

Foreclosure ban would make state unlike others

By Jim Wasserman
Associated Press

(Updated Sunday, August 8, 2004, 5:52 AM)

If California bans the majority of its homeowner association foreclosures, it will become the great exception among major Sun Belt states where private communities thrive.

Like California today, associations in Florida, Texas, Arizona and Nevada all have authority to ultimately collect their members' unpaid assessments by selling their homes.

Combined, the five states represent much of the nation's development and more than half its supply of association-governed housing.

In Virginia, where nearly all housing in new suburbs outside Washington, D.C., are in associations, nonjudicial foreclosure -- actions taken without a judge's oversight -- are also the norm.

This year, the Legislature tightened the rules, giving homeowners more notice of a potential sale and requiring independent trustees to conduct it.

But the rest of the United States remains a mixed scene of varying laws and approaches.

Hawaii, which claims the nation's highest percentage of population living in association-governed housing, has allowed nonjudicial foreclosure since 1999.

But the process is more difficult than in many states, giving banks first priority for unpaid debts and often making associations the only bidders for homes they foreclose.

Idaho Association of Realtors spokesman Alex Labeau says he never has heard of an association foreclosing on residents for unpaid assessments.

And it's not likely to start, say state lawmakers.

"That would be totally unacceptable in Idaho," says Rep. Wendy Jacquet, D-Ketchum. "The Legislature would never go for that."

In densely populated New Jersey, where associations are becoming more popular with first-time buyers and retirees, foreclosures over unpaid assessments are rare, says Morristown attorney Dave Ramsey.

Ramsey says associations usually seek judgments against their members in court, getting authority to garnish their wages and make claims on their bank accounts.

"In most cases when a judgment is applied, the person will work out a payment plan," Ramsey says.

New York and Connecticut make associations go to court to foreclose for unpaid assessments.

Among Sun Belt states, lawmakers and activists are pushing to make their associations do the same. Arizona House Majority Leader Eddie Farnsworth, a Republican from Gilbert, where builders are required to form associations for their homes, tried this year to ban nonjudicial foreclosures, but succeeded only in banning foreclosures for late payment of fines. Democratic Gov. Janet Napolitano signed the bill in June.

"When it comes to assessment provisions, the industry was pretty much not going to support it, and they were great at bringing out the grass roots and people who enjoy their homeowner association communities," says Farnsworth aide Melissa Taylor.

RESOURCES	
	E-mail This Article
	Printer-Friendly Format
	Receive the Daily Bulletin
	Subscribe to Print
	Join a Forum

© 2004, The Fresno Bee
News | Sports | Business | Classifieds | Contact Us | Text Only | Subscribe
Your Privacy | User Agreement | Child Protection

Modbee.com | Sacbee.com