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Call for HOA Legislative Reform: Ensuring Transparency, Fairness, and Consumer Protection

I urge the HOA Legislative Work Study to enact critical reforms that enhance transparency, fairness, and consumer protections for homeowners living in communities governed by Homeowners Associations (HOAs). These measures are essential to safeguard homeowners' rights, prevent exploitative practices, and promote accountability within the HOA framework.

Proposed Actions:**1. Affidavit at Home Purchase Closing**

Require homebuyers to sign an affidavit at closing that explicitly outlines the consequences of missing HOA payments. The affidavit should:

- Clearly state that missed payments may result in foreclosure, late fees, attorney fees, and other costs.
- Include an overview of homeowners' consumer rights.
- Provide guidance on disputing HOA fees and access to relevant resources.

Many homeowners are unaware that failure to pay HOA dues can lead to foreclosure and financial hardship, underscoring the need for this measure to build trust and cooperation between HOAs and residents.

2. HOA Preforeclosure Notifications to Housing Counseling Agencies

PFNs sent to Housing Counseling Agencies from HOA foreclosure attorney should be expanded to include:

- The homeowner's phone number.
- HOA name and contact information.
- Property management company name and contact information, if applicable.

Providing this information will enable housing counseling agencies to effectively assist homeowners and monitor foreclosure prevention efforts.

3. HOA Preforeclosure Notification Letter Requirements to the Homeowner

When an HOA foreclosure attorney issues a Preforeclosure Notice (PFN) to a homeowner, the PFN should include:

- **Detailed Account Statement:** A ledger-style breakdown of all charges, including dates and explanations, for full transparency.
- **Foreclosure Prevention Option:** A clear statement that foreclosure can be stopped by paying only the HOA dues by a specified deadline.
- **Repayment Plan Information:** A description of available repayment options for the remaining attorney fees and other related costs owing.
- **Postponement Rights:** Information on the homeowner's right to postpone a Sheriff Sale for up to five months, along with instructions on how to file for the postponement.

The PFN must use "least sophisticated debtor" language. These revisions aim to ensure transparency, safeguard homeowners' rights, and promote informed decision-making through clear and comprehensive communication

4. Clarification on Sheriff Sale Postponements

Current laws regarding the frequency of Sheriff Sale postponements are inconsistently interpreted by foreclosure attorneys. Some foreclosure attorneys allow one postponement per lifetime, while other attorneys permit one postponement per foreclosure cycle. This inconsistency fosters unfair practices and must be clarified to ensure equitable treatment of homeowners.

5. Creation of a Public HOA Database

The Department of Commerce should maintain a publicly accessible HOA database, updated by HOAs, to include:

- HOA contact details.
- Property Management Company contact details.
- Current board of directors.

This resource will enhance transparency and accessibility for homeowners.

6. Access to Reinstatement Ledgers

Homeowners should have the right to request and receive a detailed reinstatement ledger directly from their HOA or property management company at no cost. This ledger must include a breakdown of all charges, sourced from the law firm if necessary, and be provided within a specified number of business days. This measure addresses a significant gap in HOA systems and improves accountability.

7. Limits on Attorney Fees for HOA Foreclosures

Attorney fees for HOA foreclosures should be capped in alignment with the limits imposed on mortgage foreclosures. This ensures homeowners are not disproportionately burdened with excessive legal fees.

8. Clear and Fair Payment Plans

Payment plan guidelines for fines or foreclosure-related charges must be clearly defined and transparent. Currently, the criteria for what qualifies as an "acceptable" payment plan are unclear. Establishing clear standards will empower homeowners to understand their options and engage in fair and equitable repayment agreements.

9. Prohibition on Charges for Unanswered Communications

Homeowners should not incur charges for unanswered calls or emails made to the property management company or HOA foreclosure attorney's office while attempting to resolve their account or bring it current.

10. Follow Up Letter for Reinstatement Funds

When reinstatement funds are accepted, law firms or property management companies must send a follow-up letter within a specified number of business days. The letter should:

- Confirm whether the foreclosure has been terminated.
- Specify whether the account is current or list any remaining outstanding fees.
- Include details of any payment plan and instructions for making payments.

These reforms aim to create a fair and transparent system that prioritizes homeowners' rights, prevents abuse, and builds trust between HOAs and the communities they serve.