

Buyer's Choice Act

Frequently Asked Questions

Q. What is the Buyer's Choice Act?

A. The Buyer's Choice Act is a new law that prohibits a seller who acquired property as a foreclosure sale from requiring a buyer to purchase title and escrow services from a company chosen by the seller as a condition to receiving offers or selling the property. 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 does the Buyer's Choice Act become law?

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

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 residential property improved by four or fewer dwelling units.

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. What is the reason the Legislature passed 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 the majority of homes available for resale within the hand of foreclosing lenders and has dramatically changed the market dynamics affecting ordinary home buyers. The act declares that the potential for unfairness occasioned by the resale of large numbers of foreclosed home requires that protections against abused be made effective immediately.

Q. Does the Act continue indefinitely?

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