

Honolulu, Hawaii

March 19, 2008

RE: S.B. No. 2454
S.D. 1
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred S.B. No. 2454, S.D. 1, entitled:

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

begs leave to report as follows:

The purpose of this bill is to improve the nonjudicial foreclosure process by ensuring that foreclosing mortgagees provide interested parties with certain information about the mortgaged property in a timely manner.

Specifically, this bill requires the mortgagee to provide the party in breach of the mortgage agreement with the contact information, including the electronic address, of the mortgagee's attorney who must be physically located and licensed in Hawaii. This bill also makes other amendments to the Mortgage Foreclosures Law under Chapter 667, Hawaii Revised Statutes, to ensure that the different nonjudicial foreclosure processes include provisions for interested parties to receive sufficient notice and obtain information about the intent to foreclose, amounts to cure the mortgage default, fees and costs, and public sales of the mortgaged property.

The Collection Law Section of the Hawaii State Bar Association testified in support of this bill. The Hawaii Financial Services Association supported the intent of this measure.

SB2454 HD1 HSCR CPC HMS 2008-2919



Nonjudicial foreclosures allow lenders to foreclose on mortgages under a power of sale without going through a costly and time-consuming lawsuit. However, these foreclosure processes can be difficult for consumers and other parties seeking to obtain important information about the foreclosure in a timely manner, particularly when there is a time-zone difference because the lender is based outside of Hawaii. Calling a phone number in a foreclosure notice can lead to unhelpful automated messages or to someone who is unable to provide the caller with the information sought. By requiring foreclosing mortgagees to provide the contact information of a Hawaii-based attorney, this bill seeks to ensure that interested parties have a means to obtain information from a person with a local presence and the ability to provide useful information.

Your Committee has amended this bill by replacing its entire contents with the similar provisions of H.B. No. 2837. As amended, this bill differs substantively from the draft received by your Committee by:

- (1) Requiring to be in writing, information requests from entitled parties regarding the amount to cure the mortgage default, estimated fees and costs to be incurred by the mortgagee, and the sale price of the mortgaged property at auction; and
- (2) Requiring information requests regarding the sale price of the mortgaged property to be fulfilled within a certain number of business days following the auction.

Further technical, nonsubstantive amendments were made for clarity and style.

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 S.B. No. 2454, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2454, S.D. 1, H.D. 1, and be referred to the Committee on Judiciary.



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



ROBERT N. HERKES, Chair



