

Buyer's Choice Act

Frequently Asked Questions

Q. What is the Buyer's Choice Act?

A. The Buyer's Choice Act is a new California law that prohibits a seller who acquired property at a foreclosure sale from requiring a buyer to purchase title and escrow services from a company chosen by the seller. It was enacted by Assembly Bill 957 (Galgiani).

Q. Who is a seller under the Buyer's Choice Act?

A. A seller is defined as a mortgagee or beneficiary under a deed of trust who acquired title to the property at a foreclosure sale, including a trustee, agent, officer, or other employee of any mortgagee or beneficiary.

Q. When did the Buyer's Choice Act become law?

A. On October 12, 2009. The law was an urgency measure and became effective when it was signed by the Governor.

Q. Can a buyer agree to accept the recommendations of the seller as to which title or escrow provider to use?

A. Yes, provided that a written notice of the right to make an independent selection of those services is first given by the seller to the buyer.

Q. Does the new law apply to all real estate transactions?

A. No. The law only applies to 1-4 unit residential properties.

Q. What settlement services are covered by the law?

A. The law covers title insurance and escrow services.

Q. Are there penalties for violating the Act?

A. Yes. A seller who violates the new law is liable to the buyer for three times all charges made for the title insurance or escrow service. In addition, a seller who violates the law is also considered to have violated their licensing law.

Q. If a person violates the law can the sale be set aside?

A. No. A transaction cannot be invalidated solely because of the failure to comply with the law.

Q. Why did the Legislature pass the Buyer's Choice Act?

A. The Legislative findings and declarations state that the recent troubled real estate market has resulted in a concentration of homes available for resale by foreclosing lenders and has dramatically changed the market dynamics affecting ordinary home buyers. The Act declares that the potential for unfairness due to the resale of large numbers of foreclosed homes requires protections against abuse.

Q. Does the Act continue indefinitely?

A. The Act is only effective until January 1, 2015 unless it is extended by the Legislature.