

Background: Targeting Michigan Residents Involved in the Home Foreclosure Crisis

Like other states throughout the country, Michigan has been hard hit by the home mortgage crisis. Thousands of Michigan residents are facing the threat of losing their homes, or have already lost their homes to foreclosure.

Now, according to news reports, some individuals in Michigan may be targeting the right to vote of Michigan residents who have had the misfortune of being caught up in the home mortgage crisis. Their goal, apparently, would be to prevent these residents from voting in the November 4 presidential election, despite the fact that the targeted persons are bona fide residents of Michigan and are registered to vote in the state.

Specifically, it has been reported that individuals are compiling lists of Michigan residents involved in home foreclosures, that these individuals may then station themselves at select polling places on Election Day, and that these individuals would attempt to convince polling officials to not allow registered voters whose names appear on the foreclosure lists to cast a ballot. The basis for the challenge would be that the listed voter allegedly has moved and is no longer a resident of the precinct in which he or she is seeking to vote, although the foreclosure lists actually can include persons who continue to reside in the foreclosed home.

This voter challenge effort, if it is carried through on, has the potential to create widespread confusion and voter intimidation, with the result that many voters could be deprived of their legally protected right to participate in the November 4 election.

Home Foreclosure and the Legally Protected Right to Vote of Michigan Residents

Thus, it is important that Michigan voters who are facing home foreclosure, or whose homes have been foreclosed upon, know their legal rights to ensure that they are not impeded in exercising their right to vote in the November 4 election.

The protections afforded by the U.S. Constitution, federal law, and state law include the following:

- ✓ **Home foreclosure itself has no effect on a person's eligibility to vote.** In the United States, citizens have the right to vote regardless of their economic status. Thus, it is unlawful to deny a person the right to vote simply because of a home foreclosure.

- ✓ **If a Michigan registered voter facing home foreclosure has not moved, or has moved and updated the registration rolls with his or her new address, the voter may vote in Michigan on November 4.** The only situation in which home foreclosure potentially can become an issue with respect to voting is when it results in a Michigan registered voter moving his or her permanent residence, which in turn triggers the need to update the person's voting address on the state's registration rolls. However, some registered voters facing foreclosure have not moved (since, for example, they may be trying to work out a settlement with the mortgage holder). For these voters, the pending foreclosure has no effect on their ability to vote. Likewise, if a registered voter facing foreclosure has moved but has already notified the voter registrar of the new address, the foreclosure action has no relevance to their right to vote in the November 4 election.

- ✓ **If home foreclosure has resulted in a change in a voter's residence address, and if the voter does not update the registration rolls with the new address prior to election day, state law and federal law will, in many circumstances, protect the voter's right to vote nonetheless in the November 4 election.**
 - ❖ **Michigan law specifies that when a voter moves within the same city or township, the voter can simply vote at the precinct where he or she was registered, and update the registration rolls with the new address on Election Day.**

 - ❖ **Michigan law further specifies that if the voter moves from one Michigan county to another, or from one city or township to another in the same county, the failure to update the registration rolls with the new address prior to election day does not affect the right to vote so long as the move occurred within 60 days of election day.**

 - ❖ **Federal law also provides some protections to registered voters who move but who do not update their registration record prior to election day, however, these protections are more limited than the protections provided by Michigan law.**

- ✓ **Michigan law also places important restrictions on the ability of individuals to appear at a polling place on Election Day and challenge the right to vote of a Michigan registered voter.** Michigan law specifies that a challenger may object to a voter casting a ballot only if the challenger has good reason to believe that the person offering to vote is ineligible. In other words, challenges may not be based on supposition or guesswork. Any list of foreclosures in Michigan may well include a significant number of eligible voters, given that it can include persons who have not moved, and persons who have

moved but remain eligible to vote for the reasons listed above. Accordingly, such a list may not comply with Michigan's "good reason to believe" standard.

- ✓ **If a voter is the subject of a challenge at a polling place, the voter will be required to answer a few questions (under oath) concerning his or her eligibility to vote, and will then vote a "challenged ballot" if the precinct official concludes that he or she is eligible to vote in that precinct.** Thus, simply because a challenge is made, the voter retains the right to vote, subject to the voter eligibility rules described above. As a last resort, if the voter is denied a challenged ballot, the voter should ask to cast a provisional ballot, which will be reviewed by election officials after the election to determine whether or not it should count.



**QUESTIONS? PROBLEMS?
Call the Election Protection Hotline,
at 1-866-OUR-VOTE.**