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Helping homeowners, helping North Carolina


Why we should pass two important bills now


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EXECUTIVE SUMMARY:

 IN THE CURRENT ECONOMIC CRISIS, PROTECTING HOMEOWNERS from the effects of foreclosure and consumers from abusive debt collection techniques is especially important.

 ONE BILL, HB 1057/S819, IS A NECESSARY COMMON-SENSE REFORM that would abolish deficiency judgments on predatory loans, making the system fairer for homeowners.

 ANOTHER BILL, S954, WOULD HELP PROTECT THE PUBLIC from abusive debt buyers and debt collection practices.

 TOGETHER, THESE BILLS WOULD PROTECT CONSUMERS, build community prosperity and create a more equitable system.

A HOME IS MORE THAN FOUR WALLS AND A ROOF.

For most North Carolinians, the family home is the most important investment they will make over the course of a lifetime. Access to affordable housing can represent security, prosperity, and hope for the future -- and for our society at large, encouraging homeownership can help support strong, stable communities.

Unless, of course, predatory lending and its aftermath take hold. Then we see the devastating impact rampant foreclosure and debt judgments have on our families, communities and economy.

Unfortunately, the current economic crisis has swept away the underpinnings of security for people across the nation. Local homeowners have been hit hard, and the unstable housing market continues to create uncertainty for our state's families -- and turbulence in the economy at large. Rampant foreclosures, expanding debt burdens, and abusive debt buying and collection practices are major problems that cry out for wise solutions.

Now is the time to make much-needed progress on legislation that will help families keep their homes and avoid unfair debt collection. A few bills up for consideration during this legislative session would ease the burden on consumers, making the system more fair and equitable.

Here are two examples of common-sense reforms that would help working families stay in their homes and help alleviate the debt crisis.

First, the legislature should abolish deficiency judgments on predatory loans.

Foreclosures on predatory loans continue to be a major problem in North Carolina. In the best of circumstances, foreclosures are wrenching experiences. Making matters worse, current law allows homeowners to become liable

for even more money than their home is worth. For victims of predatory lending it is particularly painful and unfair to suffer in a predatory loan, be foreclosed on, and then have to face a what is known as a deficiency judgment.

Currently, if your home is foreclosed upon, the lender can sue you for a deficiency judgment. For example, if your home is foreclosed upon for \$120,000, but the initial loan was \$150,000, the bank can get a judgment against you for the \$30,000 difference.

This enables creditors to collect the amount of that judgment against any other property you have and sets families back even farther. This is incredibly unfair to the victims of predatory lending.

It's also bad public policy, creating a weighty debt burden for the very working families that are the backbone of shared economic prosperity. The economy works best when lower- and middle-income families have money to spend, not when everyday people have lost their homes and see a crippling financial obligation standing between themselves and a rebuilt life.

HB 1057, and its Senate companion S819, would solve this problem, abolishing these particular types of deficiency judgments on predatory mortgage loans. Changing the law in this way would protect the thousands of victims of predatory lending now facing deficiency judgments following foreclosure.

These changes will have other benefits as well, encouraging lenders to modify existing loans to make them affordable, and in the future promoting fair loans instead of predatory loans. It will also prevent some companies from buying these loans for pennies on the dollar and pursuing deficiency judgments.

Preventing these unreasonable debt obligations would represent a step toward an economy that works for everyone. Families facing the loss of a home deserve the chance to recover from that loss, and HB 1057 would afford them that chance.

Another problem concerns the debt-buying and debt collection industry.

Our state's well-publicized economic troubles have swollen the debt burden many families face, and recent years we have seen a dramatic increase in the filing of improper lawsuits by debt buyers to collect alleged debts -- and in abusive practices by debt collectors. It's vital that we **protect the public from abusive debt buyers and debt collection practices.**

Debt buyers are companies that buy old debt records and then attempt to collect on the debt. In many cases these records aren't accurate -- the person's debt has been paid off, was not legitimate in the first place, or is well past the statute of limitations.

That's why these buyers often target poor people who do not have access to an attorney to defend them. When debt buyers bring cases against poor people, most of whom cannot afford to hire legal representation, the debt buyers have an incredible and unfair advantage. As a result, the companies are able to win cases that would be easily defeated if free legal help were available.

Debt collectors continue to violate existing law, and higher penalties are needed to punish violating debt collectors. That's where Senate Bill 954 comes in.

This legislation will provide a minimum level of protection against the abusive practices of debt buyers, and will increase penalties against abusive practices by debt collectors. By adding to the receipt requirement under existing law, the bill ensures that consumers are better able to prove what they have paid. By getting tougher on violators of existing law, the bill sends a message that we're serious about fair debt collection practices.

It's always in everyone's best interests to help homeowners and consumers in trouble and people suffering from unfair debt burdens, but it is especially critical in these tough economic times. Much work needs to be done. But together, these two bills are fine examples of positive steps forward.