

Legislative Analysis



PROHIBIT ELECTION CHALLENGE FOR ELECTORS WITH RESIDENTIAL PROPERTY IN FORECLOSURE

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House Bill 6477 without amendment

Sponsor: Rep. Robert Dean

Committee: Ethics and Elections

First Analysis (9-24-08)

BRIEF SUMMARY: The bill would prohibit an election challenge for those voters whose residential property is in foreclosure, without additional supporting evidence proving that the voter does not meet residence requirements.

FISCAL IMPACT: House Bill 6477 would have no fiscal impact on the State of Michigan or its local units of government.

THE APPARENT PROBLEM:

At polling places during elections, the representatives of political parties, as well as those interested in ballot questions, can post challengers. No more than two challengers can serve in a precinct at one time. The challengers posted at the polls oversee election procedures, protect the rights of voters, and prevent election fraud.

Recently, the *Michigan Messenger*, in an article entitled "Lose Your House, Lose Your Vote" (9-10-08), reported that the chairman of the Republican Party in Macomb County (located in southeastern Michigan) is planning to use a list of foreclosed homes, and to challenge those homeowners' right to vote in the November 2008 general election. The county chairman is reported to have said: "We will have a list of foreclosed homes and will make sure people aren't voting from those addresses."

(Officials of the Michigan Republican Party have denied this strategy is a project they support, and have questioned the veracity of the report. See **BACKGROUND INFORMATION** for how to find the report.)

Housing foreclosures are at an all-time high nationwide, due in part to the sub-prime lending crisis created by lenders (abetted by borrowers) whose uncollateralized loan policies have threatened the stability of the U.S. economy--a financial crisis called the worst since the Great Depression. The Michigan State Housing Development Authority reports that foreclosures have nearly doubled in Michigan since 2006, burgeoning from just over 42,000 to a projected 83,000 by the end of 2007. The foreclosure rate in Detroit is the highest in the nation, and 62 percent of the sub-prime loans have been made to African American residents.

Under Michigan election law, a "residence" for registration and voting purposes is defined as the place at which a person habitually sleeps, keeps his or her personal effects,

and has a regular place of lodging. Getting a foreclosure notice is not necessarily evidence that a person's residence has changed, since homeowners have time to redeem their investment before losing their property.

Legislation has been introduced that would prohibit challengers at the polls from preventing electors from voting, simply because they have received a notice of foreclosure for their homes.

THE CONTENT OF THE BILL:

House Bill 6477 would amend the Michigan Election Law to prohibit an election challenge for those electors whose residential property is in foreclosure, without additional supporting evidence proving that the elector does not meet residence requirements.

Currently under the law, an election inspector must challenge an applicant who is applying for a ballot if the inspector knows, or has good reason to suspect, that the applicant is not a qualified and registered elector of the precinct, or if a challenge appears in connection with the applicant's name in the registration book. Further, any registered elector of the precinct present in the polling place can challenge the right of anyone attempting to vote, if the elector knows or has good reason to suspect that the individual is not a registered elector in that precinct.

House Bill 6477 would retain the provisions noted above. In addition and under the bill, evidence that a mortgage of an applicant's residential property is in foreclosure would not be valid grounds for a challenge without additional supporting evidence which, standing on its own, proved that the applicant did not meet the residence requirements as set forth in Section 11 of the act.

MCL 168.727

BACKGROUND INFORMATION:

To read the article in the *Michigan Messenger* entitled "Lose Your House, Lose Your Vote," visit <http://www.michiganmessenger.com/4076/lose-your-house-lose-you-vote>. Also available are reports concerning the federal lawsuit filed by the Democratic National Committee and the campaign of presidential candidate Barack Obama who claim that using foreclosure lists to challenge a voter's address is "false and illegal."

ARGUMENTS:

For:

The voting rights of an electors at the polls should not be challenged on Election Day unless there is clear and substantial proof that their residences lie outside the voting precinct. Even then, a voter who moves to a new address in the same community is sometimes allowed to vote at their customary precinct, depending upon the timing of

their move. Any move to prevent homeowners who have received foreclosure notices from voting should be stopped. A foreclosure notice, alone, is not proof that a voter's residence has changed. Further, any effort to challenge those whose property has been foreclosed is very likely discriminatory, since 62 percent of sub-prime loans in Michigan have been made to African American homeowners.

Bob Baer, general counsel for the presidential campaign of Barack Obama, has filed a federal lawsuit to prevent challenges of voters whose property has been foreclosed. Baer notes: "Using foreclosure lists to challenge a voter's address is false and illegal for several reasons. First, because getting a foreclosure notice is not evidence that the person's address has changed. In Michigan, homeowners have the opportunity to redeem the foreclosure even after a sheriff's sale has occurred, which means they can stay in the home for many months after a foreclosure notice has been sent. Second, because under Michigan law a person can vote at their old precinct if they lost their home within 60 days of the election."

The right to vote is a fundamental right in America's democracy. To deny that right to whole classes of citizens is clearly unlawful; to deny that right to a class of citizens already battered by the economy as they are threatened with foreclosure is unconscionable.

POSITIONS:

The Community Economic Development Association supports the bill. (9-23-08)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.