

Loophole prompts surge in calls to mortgage group

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A VOLUNTARY group that defends mortgage holders in danger of losing their homes has said it is receiving up to 50 inquiries a day following a court judgment that acknowledged a loophole in existing legislation.

New Beginning says it has already identified 13 homeowners who have orders for possession against them and who fall into the loophole category identified by the High Court.

Last month, Ms Justice Elizabeth Dunne found that the Land and Conveyancing Law Reform Act 2009 had a "lacuna" and may have had "unintended consequences".

The legislation only applied to mortgages created after its commencement on December 1st,

2009. It repealed older conveyancing legislation, but failed to save elements of the Registration of Title Act 1964.

Ms Justice Dunne ruled that borrowers who went into arrears before December 1st, 2009, and received demand letters from lenders before that date, could still be repossessed under the old legislation.

Borrowers however who took out mortgages before the December date and who went into arrears after it, could not be repossessed under the old or the new law.

Separate legal avenues still remain to lenders who wish to pursue borrowers in default, but they are much more time-consuming and expensive.

New Beginning co-founder David Hall said the organisation

had been inundated with calls since the ruling.

He also acknowledged that it would be possible for the Dáil to simply amend the legislation to close the loophole.

"It would be possible for the Dáil to introduce such legislation without dealing with the core issue of people losing their homes, but that would be despicable," he said.

However, Declan Black, partner at Mason Hayes and Curran, said the Dáil should move to repair the legislation as soon as possible.

The net effect of not repairing the loophole would be an increase in the costs of pursuing the debt, which would be passed on to the borrower, he said.

"The debt and the validity of the charge are entirely unaffected by this, but the quickest and cheapest way [to pursue the debt] is lost."

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