

HAWAII FINANCIAL SERVICES ASSOCIATION

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March 10, 2008

Rep. Robert N. Herkes, Chair,
and members of the House Committee on Consumer Protection & Commerce
Hawaii State Capitol
Honolulu, Hawaii 96813

Re: **Senate Bill 2454, Senate Draft 1 (Mortgage Foreclosures)**
Hearing Date/Time: Monday, March, 10, 2008, 2:00 P.M.

I am the attorney for the **Hawaii Financial Services Association** ("HFSA"). The HFSA is the trade association for Hawaii's financial services loan companies.

The purpose of this Bill is to require a mortgagee to provide the telephone number of an attorney located and licensed in Hawaii as the contact individual, and authorizes this individual to provide information to qualified callers.

This Bill only affects non-judicial foreclosures. It does not affect judicial foreclosures.

The HFSA **supports the intent** of this Bill and **but has concerns about a provision**.

Frequently, a financial services loan company has a second mortgage on property that is the subject of a non-judicial foreclosure action by a mainland lender which has a first mortgage on the property. There are instances where the financial services loan company has had difficulty in getting information from the mainland lender about the loan balance or the status of the foreclosure.

To the extent that this Bill requires that there be a Hawaii attorney located in Hawaii who can answer questions and give information on behalf of a foreclosing mortgagee in a non-judicial foreclosure, we support that approach. These requirements on page 2 of this Bill will enable local lenders, including financial services loan companies, to obtain specified information about the non-judicial foreclosure action commenced by mainland lenders.

However, we have a **concern** about a provision in this Bill which changes HRS Sec. 667-5. The change on page 1, beginning on line 9, would now require that a foreclosing lender use the services of Hawaii attorney to represent the lender in handling other aspects of a non-judicial foreclosure: publishing notices in a Hawaii newspaper, filing the notice with the State Director of Taxation, and posting the notice on the property. We believe that it should be the choice of each lender whether or not to use an attorney for services other than answering questions from and providing information to qualified callers. Undoubtedly, the use of attorneys could increase the amount that a borrower needs to pay to reinstate or payoff a delinquent loan that is going through a non-judicial foreclosure action.

Thank you for this opportunity to provide testimony.

Marvin S.C. Dang

MARVIN S.C. DANG

Attorney for Hawaii Financial Services Association

(MSCD/hfsa)

Members: American General Financial Services of Hawaii, Inc./American International Group • Beneficial Hawaii, Inc./HSBC North America • CitiFinancial, Inc./Citigroup • House of Finance, Inc. • Kauai Island Finance, Inc. • Maui Industrial Loan & Finance Company, Inc. • Safety Loan Company, Ltd. • Wells Fargo Financial Hawaii, Inc./Wells Fargo Financial, Inc.

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Collection Law Section

Chair:
Steven Guttman

Vice Chair:
WilliamJ. Plum

Reply to:

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VIA FAX 586-6161
March 9, 2008

Representative Robert N. Herkes, Chair
and Members of the
House Consumer Protection and Commerce Committee

RE: SB 2454 - RELATING TO FORECLOSURES
HEARING 3/10/08 AT 2:00 P.M. - CPC

Dear Mr. Herkes and Committee Members:

The Collection Law Section of the Hawaii State Bar Association¹ requests that you support the above bill regarding improving non-judicial foreclosures under HRS Section 667-5 and 667-7. SB 2454 will eliminate a major problem facing consumers and other parties when a foreclosure is filed, *i.e.*, obtaining important information about the foreclosure in a timely manner. Currently, a large number of Hawaii foreclosures are handled by servicing corporations located on the mainland that provide little to no information relating to the foreclosure to parties that are entitled to such information. For example, co-mortgagors and junior lien holders often need to know what the amount is to cure the default in order to stop the foreclosure, or what the estimated foreclosing fees and costs will be so that they can properly bid at the auction and protect their position. It is common for a person to call the telephone number provided in a foreclosure notice, only to be run around in circles with automated outgoing messages, put on hold, or transferred to someone who is not properly trained to provide the caller with the information the caller needs.

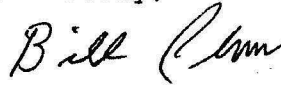
¹ The opinions of the Collection Law Section are not necessarily those of the Hawaii State Bar Association proper.

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Our proposal states that the mortgagee must provide the telephone number of an attorney located and licensed in Hawaii as the contact individual, and that this individual will have clear authority to provide the information to qualified callers. By using a Hawaii based attorney there will be local accountability, no more time zone differentials involved and the guaranty that a caller can speak to a person who will give them answers. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Bill Plum".

William J. Plum

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