



Join the fight for Consumer Justice.

Defeat HB 87
The unfair foreclosure law

Top 5 Problems with HB 0087

Again, the Florida legislature is considering improvident foreclosure legislation, HB 0087, which will impair the rights of homeowners and provide banks with new rights to accelerate their rapid foreclosure of homes statewide. Here are five significant problems with HB 0087.

- Retroactive Application to Existing Cases

Ex post facto laws have always been forbidden under the Florida and federal constitution. HB 87 will change that and allow current cases in litigation to be subject to a new legal standard that did not exist when the case was filed.

- Burden of Proof Shifted to Defendant Homeowners

The Plaintiff in all lawsuits had the burden of proof to substantiate its allegations. Never before has a law placed the burden on a defendant to prove that it should not be liable. Imagine the lunacy of a defendant having to prove his innocence in a capital murder case. Under HB 87 this would change and banks would not have to prove up their case as they do now.

- Safe Harbor Provided for Lender Mortgage Fraud

HB 0087 makes foreclosure judgments final. This usurps the role of appellate courts and provides safe harbor for foreclosures procured through fraud. Victims of a fraudulent foreclosure will never get their home back.

- Homeowners Have to Pay Payments into Court Registry to Maintain Defense

For non-owner occupied homes owners must pay contested mortgage payments into the registry of the court, even if the bank cannot prove it owns the home, in order to assert defenses. This amounts to a denial of due process and a use tax upon the courts.

- Judges Can Ignore Homeowners Evidence

Already handicapped by the burden shifting, judges would now be free to disregard record evidence presented by a homeowner and enter a foreclosure judgment.

HB 0087 is not just bad policy, it's unconstitutional. While other states are enacting laws to protect homeowners, Florida finds itself considering a law that protects banks and abandons longstanding jurisprudence.

To join the fight against this foreclosure legislation, join with Florida Consumer Justice Advocates at:
www.consumerjustice-fl.com.