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DEVIL IS IN  
THE DETAILS

## ***HOA Bill will cost HOAs, homeowners & taxpayers millions***

HB 21-1229, HOA Reform, is anything but what's in its' title. This Bill started out with actual reform but like other HOA Bills subsequently modified to remove all reform to keep things as they are or worse. HB 21-1229 is the 2021 poster child for deceptive HOA reform and if you live in an HOA it will affect your bank account if passed.

HB 21-1229 is a proposed twenty-nine-page HOA Bill that is an encyclopedia of new proposals, changes to existing law and imposition of costs on HOA homeowners. First up, the Bill ignores all HOA reform recommended in previous state studies. In particular, the number one homeowner issue identified in State studies is to implement an affordable, accessible, expedient and non-litigious dispute resolution process in an out of court venue: in the State HOA Office. This was in the Bill and through legislative magic (aka interest groups) removed.

Even if you don't personally file a dispute, your HOA (you) will be incurring legal costs under this Bill. Dispute resolution in this Bill becomes more costly, litigious and complicated for HOAs and homeowners and will ask taxpayers to subsidize the process in the tune of millions per year. It mandates homeowners enter into a mediation session prior to any court action. Mediation has been in HOA law for 25 years as an option and failed miserably as exemplified by the over 5,000 complaints and inquiries received by the HOA Office from homeowners. The homeowner can expect to pay several hundred dollars for mediation and worse yet HOAs will be consulting their attorneys for representation at these hearings and that will be very expensive. The most simple homeowner complaint concerning a violation of their rights under HOA governing documents/State law will easily cost \$1,000 or more with no guarantee of an enforceable solution. HOAs will be required to respond to every frivolous and substantive complaint with attendance at mediation and paid lawyer involvement: this will be very costly. Worse yet in the manner in which this is proposed and sure to generate even more HOA legal costs: no stated standards for executing the program or managing independent mediators and their actions; no process to confirm competency of mediators; no cap on mediation costs; no rules on the involvement of lawyers; and no defined means to enforce any mediation agreements thus sending the homeowner to court in cases of non-compliance and that is what was to be avoided. Thus, an effective and affordable dispute resolution process non-existent today, becomes more costly, complicated and time consuming for all. There is an alternative as stated below.

Another issue addressed in this Bill would have saved homeowners millions in HOA home sale transfer fees. The fee is charged by management companies to provide HOA documentation to home buyers. This Bill originally stated correctly that the fee shouldn't/can't be charged as homeowners already paid for the maintenance of such documentation with HOA dues and under the law have no cost access. The fee costs between \$250 to over \$1,000 upon the sale of a home. This was deleted. This Bill also required HOAs to upload HOA documentation to the state provide realtors, home buyers and sellers, planners and the public information on HOAs in their home buying and research work. Prospective home buyers and sellers are assessed hundreds to gain access to this information and this process would end this

predatory practice. The data transfer to and storage by the State is low to no cost for an HOA and only involves a file transfer. This was deleted. The reason offered for deletions by the sponsor of the Bill: it was too upsetting to some in the industry (that could lose millions in unjustified fees).

HB 21-1229 estimates it will cost taxpayers several million dollars each year to support the proposed mediation dispute resolution process including a tuition free program to educate mediators on HOA law.

Also buried in this book of HOA changes are proposals that levy fees on HOAs (homeowners) for the actions of their Board members of up to \$50 a day and imposing new responsibilities/accountability on HOA Board members that will surely deter homeowners from serving on the Board.

This is legislation looking for a purpose with a high price to pay. Here is what real reform should look like: 1) dispute resolution within the State HOA Office can be implemented at no cost to taxpayers. It would be affordable through \$1.50 per year per home assessment, would rarely require lawyers and filing a complaint would be at no cost to very low cost to the homeowner. It is the preferred process supported by homeowner advocacy organizations and by several State sanctioned reports none of which recommend the process in this Bill. Limiting the duplicate billing practice with HOA home sale transfer fees would be purpose enough for this Bill to pass into law but that won't happen. Creating a State HOA database can also be implemented through less than twenty-five cents per year per home with savings to homeowners in the millions in avoiding management company fees to access such information.

There is too much money at stake and too many lobbyists for any substantive HOA reform. Homeowners need an HOA Reform Bill and not just another HOA Bill and HB 21-1229 is another deceptive attempt at helping HOA homeowners.