



House Committee on Government Operations

Re: Michigan Poverty Law Program's Opposition to House Bill 4306

Dear Chairman Sheppard and Members of the House Committee on Government Operations:

On behalf of the Michigan Poverty Law Program¹ I urge you to oppose House Bill 4306. The notice requirements in HB 4306 purport to address a need to provide notice to homeowners about foreclosure. However, this bill is not filling a void in the foreclosure process and is not protecting homeowners. In fact it may be harmful to homeowners.

House Bill 4306 requires that an advertised foreclosure notice must include the street address to the property. It also requires that the contact information of the foreclosing attorney must be included in the foreclosure notice. The bill also requires additional notices such as the fact that the foreclosing attorney is a debt collector and homeowners can contact MSHDA to find resources to assist them. Finally, the bill has a provision, subsection (K), that seems to be a notice to the purchaser at the auction and not the homeowner.

Notice Requirements:

All of these proposed notice requirements are already provided by the foreclosing attorney and are unnecessary. A quick glance in any newspaper will reveal that these notices are already provided. Below is an excerpted, redacted example of a typical foreclosure notice published in the newspaper.

¹ Michigan Poverty Law Program (MPLP) is the statewide support office for legal services programs. MPLP advocates on behalf of the state's low-income residents on issues in the areas of low-income housing, family law, consumer protections, and foreclosure prevention. I am the statewide consumer law and the statewide foreclosure specialist at Michigan Poverty Law Program.

FORECLOSURE NOTICE

[LAW FIRM], P.C. MAY BE A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT AND ANY INFORMATION OBTAINED MAY BE USED FOR THAT PURPOSE.

IF YOU ARE A MILITARY SERVICEMEMBER ON ACTIVE DUTY NOW OR IN THE PRIOR TWELVE MONTHS, PLEASE CONTACT OUR OFFICE.

Mortgage Sale - Default has been made in the conditions of a certain mortgage made by ----, a married man to

..... notice is hereby given that said mortgage will be foreclosed by a sale of the mortgaged premises, or some part of them, at public venue, at the place of holding the Circuit Court in said Ingham County, where the premises to be sold or some part of them are situated, at 10:00AM on March ---

Said premises are situated in the City of Lansing, Ingham County, Michigan, and are described as: Lot # Commonly known as: [Street Address is Given].....

Dated: February ----
Law Firm Name
Address
Phone Number

Although some of these requirements are not mandated by statute, the industry-wide practice is to provide these notices as set out above. HB 4306 is not filling a void and is unnecessary.

In addition, the reality is that these notice requirements as advertised in the local county newspaper or the county legal newspaper are not being seen by the homeowners. In my experience representing homeowners for years, not one homeowner has told me that he or she was notified of the foreclosure by picking up a newspaper and seeing the notice. All the homeowners receive the notices from a letter they receive from the foreclosing attorney.

Requiring the Street Address in the Notice

Requiring the street address in the notice may also be harmful to homeowners. Although the industry practice is to give the street address in the notice, some foreclosing attorneys do not include the street address. We recommend that if an amendment is to be made, there should be an amendment prohibiting the street address from being included in the notice. Including the street address creates a situation where unscrupulous individuals (foreclosure rescue scammers) seek out opportunities to take advantage of distressed homeowners with false promises of helping to save their home. Homeowners are not searching the newspapers for a foreclosure notice but foreclosure rescue scammers are.

Protecting the Rights of Homeowners

Pursuant to HB 4306, the notice must include the street address. However under the bill, if the street address is omitted or listed in error, a homeowner cannot challenge

the validity of the notice. First, what is the point in requiring that the address must be listed when it doesn't matter if the address is listed incorrectly or omitted? Second, this provision is contrary to existing law. Under the current statute, a homeowner can challenge the validity of the notice if the notice requirements are not in compliance with the statute. Therefore, if this Committee plans to pass HB 4306, we recommend that homeowners should be allowed to challenge the validity of the notice if the address is listed erroneously or omitted. This is consistent with existing law.

Additional Negative Impact on Homeowners

HB 4306's requirements mean that the foreclosing attorneys will now be required to add more information in the advertised notice of foreclosure. When a foreclosing attorney advertises the notices the attorney is required to pay an advertisement fee to the newspaper. The costs for the advertisement depend on the number of words. The more words the more the costs. This increased expense to the foreclosing attorney will now become an additional expense the homeowner must pay. Advertisement expenses are included in the foreclosure cost.

Consequently, this bill, if passed, will not protect homeowners. This bill appears to benefit the newspaper and the foreclosing attorneys not homeowners. The newspaper will receive additional revenue from more words included in the advertisement and the foreclosing attorney will pass on the extra costs to the homeowners.

Accordingly, the Michigan Poverty Law Program, on behalf of Michigan's homeowners, opposes House Bill 4306. There simply is no need to subject Michigan homeowners to additional costs and to make them vulnerable to foreclosure rescue scammers.

Thank you.

Written Statement Prepared for:
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