conditions of an existing residential mortgage loan;

(9) a nonprofit agency or organization that has tax-exempt status under section 501(c)(3) of the Internal Revenue Code that offers counseling or advice to an owner of a home in foreclosure or loan default if they do not contract for services with for-profit lenders or equity purchasers, except that they shall comply with the provisions of section 325N.04, clause (1);

(10) a judgment creditor of the owner, to the extent that the judgment creditor's claim accrued prior to the personal service of the foreclosure notice required by section 580.03, but excluding a person who purchased the claim after such personal service;

(11) an equity purchaser as defined in section 325N.10; and

(12) any common interest community association or master association that holds or is owed an obligation secured by a lien on any residence in foreclosure and any employee or agent of either while performing services within the scope of the employment or agency.

(c) "Property reconveyance" means a transaction involving:

(1) the transfer of title to real property by an owner, either by transfer of interest from the owner or by creation of a mortgage or other lien or encumbrance that allows the acquirer to obtain title to the property by redeeming the property as a junior lienholder or by other legal process, prior to the expiration of:

(i) the right of reinstatement provided in section 580.30 or the right of redemption of a property provided in section 580.25;

(ii) the right of redemption under chapter 281 or the right to repurchase under sections 282.241 to 282.324;

(iii) the period to cure a default that has resulted in a termination notice issued under section 559.21, subdivision 2a; or

(iv) the period to cure a default that resulted in a lien assessed by a common interest community or a master association; and

(2) the subsequent conveyance, or promise of a subsequent conveyance, of an interest back to the owner by the acquirer or a person acting in participation with the acquirer that allows the owner to possess either the covered residence or any other real property, which interest includes, but is not limited to, an interest in a contract for deed, purchase agreement, option to purchase, or lease.

(d) "Person" means any individual, partnership, corporation, limited liability company, association, or other group, however organized.

(e) "Service" means and includes, but is not limited to, any of the following:

(1) debt, budget, or financial counseling of any type;

(2) receiving money for the purpose of distributing it to creditors, vendors, or association of apartment owners in payment or partial payment of any obligation secured by a covered residence;

(3) contacting creditors, vendors, association of apartment owners, or servicers to negotiate or offer to negotiate the terms or conditions of an existing residential mortgage loan, a tax forfeiture redemption or repurchase agreement, or a contract for deed;

(4) arranging or attempting to arrange for an extension of the period within which the owner of a covered residence may:

(i) cure the owner's default and reinstate the owner's obligation pursuant to section 580.30;

(ii) cure the owner's property tax default and redeem the property;

(iii) cure the owner's default on dues owed to an association of apartment owners and release the common interest community or master association's lien; or

(iv) cure the default on a contract for deed and void the purchaser's ability to terminate the contract;

(5) arranging or attempting to arrange for any delay or postponement of the time of sale of the covered residence;

(6) advising the filing of any document or assisting in any manner in the preparation of any document for filing with any bankruptcy court; or

(7) giving any advice, explanation, or instruction to an owner of a covered residence, which in any manner relates to the cure of a default in or the reinstatement of an obligation secured by a lien on the covered residence, the full satisfaction of that obligation, or the postponement or avoidance of a sale of a covered residence, pursuant to a power of sale contained in any mortgage.

(f) "Covered residence" means residential real property where there is a delinquency or default on any loan, tax, or contract for deed payment, association of apartment owner or master association dues, or other debt secured by or attached to the residential real property that:

(i) consists of one to four family dwelling units, one of which the owner occupies as the owner's principal place of residence;

(ii) is an apartment, as that term is defined in section 515.02, subdivision 2;

(iii) is the subject of a contract for deed; or

(iv) is real property that is principally used for farming, as defined in section 500.24, subdivision 2, whether or not parcels are contiguous, so long as the owner occupies one of the parcels as the owner's principal place of residence.

(g) "Owner" means the record owner of a covered residence. For the purposes of this chapter, if the residence in foreclosure is subject to a mortgage foreclosure, an owner is the record owner at the time the notice of pendency was recorded, or the summons and complaint served.

(h) "Contract" means any agreement, or any term in any agreement, between a solicitor and an owner for the rendition of any service as defined in paragraph (e).

(i) "Association of apartment owners" has the meaning given in section 515.02, subdivision 5.

(j) "Common interest community" has the meaning given in section 515B.1-103, clause (10).

(k) "Master association" has the meaning given in section 515B.1-103, clause (21).

History: *2004 c 263 s 1,26; 2007 c 57 art 3 s 43; 2007 c 106 s 1,22; 2008 c 341 art 5 s 23; 2009 c 141 s 1; 2013 c 17 s 1; 2015 c 44 s 32; 2015 c 50 s 1; 2021 c 7 s 5*