

# Banks Suing Governor Jan Brewer over Reversal of Controversial Foreclosure Bill

**MALIA POLITZER** | OCTOBER 27, 2009 | 10:42AM

Remember when we wrote about a [bill that could financially devastate homeowners](#) facing foreclosure, and then we wrote about [how it was reversed](#)?

Well, the bill might just be back.

The Arizona Bankers Association -- which represents more than 70 banks in the state -- has filed a lawsuit in the Arizona Supreme Court against Governor Jan Brewer, challenging the constitutionality of how the Legislature passed a reversal to controversial Senate Bill 1271.

The bill would have changed the eligibility requirements for "anti-deficiency" protection, which protects a homeowner facing foreclosure from having to pay back the difference between the amount for which the bank is able to sell their home, and what they owe the bank. In today's economy, that often means \$100,000 or more.

SB 1271 called for altering the previous protection so that, in order to qualify, homeowners would have had to live in the home for six months and have a certificate of occupancy. It was reversed in September, legislators said, because of a number of unintended consequences that could hurt homeowners.

Now, bankers are requesting that the court reverse Section 17 of House Bill 2008 -- the section that reversed SB 1271.

The essence of banking lobby's case hangs on how the bill was reversed. Brewer signed the bill canceling 1271 in a special session. Because the bill reversing 1271 was unrelated to the four topics Brewer listed when calling the special session, the Arizona Banker's Association claims the reversal is unconstitutional.

It also argues that the entire house bill -- one of nine sections of the long-awaited budget -- may be unconstitutional. According to the Arizona constitution, bills should stick to one topic. But House Bill 2008, the bankers' petition argues, addresses many different issues, including 1271.

Real estate lawyer Jim Eckley -- a vocal critic of 1271 -- calls the suit absurd.

"The original bill was defective from the get-go," he says. "So why are we wasting the court's time talking about whether or not it was passed inappropriately when the bill itself was unconstitutional?"

Tom Farley, head lobbyist for the Arizona Association of Realtors, plans to pressure the governor to call a special session to specifically address the bill.

"There is no reason why our tax dollars have to be wasted on a lawsuit," he says.

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