



May 2008

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Special points of interest:

- Distressed Property Law
- Local Translation Companies
- The IBA needs you! Board and committee volunteer positions available.
- IBA sponsored Principles and Practices Class asks your support to boost attendance.
- New IBA Members

Distressed Properties Law

Overview. Passed during 2008 Session. Takes effect June 12th, 2008. No waiver allowed. Requires forms revisions.

Purpose of the law.

Consumer protection—vulnerable property owners who are late on mortgage payments, late on taxes, elderly, non-English speaking, have diminished capacity and have equity in the home.

Mortgage Foreclosure Rescue Scam (Equity Skimming). Notice of foreclosure recorded. Buyer shows up to “rescue” debtor. Quit claim deed exchanged for buyer’s assumption of owner’s debt. Owner allowed to stay in house as renter. Owner given option to buy back later OR share in equity at resale. Owner unable to pay rent or buy back. Property refinanced to eliminate equity. Owner evicted. Scam artists / equity skimmer takes property and all of owner’s equity.

The new law was intended to prevent these scams from happening and to give owners a remedy when the scams do happen.

Important Definitions.

Distressed Homeowner. Owner AND occupant of a residential dwelling who is:

- At risk of loss for non-payment of taxes;
- In default under a mortgage;

- 30 days behind on mortgage; OR
- Believes he or she could default on mortgage within 4 months and tells a lawyer, real estate agent, lender, mortgage or credit counselor, etc.
- No duty to notify agent that owner is a Distressed Homeowner
- No public notice of mortgage default necessary to become distressed
- Owner may not know they are distressed!

Dwelling. A single, duplex, triplex, or four-unit family residential building. Condominiums in buildings containing more than 4 units are NOT subject to the statute.

Distressed Home Consultant. Solicits or contacts Distressed Homeowner and offers to perform any service that will:

- Stop or delay a foreclosure sale
- Assist DH to obtain a loan
- SAVE THE HOME FROM FORECLOSURE
- Purchase property within 20 days of foreclosure, or
- Systematically contacts distressed homeowners.

Distressed Home Consultant. Exempt from the definition of Distressed Home Consultant:

- Financial institutions
- Mortgage brokers
- Mortgage loan servicers
- Credit counselors
- Licensed attorneys

Real estate agents and brokers are NOT exempt!

How is Agent Most Likely to Become a Distressed Home Consultant?

- Contact Lender or trustee of Seller’s existing or new loans
- Suggest you will save property from foreclosure
- Draft DH seller lease back or option to buy back
- Set closing date on within 20 days of foreclosure (buyer/buyers agent also becomes DHC)
- Systematically contact distressed homeowners

How Does an Agent Avoid Becoming a Distressed Home Consultant?

- Avoid properties that are in foreclosure (including making offers within 20 days)
- Do not contact lenders
- Do not offer to stop, delay, stay or postpone a foreclosure sale

(con’t on page 2)

IBA NEEDS YOUR SUPPORT AND INVOLVEMENT

There are many ways to show your support and be involved in the IBA.

IBA needs volunteers to serve as member of the Board or any of the following committees:

- Membership chaired by Kelly O'Neil
- Marketing chaired by Cary Porter
- Education chaired by Kristen Cramer
- Finance chaired by Brian Graves
- Programs chaired by Elizabeth Erickson
- NWMLS Relationship chaired by Doug Davis
- Benefits chaired by Marcus Tageant
- Technology chaired by Anne Rittenhouse
- Special Events chaired by Doug Davis.

IBA PRINCIPLES & PRACTICES CLASS

IBA sponsors an Advanced Practices Class which is a 30-clock hour course required on an agent's first renewal.

Classes are held at Hallmark Realty along Lake Washington Blvd in Kirkland and is open to all IBA members.

Please contact the IBA office for details and reservations.



Distressed Property Law (Continued)

- Do not offer to save property from foreclosure
- Do not systematically contact distressed homeowners.

What is required of a DH Consultant?

- Enter into a Distressed Home Consultant Agreement—that contains special provisions
- Provide FIDUCIARY DUTIES to the distressed homeowner

Forms Revisions.

- **New Listing Agreement Addendum (Form 1A-A and Form 1B-A)**

Definition of Distressed Home. Warranty that Property is not distressed. If becomes distressed, written notice. Broker may terminate listing agreement or Seller must sign DH Listing Agreement (1A-DH). Recommended for all brokers to require all sellers to sign 1A-A or 1B-A before June 12th. All pending listings, even if already in contract IF agent still providing real estate brokerage services. If Seller cannot warrant that property is not a distressed home, seller must sign 1A-DH. If Seller will not sign 1A-DH, recommended that broker terminate listing agreement. What if Seller will not sign Amendment? Broker needs to assess risk and decide what to do.

- **Revised Listing Agreement (Form 1A and Form 1B)**

Must be used for all listings taken after form release date, June 5th.

If seller gives notice of distress, broker may terminate listing agreement or seller must sign DH Listing Agreement (1A-DH).

- **New Distressed Home Exclusive Sale and Listing Agreement (Form 1A-DH and Form 1B-DH)**

Must be used for all transactions where Seller cannot provide warranty. Seller represents that property is a Distressed Home. Protections for Listing and Selling Office. Broker and Listing Agent are providing services in RCW 18.86 and are NOT providing services of a Distressed Home Consultant (unless agreed in writing). If providing those services (e.g. contact with short sale lender) MUST have a separate written agreement. Seek legal counsel for review or drafting of specific agreements (e.g. distressed homeowner consulting services). Provides that Agent described services to homeowner in English. If not in English, must check the box and have Form 1A-DH translated. Use a professional to translate the agreement! Both English and translated agreement must be signed.

Allows for Dual Agency. If Broker is dual agent—seller agrees that fiduciary duties are met by complying with RCW 18.86 duties. Allows for greatest market exposure. Allows dual agent to satisfy fiduciary duties to seller and Agency Law duties to buyer.

Entire agreement in 12 point font. Notice re: Distressed Homes in bold 14 point font. Owner must initial the "Notice". Agreement includes Broker and Listing Agent contact information.

- **New FSBO Addendum**

Seller either represents that the property is not a distressed home or agrees that buyer's agent and buyer are not distressed home consultants.

Revised Buyer Agency Agreement

Broker not required to show Distressed Homes. No Distressed Home Conveyance / Reconveyance.

- **New Seller Warranty—No Foreclosure Pending**

Seller warranty—no foreclosure pending. Seller warranty that closing is not within 20 days of foreclosure sale. If seller signs and is wrong, buyer may terminate and recover actual costs. Consider including with every offer.

Penalty for Non-Compliance.

- Actual damages
- Double or Triple Damages up to \$100,000
- Attorney Fees and Costs

How do you present this information to sellers?

- Law has changed, requires new forms
- Legitimate public purpose but creates new obligations for agents dependent upon seller representations
- Attorney General preparing hand-out materials for public and 800 #.

WELCOME 2008 NEW IBA MEMBERS

- Chip McClelland of **Washington Hawaii Properties, Inc.**
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F 206.772.2987
mark@haleypropertiesonline.com

Impact Your Sales Now Webinar Classes

Jeff Graves has agreed to offer his Webinar classes at \$15.00 each which is **one half** of his regular rate to all IBA members and their Associates. His program was approved at the November 8th Board of Directors meeting and introduced to the General Membership at our meeting last Thursday, Dec. 12th. He has taught literally hundreds of classes for Lawyer's Title when employed by them. He was used as the principal educator for both John L. Scott and Coldwell Banker Bain. He taught a class on Target Marketing at our Ed-Con two years ago.

Jeff's classes are about 45 minutes long and are on specific subjects that Agents want to learn. They are not clock hour classes. When students take his classes or coaching he is available for follow up questions. **Is that unique or what?** The IBA believes that this is a **HUGE** benefit for all of us and for our Agents. His company is called **IMPACT YOUR SALES NOW!** **He has set up a special page for IBA members** www.impactyoursalesnow.com/iba/. A list of available courses is available upon request. Email Brian at bgraves@bentleyproperties.com.



Directory of Local Translation Companies

Compiled by Scott Mallard of Madison Properties

Professional Translation Services

SDL provides high quality professional translation at low costs.

www.sdl.com

Yohana International Interpreter Services

(425) 771-8465
5905 190th PI SW
Lynnwood, WA

The Interpreter

(509) 754-4393
224 16th Ave SW
Ephrata, WA

Russian Without Borders

(206) 242-4553
Seattle, WA

Language Connection

(425) 277-9045
16436 SE 128th St
Renton, WA

Dynamic Language Center

(206) 244-6709
15215 52nd Ave S Ste 100
Tukwila, WA

Kmp Intercultural

(206) 230-0958
8029 SE 57th St
Mercer Island, WA

Lincom International Corp

(206) 367-2888
Seattle, WA

Japan Express

(206) 587-0228
Seattle, WA

Swedish Language Services

(206) 781-3014
Seattle, WA

Washington State Court Interpreters & Translators Society-Wits

(206) 382-5690
PO Box 1012
Seattle, WA



Contact: Brenna Fields
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 Renton, WA 98055
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 Email:
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We're on the Web!
www.nwiba.com

“Keeping the Independent Broker ... Independent.”

You are cordially invited to our next regular monthly meeting to be held **Thursday, April 17th at 10 am** at the **NWMLS office** located at **11430 NE 120th St, Kirkland, WA 98034.**



Welcome to the Independent Broker's Association. The IBA is open to all real estate brokers who are not part of a national or regional franchise organization. We represent 54 brokerage offices in western Washington, engaging over 1,700 uniquely qualified real estate sales professionals. Our commitment to giving the real estate client the very best in truly independent representation is enhanced through our regular meetings, special events and conventions, clock hour classes, and seminars.

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