

Legislators consider more HOA bills to protect homeowners

Critics want legislature to move faster in limiting HOA power

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The Colorado General Assembly is poised to approve additional protections for homeowners who become indebted to their homeowners associations and risk losing their houses because of unpaid fines, late fees and legal bills.

Two bills are up for consideration this legislative session. One is intended to protect homeowner equity and avoid courthouse foreclosure auctions, and is one vote away from legislative approval. A second bill, which would create an alternative dispute resolution process, is in the early stages of legislative consideration.

The homeowner equity bill, HB25-1043, would give homeowners facing foreclosure a chance to sell their houses before judges order them sold at courthouse auctions by requesting a nine-month stay, giving the homeowners time to list the houses and find buyers. Homeowners could then use the sales proceeds to pay their HOA debt, pay off their mortgages and potentially keep the remaining equity.

State Rep. Nequetta Ricks, D-Aurora, who is one of the bill's sponsors, has been at the forefront of HOA reform in the Colorado legislature since 2022, when sustained media attention, including from The Denver Post, showed how Colorado's HOAs operated with little oversight and possessed the ability to foreclose on people's homes because of unpaid fines.

Colorado HOAs have the authority to place "super liens" on houses that even trump bank mortgages. That often leads to people losing their homes as well as the equity they had built while still owing their bank for the loan. The HOAs still can place liens on homes and seek foreclosure under state law, but the homeowner equity bill would give people a shot at holding onto some of the investment they have in their homes, she said.

"We're trying to give them a leg up during a difficult time in their lives," Ricks said.

The bill also includes provisions that would require HOAs to send advisements to delinquent homeowners about credit counseling available through the U.S. Department of Housing and Urban Development and to begin sending data on liens and foreclosures to the state. Right now, there is little foreclosure data, which could help inform lawmakers about how severe the problem is and guide what other policies might be needed, Ricks said.

The bill has been approved by both chambers but is returning to the House of Representatives for a vote after the Senate added some amendments. It's expected to be approved this month and then will be sent to Gov. Jared Polis for signature.

"Too many homeowners have been forced out of their homes with nothing left to start over," said bill sponsor Sen. Tony Exum, D-Colorado Springs. "We want to let homeowners have a fair chance to retain the equity they have in their homes."

However, advocates for HOA reform in Colorado expressed disappointment over the bill.

The Colorado HOA Forum, a grassroots organization pushing for more control over the bodies that govern neighborhoods, wanted the bill to do more to help homeowners avoid going to court, said Stan Hrincevich, the forum's president.

The HOA Forum had proposed a system where homeowners facing foreclosure could receive credit counseling and then attend a hearing before their HOA board to work out a settlement agreement. That would avoid the courts and save homeowners money because HOAs typically force members to pay for the associations' attorney's fees on top of the fines and late fees owed, Hrincevich said.

"That stinks of more court costs and attorneys fees," he said of the bill.

Ricks said the idea is that a simple form would be created for homeowners to file to the courts asking for the nine-month stay. That should not require them to hire their lawyers, she said.

While the HOA Forum was disappointed in the bill's changes, Hrinkevich said the group will support it.

"It's a good step toward ending the abusive practices of foreclosures whereby a homeowner's equity is stripped," he said.

The alternative dispute resolution bill — HB25-1123 — would require homeowners and their HOAs to enter mediation before HOAs file complaints in court. It is expected to get a second reading in the House this week, said Ricks, who is sponsoring both HOA bills.

"That bill says the dispute resolution process must be exhausted between the HOA and the homeowner before going to court," she said. "We are trying to attempt to solve these disputes and keep them out of court."

The lack of HOA oversight in Colorado became a hot issue in 2022 when a rash of foreclosures filed by the Master Homeowners Association for Green Valley Ranch shocked residents and triggered swift condemnation from elected officials and Denver housing advocates.

Those involved with Colorado's housing industry said it was the perfect storm: an aggressive association operating in a field with no regulation. Some said the foreclosures were predatory in their targeting of Black, Latino and Asian residents.

Since then, the legislature has tried to reign in HOA power. It has capped the amount of money residents can be charged in delinquent fees for things such as garbage cans left out too long, grease stains in driveways or damaged window blinds that can be seen from the street. Written notices also are required before fines can be levied. The legislature barred HOAs from auctioning homes because of unpaid fines for community covenant violations.

In Colorado, homeowners associations operate without oversight from any state regulatory agency, including the Colorado Department of Regulatory Agencies, whose real estate division oversees agents, brokers, developers, mortgage lenders and appraisers. More than 2.3 million Coloradans — about 40% of the population and about 61% of homeowners — live in communities with HOAs.

The situation for HOA members has improved, Ricks said, but more needs to be done. She would like to see a statewide office created to regulate HOAs because unscrupulous groups still exist. For example, after the state began requiring written notices of violations in a homeowner's preferred language, Ricks received reports of HOAs charging residents \$25 or more for the letters.

"They need a better way of monitoring, managing and ensuring that homeowners are being treated fairly because there's a lot of predatory HOAs out there," she said.