



NEW YORK STATE SENATOR

Malcolm Smith

Senator Malcolm A. Smith Protects Distressed Property Owners

MALCOLM A. SMITH April 27, 2010

Senator Malcolm A. Smith passed legislation (S5896c) to protect consumers from distressed property consulting service scams by requiring all companies offering these services to include a consumer warning statement in all advertisements.

“With the onset of the subprime lending crisis and the resulting economic crisis, the nationwide jump in foreclosures and mortgage defaults has triggered a corresponding rise in the number of predatory scams targeting financially-strapped homeowners,” Senator Smith said. “Many of the services these companies provide are available for free through housing counselors funded by New York State.”

In the Spring of 2009, Attorney General Andrew Cuomo announced that his office was conducting a statewide investigation into the loan modification industry. Subpoenas were filed against twelve companies that offer these services to consumers across New York. According to the Attorney General's investigation, many of these companies lured consumers through false and misleading tactics, such as using company names and advertisements that give the false impression that they are affiliated with a government agency. Further, such advertisements falsely claim to have extraordinarily high success rates - of as much as 100 percent, and falsely claimed to have a special relationship with the homeowner's lender.

Capitalizing on the current economic downturn and housing crisis, these companies often scour foreclosure notices and filings and prey on consumers desperate to save their homes from being foreclosed. Their solicitations may be in person, by mail, telephone or e-mail, or via advertisements. Often, these scammers use titles that sound official, such as "foreclosure or mortgage consultant" or falsely market themselves as a "foreclosure service" or "foreclosure rescue company."

"Ensuring that New Yorkers who have already fallen prey to deceptive lending practices are not once again victimized by misleading advertisements is crucial," Senator Smith said. "By requiring a consumer warning statement in all distressed property consultant advertisements with the phone number of the New York State Banking Department as well as a reminder that New York State provides free counseling services, this legislation will reduce the number of distressed New York State homeowners who compound their financial difficulties by falling victim to the misleading advertisements of distressed property consulting companies."