AUSTIN - One Houston woman's housing nightmare hangs over proposed legislation designed to protect other homeowners.

Wenonah Blevins, 83, lost her home to foreclosure in 2001 because she owed the Champions Homeowners Improvement Association $814.50 in unpaid dues. The association auctioned her $150,000 home, which she had paid for in full, to a new owner for $5,000.

But in an out-of-court settlement, Blevins got her home back and was paid $300,000, and the man who bought her home was paid $95,000 to return the deed to her.

Pending legislation is designed to help prevent similar homeowner woes.

Senate Bill 949 by Sen. Jon Lindsay, R-Houston, aims to protect homeowners from management companies hired by homeowners associations to enforce deed restrictions and collect dues and fees. A House version has been filed by Rep. Kevin Bailey, D-Houston.

"The (homeowners associations) that don't take care of their own issues are the ones that subcontract out to a management company," Lindsay said.

He said the fees charged by management companies are based on the number of deed violations they find and the amount of money they can charge homeowners for the violations.

In some cases, the fees can be excessive, such as $25 for a notice letter. The homeowner's financial problems mount as charges are piled on, making it difficult to settle the account.

"That's where my fight comes from," Lindsay said. "I'm trying to cut the management companies out as much as possible so that the association has to do more on their own. They ought to do more on their own instead of unloading on the homeowner in any and every way that they can."

The bill, which was voted out of the Senate Intergovernmental Relations Committee as a committee substitute on Tuesday, has the following provisions:

- Gives county attorneys in counties with more than 200,000 residents the authority to investigate and file suit against
associations.

Requires homeowners associations in Harris County to meet minimal requirements before assessing certain fees and costs.

Subjects associations to state open meetings and open records provisions.

Requires associations to notify homeowners of their intent to file suit. Also, allows foreclosure proceedings to be filed only for assessment-related violations.

Prevents homeowners from being fined up to $200 a day for violations.

Also under the bill, management companies and law firms cannot begin assessing attorney fees until 60 days after a homeowner is notified about a deed violation and 180 days after an assessment violation.

"They disagree with me, but I'm sorry, I just think that's a fair amount of time," Lindsay said.

The bill also prohibits nonjudicial foreclosure.

"The really good homeowners associations never foreclose. Now, they threaten it a time or two and they still have the ability to threaten, but they have to threaten it with judicial proceedings instead of nonjudicial proceedings," Lindsay said.

Law firms representing homeowners associations, however, are putting up a considerable fight against the legislation, which they say gives too many protections to homeowners and leaves associations vulnerable.

"The overlying problem is that this bill punishes the rule-abiding and dues-paying homeowner to the benefit of the rules-breaking homeowners," said Connie Niemann Heyer, of Neimann & Neimann, an Austin law firm, and the former president of the Austin chapter of the Community Associations Institute, an umbrella group for homeowners associations.

"If one group is not made to pay for the consequences of their own actions someone has to pay for it," she said.

She said the bill primarily benefits homeowners who simply want nothing to do with homeowners associations, which is an unrealistic scenario in any subdivision with deed restrictions requiring an entity to enforce the restrictions.

Patricia Arnold, the current Austin chapter president of the institute, said the bill leans too heavily on the side of the homeowners and allows them to stall associations when they have no intention of paying unpaid dues or overdue fees.

She said the enforcement of deed restrictions costs money.
"In my opinion the bill just isn't balanced," Arnold said. "It assumes that associations will always do the wrong thing and needs management and it assumes that the homeowners will always do the right things and needs protection. That's not the real world."

Lindsay said his fight is not with homeowners associations but with the management companies, whose sole involvement in disputes between associations and homeowners is defined by the fees they collect.

Mug: Sen. Jon Lindsay said associations should take care of their own issues.