

Foreclosure Notice Bill Sees Little Change

By Andy Meek

The law in Tennessee governing how many times lenders have to run a newspaper notice before they can foreclose on a property won't be changing too much after all.

Lawmakers this month appeared to have coalesced around a compromise proposal of reducing the frequency of the notices from three times to two after originally debating language that would require only one newspaper notice before a foreclosure could occur.

The two-notice compromise didn't survive in the Senate, however, which decided last week to leave the three-notice requirement alone.

The main House backer of the bill, state Rep. [Jimmy Matlock](#), R-Lenoir City, hinted that he'd be back with new language next year.

The final version of the bill would still cut down some of the language included in the notices, making them shorter in print – another original goal of the bill's supporters.

Several senators last week who asked to be recognized when the bill was brought up for a vote said they'd be happy to support it now with the three-notice provision intact after opposing the earlier language in committee.

"I think this strikes the right balance," said Sen. Andy Berke, D-Chattanooga.

"This compromise is not what we had hoped for. But the hour is late. And we're simply running out of time to continue negotiating the differences between the House and Senate with this legislation."

– Jimmy Matlock

State Representative, R-Lenoir City

Over in the House, though, Matlock was having none of it. He acknowledged only that the clock had run out.

"This compromise is not what we had hoped for," he said. "But the hour is late. And we're simply running out of time to continue negotiating the differences between the House and Senate with this legislation."

The Tennessee Bankers Association early this legislative session had pushed a change to state law that would cut the frequency of the newspaper notices, arguing primarily that requiring three publications is unnecessary and costly.

Costly to whom became a subject of debate.

Supporters of the bill said it would save homeowners money. In cases where a borrower is able to get caught up on payments or modify the terms of their mortgage arrangement, fees and costs associated with that process – such as the cost of running the foreclosure notices – can get picked up by the borrower.

When a borrower's home is lost to foreclosure, though, the bill's supporters have conceded the bank takes the loss – including having to absorb the cost of paying to publish the foreclosure notices.

State Sen. [Jack Johnson](#), R-Franklin, said as much in a recent committee hearing, conceding that the bill would benefit two parties – homeowners in some cases, banks in others.

Opponents who included lawyers, housing advocates and newspaper representatives pushed back against the legislation from the start, citing broad concerns including the speed with which foreclosure now occurs in Tennessee and whether the change was genuinely necessary.

In other states, the push is on to add more speed bumps – not less – to a process that recent revelations around the country have shown included widespread corner-cutting throughout the industry. Evidence of that includes the so-called robo-signing controversy and problems around the country with shoddy paperwork and other faulty processes used to foreclose on homes.

The same week the full state House approved the reduction in notices, retiring [Federal Deposit Insurance Corp.](#) chairwoman Sheila Bair told a U.S. congressional committee that “flawed mortgage banking processes have potentially infected millions of foreclosures, and the damages to be assessed against these operations could be significant and take years to materialize.”

Earlier this month, the Maine Supreme Judicial Court overturned the foreclosure of a homeowner in that state. The high court there said documentation filed by the bank pursuing the foreclosure was “inherently untrustworthy.”

Maine is one of almost two-dozen states that require banks to go to court to foreclose on a homeowner. Tennessee is not one of those states.

The Daily News long has been the largest publisher of foreclosure notices in Shelby County.