

Honolulu, Hawaii

March 2, 2006

RE: H.B. No. 3100

H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred H.B. No. 3100 entitled:

"A BILL FOR AN ACT RELATING TO MORTGAGE FORECLOSURES,"

begs leave to report as follows:

The purpose of this bill is to provide mortgagors an opportunity to retain ownership of their property in the event of a power of sale mortgage foreclosure and improve the foreclosure process by:

- (1) Providing mortgagors with a right of redemption within 90 days of the foreclosure; and
- (2) Limiting the downpayment required of the successful bidder at the public sale of the foreclosed property to not more than 25 percent of the highest successful bid price.

The Hawaii Bankers Association supported the bill in part and opposed the bill in part. The Hawaii Association of Realtors supported the intent of part of the bill. The Mortgage Bankers Hawaii Financial Services Association and Association of Hawaii offered comments.

Upon consideration, your Committee has amended this bill by:

- (1) Removing the right of redemption;

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- (2) Limiting the successful public sale bidder's mandatory downpayment to 10 percent of the highest successful bid price;
- (3) Providing that if the sale does not close, the downpayment is to cover the foreclosing mortgagee's auction expenses and any escrow fees and costs, with the balance to be returned to the successful bidder; and
- (4) Making technical, nonsubstantive amendments for clarity and consistency.

Your Committee believes that these amendments will benefit the mortgagor by increasing competition during the foreclosure auction. Limiting the required downpayment to 10 percent of the successful bid will increase the number of people able to bid on the property at the foreclosure sale. This will allow the property to be sold for a higher price and reduce the chances that there will be a deficiency judgment against the mortgagor.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3100, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3100, H.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Consumer
Protection & Commerce,



ROBERT N. HERKES, Chair



