

Foreclosure act winds through state legislature

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By Elizabeth Billingsley, NBC2 Reporter

NAPLES - The Florida Fair Foreclosure Act is winding its way through the state legislature, and the House Judiciary Committee is scheduled to consider the bill Wednesday. It passed the Senate Judiciary Committee on Monday.

The bill aims to expedite and stream the foreclosure process. Currently, it takes more than 600 days to process a foreclosure case in Florida, twice the national average. Under the bill, a foreclosure action could move to the summary judgment phase 20 days after service of process.

Among other things, it would help courts identify abandoned property by looking at the property's condition, noting broken and boarded windows and littered yards.

The bill's sponsor, Naples Representative and real estate attorney Kathleen Passidomo explains, "We shouldn't let those properties deteriorate. We need to get those cases moving."

Another provision of the bill would reduce the statute of limitations for deficiency judgments on a foreclosure action from five years to two.

Rep. Passidomo notes that may be reduced even further as lawmakers tweak the bill. She says a shorter statute of limitations is beneficial for homeowners trying to move on with their lives after foreclosure.

The bill would also require lenders to fill all necessary paperwork at the start of a foreclosure case. If any paperwork is missing or lost, lenders would be required to file an affidavit including exhibits providing evidence of the acquisition, ownership and possession of the note.

All lienholders would be allowed to use the procedures as well under the bill, meaning anyone with a stake in the property could initiate the foreclosure process.

Real estate attorney Kevin Jursinski supports the bill.

"The design is to eliminate a lot of the clutter without getting rid of due process. Everyone has a right to come to court and the like," says Jursinski.

But the Florida Consumer Action Network opposes the bill, saying it places too much of a burden on the borrowers.

"It would place the homeowner who is trying to save their home in the untenable position of having to possibly be prepared to try a case as early as 20 days after the Complaint has been served," says attorney Alice Vickers of the Florida Consumer Action Network.

Representative Passidomo tells me they are busy tweaking the bill and stripping it away of aspects that drew the most opposition.

The House Judiciary Committee will consider the bill tomorrow. So far, it has already passed the Senate's Judiciary Committee.