SPLITTING HOUSE AFTER SPLITTING WITH YOUR SPOUSE CAN BE TRICKY

THINKSTOCK IMAGE

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Q: My ex-husband and I have a home in North Carolina. He lives in the home but both of our names are on the title to the home and on the mortgage loan. I now live in Georgia.

We have fallen behind on payments, and we are approaching foreclosure quickly. He is working with a government agency in North Carolina that will get the mortgage current and pay for up to 36 months if he qualifies under the program. They believe he will.

They want me to sign a quitclaim deed. I am aware that I will still have a financial obligation to the original mortgage. My question: If I sign the quitclaim deed and he passed away and I was able to pay off the original mortgage would the house be mine?

A: First of all, you have to be very careful when you deal with anybody that claims they can help you out but want you to convey title to the home. Frankly, we are suspicious of whether the “agency” you are working with is a legitimate governmental agency. Frequently, many companies will use language and names in their literature to give you the impression that they are government sponsored or related to a government agency.

You should make sure they are actually a government agency. If they are, you should be able to find them on the official website for your state’s government. If you can’t find them there, they may not be a government agency. You should check the agency or company name out on the web and by searching their name on the Better Business Bureau website to see if there are any complaints against the company online and with government agencies.

Once you have determined they are legitimate, you can move forward and see what plans they are offering and what they can do for you and your ex-husband.

What makes us suspicious is that you write that they want you to quitclaim the property but you don’t mention if that’s to your husband or to the agency. In either case, we question why they would require a change in the title ownership to the home, especially when the existing loan won’t be paid off and you’ll still be on the hook for the existing loan. You don’t know what benefit they’re offering, and how it would affect you.

You also don’t mention whether the house has equity. If it has equity, and you sign over a quitclaim deed, then you will no longer have an interest in the home and will lose access to any equity that exists.

With regard to the last part of your question, if your ex-husband dies after you quitclaim the property to him, you’ll have no right to the property. The only way the home would go back to you is if your ex-husband names you in his will to get the home upon his death. That would be unusual given that you two are divorced.

Make sure that you investigate the company, understand what the deal is and how it affects both you and your ex-spouse, and discuss other options with an attorney. Do not sign anything until you do.