By Phil Hunt

Special to the Forum

Q: I have heard a rumor that the Department of Real Estate was going to be dissolved. Is this true? And, if so, what does it mean to the average property owner and/or real estate agent?

A: What a timely question. It just so happens that the rumor is correct. As of July 1, 2013, the Department of Real Estate (DRE) will become the Bureau of Real Estate under the Department of Consumer Affairs (DCA). As of today, we have no idea just how things will change for property owners and for real estate agents but you can be sure this will be a major change to business as usual.

One change which effects the licensing of real estate brokers, starting Jan. 1, 2013, an agent who wishes to become a broker must have been an active agent for two of the past five years. The agent used to be able to claim exemption to this rule if they had a 4-year college degree. But now, to claim the exemption from the experience requirement, the degree must be a major or minor in real estate, not just some degree in some subject that may have had some relevance to real estate, as in the past. It’s about time.

For the homeowner, there are also some benefits. The AB 278 & 900 bills known as The California Homeowners Bill of Rights now prohibits a lender from dual tracking. As it had been, when a borrower in a distressed loan had filed for a short sale and/or a loan modification, the lender would continue on to process the foreclosure on the property during the processing of the short sale and/or the modification; and, in many cases, would actually sell the property at a foreclosure sale during the negotiations between the borrower and the lender — effectively, pulling the rug out from under the borrower. This is known as dual tracking.

Now, as of Jan. 1, 2013, if a lender has agreed in writing to allow a short sale or they have signed into a modification, provided the borrower is complying with the demands of the lender for documentation, the lender cannot proceed with a foreclosure. This only applies to owner-occupied one- to four-unit properties. Again, it’s about time.

SB 1069 protects the homeowner from personal liability for deficiency following foreclosure or refinance if the loan was an acquisition loan on an owner-occupied one- to four-unit property. There is no protection from deficiencies for equity cash out loans.

There is even a new law, SB 1191, to protect the tenants of rentals in one- to four-unit properties. The owner must now disclose to the tenant or prospective tenant before a new lease is signed that there is a Notice of Default filed against the property (the first step to a foreclosure) if one exists.

As it has been in the past, an owner could lease/rent a property to an unsuspecting tenant, and accept a security deposit and rent — only to have the property foreclosed on a few weeks or months later. The tenant would then lose all they had invested and be forced to move out.

Now, the tenant has been warned as to the possibility of a foreclosure and may decide not to rent the property.

I feel sure that additional changes will be disclosed as time goes on. When I find these changes, I will write about them. Thanks for the question.

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