

CHAPTER 197
FORMERLY
SENATE BILL NO. 48
AS AMENDED BY
SENATE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO DECEPTIVE FORECLOSURE PRACTICES

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 25, Subchapter I. General Provisions in Title 6 of the Delaware Code by adding a new §2509 to read as follows:

“§2509. Deceptive foreclosure practices.

(a) No person shall make, use, or cause to be made or used a deceptive or fraudulent record, document, or statement in support of any foreclosure upon real property, including, without limitation, statements about the offering of a loan modification, the borrower’s history of payments, the validity of the assignment of the mortgage loan, the identity of the record holder of the mortgage loan, or the compliance with any other requirements of the Delaware Code or Superior Court rule.

(b) The Attorney General shall have the same authority to enforce and carry out this Section as is granted by Chapter 25 of Title 29 and by §§2511-2527 and 2531-2536 of this title.

(c) The Attorney General shall have the same authority to enforce and carry out this section as is granted by Chapter 25 of Title 29 and by §§2511-2527 and 2531-2536 of this title; however, this section shall not be enforced by a private cause of action under §2525 or §2533 of this title or otherwise.

(d) If a court or tribunal of competent jurisdiction finds that any person has willfully violated this Section, the Attorney General, upon petition to the court or tribunal, shall recover from the person, on behalf of the State, in addition to all costs, a civil penalty of not more than \$10,000 per violation pursuant to §2533 of this title. If the violation is against an elderly person or person with a disability, an additional civil penalty of not more than \$10,000 per violation shall be recovered pursuant to §2581 of this title. Each day that a willful violation continues shall be considered a separate violation.

(e) For the purpose of this Section, a willful violation occurs when the party committing the violation knew or should have known that the party’s conduct was of the nature prohibited by this Section.

(f) After confirmation of the foreclosure sale by Superior Court, title to real property sold to an innocent third party purchaser for value at a foreclosure sale shall not be contested, clouded, or deemed to be unmarketable or uninsurable for title insurance based solely upon a violation of this section.”

Section 2. This Act becomes effective when it is enacted into law.

Approved September 21, 2011