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Save Homes by Fixing Notification Laws


HB 806 is a much-needed, common-sense solution

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EXECUTIVE SUMMARY:

 IN NORTH CAROLINA, HOMEOWNERS ASSOCIATIONS (HOAS) CAN FILE A LIEN against a homeowner's property if that homeowner owes unpaid dues. This can allow HOAs to foreclose on homes based on very small debts.

 NO NOTIFICATION IS REQUIRED UNDER CURRENT LAW. Without such notification requirements, homeowners can miss a payment, and have a lien placed against their property -- all without knowing about the debt in the first place.

 NEW LEGISLATION, HB 806, WOULD REQUIRE HOAS TO TAKE REASONABLE MEASURES to keep address records current and supply minimal notice requirements. This narrow, common-sense bill would help homeowners keep their homes and avoid facing daunting legal bills from having to defend against a lien and possible foreclosure.

IMAGINE LOSING YOUR HOME OVER A \$300 DEBT.

Imagine further that you are facing foreclosure over a debt you didn't know about, and were never notified even existed.

Sadly, one homeowner in Cary didn't have to imagine. After purchasing her house, she paid one homeowners association (HOA), unaware that there were two HOAs in her neighborhood. The one HOA she was aware of received membership dues from her in a timely manner. She didn't know of the other until they foreclosed on her home over unpaid dues in the amount of \$300.

Like most consumers, this homeowner wasn't trying to avoid her financial obligations. Due to a weakness in North Carolina law, the HOA wasn't required to make an effort to provide reasonable notification of the lien before foreclosing on her home.

Homeowners Associations and Foreclosure

Homeowners associations charge member dues. When a homeowners association does not receive dues, they can file a lien against the debtor's property. Among the first principles of fair debt collection, though, is notification. And currently, HOAs are not sufficiently required to either keep a current home mailing address for their members or to notify members if a lien is placed on their property.

This results in situations like the one described above, where a homeowner can be foreclosed upon without ever being told she owes even one dollar.

It can happen fast, too. Once a lien is filed, HOAs can use their power of sale very quickly. A homeowner can go from slowly building equity to having to fight a foreclosure in a matter of days.

Even if the foreclosure action is ultimately unsuccessful, homeowners are forced into costly and time-consuming legal action to defend themselves against a debt that could have been resolved with notification.

The Solution

This is why legislation like HB 806 is needed. Sponsored by Rep. Jennifer Weiss (D-Cary), the bill would enact two wise and forward thinking provisions to benefit consumers.

First, the bill would require homeowners associations to take "reasonable and diligent" measures to keep current mailing address records. That way, you will know what the current dues are.

Next, the bill would enact minimum notification requirements. HOAs would be required to send notice of a lien through regular mail when any lien is filed. If a response is not forthcoming, they would be required to send a notice via certified mail.

Neither of these measures would put an undue burden on HOAs. Both would give consumers necessary notification and time to respond to debt allegations.

In Conclusion

The story about our Cary homeowner has an ultimately happy ending. Through legal action, she was able to keep her home.

The situation could have easily been avoided, however, with a law like HB 806. A family incurred needless litigation, expense and stress all because of a missing piece in the law.

It's time to fill that missing piece, so no more families have to risk losing their homes over \$300.