

House Transportation, Housing & Local Government

02/27/2024 Upon Adjournment

HB24-1158 HOA Foreclosure Sales Requirements

Typed Text of Testimony Submitted

Name, Position, Representing	Typed Text of Testimony
Cary Osborne For themselves	<p>Hello, thank you for your time today. I believe that HOA Home owners need more rights like this to protect our rights as homeowners. I recently got diagnosed with heart failure and have had a tough few years surviving while I fight for disability. I almost got foreclosed on by my HOA Tall Pines in Denver over a percentage late fee I couldn't afford to pay and Ever get caught up on as I'm living on a fixed income and on Medicaid for my heart failure condition. I believe this bill will provide more protection to HOA homeowners like myself. Sincerely,</p> <p>Cary Osborne</p>
William Hartwick For themselves	<p>State representatives,</p> <p>I am writing as a longtime resident of Douglas County and as a new member of Pinery 8B HOA and wish to express my support and need for legislation such as House Bill 24-1158.</p> <p>As you are aware, this past year many foreclosure actions have been taken in the Green Valley Ranch area without significant prior notification to homeowners of delinquent HOA dues payments or other violations. The amount of Some of these payments were was significantly less than the value of their home and property and due to the nature of the covenants/rules adopted in that area, management companies and HOA were able to adapt initiate foreclosure procedures against these homeowners. This in my opinion is in abuse of the authority of governing HOA's and should be controlled/regulated by legislation such as House Bill 24 1158. Passage of this legislation is much overdue. This bill will also require certification/licensure of HOA management companies and will reduce the amount of fines that can be assessed before any lien is initiated. I strongly recommend your passage of this legislation during this session. Thank you for your attention to this matter.</p>

	William Hartwick 4993 Burr Oak Ln., Parker, CO 80134
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February 26, 2024

From: Buck Bailey

To: Members of the Colorado House of Representatives Transportation, Housing, and Local Government (THLG) Committee

Subj: Opposition to HB24-1158 CONCERNING THE PROTECTION OF UNIT OWNERS IN RELATION TO FORECLOSURES BY UNIT OWNERS' ASSOCIATIONS

Dear members of the THLG Committee,

I am opposed to removing the ability of common interest communities to use foreclosure as the final recourse to collect properly assigned assessments that Unit Owners owe to their Association.

In my few experiences with foreclosures, the process involved detailed notice requirements and specific processes that are already well defined in Colorado Laws. Each case that I am aware of did not suddenly appear with no efforts at notifying the unit owners and attempting to come up with a plan for payment of the delinquencies. Throughout each foreclosure there were numerous time lags. The simplest uncontested case took over 10 months and approximately \$10,000 in legal fees. The longest case took almost 4 years and well over \$40,000 in legal fees. HB24-1158's proposed mandatory limit on legal fees recoverable through foreclosure is arbitrary and unreasonable. The limit will not in any way limit the legal fees involved with foreclosure actions. Legal fees above the mandated limit will simply become an expense to be assessed to all members of an association.

Section 3 of HB24-1158 attempts to protect some portion of a "Unit Owner's Equity." Although it seems to be an easily done math calculation, determination of a Unit Owner's Equity is actually a somewhat subjective process. HB24-1158 would require an association to include in the initial bid, "The amount, if any, of the first mortgage secured by the unit." If a foreclosed unit owner will not authorize their mortgage company to communicate such information to an association, there is no existing process to determine, prior to the auction, the outstanding amount of the principle and any additional fees due to the mortgage holder/servicer. As I understand the foreclosure sale title transfer from the sale, the purchaser at the auction takes title subject to the outstanding 1st mortgage amounts as well as all of the other senior liens. The association foreclosure does not extinguish those liens or the mortgage amounts. There is simply no reason to include any of the senior liens in the determination of the initial bid at the auction.

On page 7 of HB24-1158, there are new requirements for a "Lis Pendens" filing with the clerk and recorder near the conclusion of foreclosure proceedings. As I understand the purpose of the Lis Pendens, it is filed at the beginning of the foreclosure case not at the conclusion. Adding this requirement is inappropriate and likely to cause much additional confusion to the chain of title for a property.

At best, HB24-1158 will simply increase time delays and costs associated with resolving delinquent assessments that require foreclosure proceedings. The added costs will be borne by the association members who faithfully pay their assessments. In practical application, HB24-1158 will effectively remove foreclosure as a final last-resort tool to maintain compliance with association governing documents and efficient operation of an association.

Please reject HB24-1158.

Respectfully,

Buck Bailey, General Manager, Plaza de Monaco Towers Condominiums Association, Inc.



HB24-1158joyce akhahenda to: committees.lcs.ga@coleg.gov 02/27/2024 11:15 AM

Hello,

I cannot find an option to submit written testimony for this bill. I am sending this letter so you can send it to the appropriate committee.

While I serve on the HOA Homeowners Task Force, I am emailing in my personal capacity as a homeowner asking the committee to support HB24-1189. I went through this foreclosure process and fortunately I had help from my local representative to connect me with an organization that was able to assist me. My access as an attorney was the only reason that I was able to navigate this process. I dealt with the HOA twice. In the first instance the HOA sought attorney's fees even though they were seeking an injunction for work already completed prior to the initiation of court case. The Court did not award attorney's fees but that is only because of my legal knowledge in being able to file a motion to counter what the HOA was requesting. In the second instance, the foreclosure process, was substantially disproportionate to the actual claim for fines and fees. We went into voluntary mediation and the amount for attorney fees increased substantially again overnight. In addition, the lawyer told me that I could not speak to the HOA to attempt resolution and had to go through the HOA. Which of course increased attorney fees. The HOA never communicated with me through this process and did not respond to letters that I wrote prior to legislation. The HOA's attorney lied in their personal service as to where I live. While some of the issues that I experienced have been addressed through subsequent litigation. The attorney fees have not. It is very simple to get a lien in Colorado and there is no real appeal process with an HOA because you are appealing to the same group that is alleging that you have not paid or done something wrong. Attorney fees are a huge financial incentive to continue litigation. The attorneys often act in a bullying capacity threatening homeowners instead of seeking reasonable resolution. Foreclosures contribute to the Colorado housing crisis as does the loss of homeowner equity. Many homeowners have invested a considerable amount in their homes only to be left with little to no equity. Homeowners who contacted me after my story went public told me about their stories and a common theme was the exorbitant amount of attorney fees in proportion to the amount in dispute. In some instances, homeowners refused payments of claims unless attorney fees were also paid. The reality in Colorado is that there are very few properties that are available for homeowners to purchase without buying into an HOA. These few measures will help homeowners keep their homes and will help to level out the playing field.

With kind regards,
Joyce Ahahenda



2.27.24 SAVE HOAs Hearing Peter L. Runner to: committees.lcs.ga 02/26/2024 08:34 PM

Thank you for protecting our HOAs from Board of Directors and THEIR chosen / premeditated property management company