



Schwarzenegger rejects ban on homeowner association foreclosures

By JIM WASSERMAN, Associated Press Writer

(Updated Thursday, September 30, 2004, 4:40 PM)

SACRAMENTO (AP) - Although it had wide bipartisan support, Gov. Arnold Schwarzenegger Thursday vetoed a bill that would have stopped California's 37,000 homeowner associations from foreclosing on homes for small debts.

The bill, triggered by outrage over the case of a Calaveras County couple whose \$285,000 home was auctioned off to recover a \$120 debt, would have stripped away a tough debt-collection tool called nonjudicial foreclosure. Unheard of in traditional neighborhoods, it's used by thousands of private communities in California and elsewhere in the nation to collect overdue homeowner assessments.

Schwarzenegger praised by the bill's intent, but his veto message called it "overly broad" and something that could cause higher assessments for residents who pay their bills on time.

However, he said he's asked state agencies to refine the foreclosure practice in California "so all homeowners are treated equitably and foreclosure only occurs after every reasonable alternative is exhausted."

Sponsors of the bill, which attracted a wide following nationally among the 50 million Americans who live in association-governed communities, immediately criticized Schwarzenegger for "siding with business interests instead of homeowners." An estimated 8 million Californians live in such communities.

"Basically it means that seniors are going to be vulnerable to the predatory business practices of some homeowner associations which use foreclosure to collect tiny amounts of money," said Marjorie Murray, lobbyist with the California Alliance for Retired Americans.

Industry advocates said limiting foreclosures would have undermined the finances of private communities that govern one in four of California's households and 60 percent of its new housing. Many homeowners would have quit paying dues, they said, forcing other residents to pay higher dues to make up the difference.

"I think he recognized the unintended financial havoc that this legislation could have created," said Tom Skiba, chief executive officer of the Community Associations Institute, a Virginia-based industry group that mounted a major lobbying effort this month with Schwarzenegger. "This had potential to damage the entire economy of California."

The bill's backers argued it would stop foreclosure abuses that have generated national publicity at least a dozen times since 2001, and had predicted Schwarzenegger's support would embolden other states to also rein in foreclosure powers.

Schwarzenegger's veto was "a serious mistake" that would reverberate nationally, said Florida homeowner activist Jan Bergman. "People will be seriously mad."

The legislation, by Assemblyman Darrell Steinberg, D-Sacramento, and Sen. Denise Ducheny, D-San Diego, would have made associations use small claims court to collect unpaid debts under \$2,500, ending a practice of threatening to foreclose while adding \$1,500 to \$2,000 in attorneys fees and other collection costs to the bill.

Debts over \$2,500 could still have been collected through nonjudicial foreclosure. But the new law would have significantly restricted foreclosure practices in associations. It proposed to make association boards personally approve foreclosure proceedings instead of delegating to others, make new buyers pay at least 65 percent of a foreclosed home's value and gave homeowners 90 days to buy back their property.

Efforts by homeowner groups to pass similar legislation in other states - such as Texas, Florida and Arizona, which contain more than half the nation's 260,000 homeowners associations - have also repeatedly failed.

Anita Radcliff, who had her Calaveras County home sold for \$70,000 over a late \$120 assessment, said she was "disappointed, but not surprised" by the veto.

"Money talks," said Radcliff, who remains in her home pending the outcome of a lawsuit.

Builders and developers have been among Schwarzenegger's top contributors, giving \$2.5 million to his election campaign last year and hundreds of thousands more to his political committees after he took office.

Schwarzenegger "was the girlie man on this one," said Melissa Colburn of Chula Vista, who had her home sold out from under over unpaid dues and then won it back in court. "It's very, very frustrating. ... I expected Schwarzenegger to protect the people."

Associations assess their residents monthly or yearly dues - averaging up to \$200 a month in California - to pay for private security and streets, lawn and tree maintenance and building and pool upkeep.

Lawmakers cited studies showing that California's homeowner associations are far quicker to initiate foreclosure actions, and for much smaller sums, than mortgage lenders and local governments.

On the Net:

Read AB2598 at <http://www.legislature.ca.gov>

Community Associations Institute: <http://www.caionline.org>

American Homeowners Resource Center: <http://www.ahrc.com>