

JAN 28 2009

A BILL FOR AN ACT

RELATING TO FORECLOSURES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that Hawaii is
2 experiencing a crisis due to an increasing number of residential
3 foreclosures. On January 15, 2009, The Honolulu Advertiser
4 reported that residential foreclosures in Hawaii increased by
5 two hundred thirty per cent in 2008. Even this number may
6 understate the magnitude of Hawaii's growing foreclosure crisis
7 since most of the foreclosures occurred in the last half of 2008
8 and therefore may not have been fully reported yet.

9 In December 2008, the Pew Charitable Trusts determined that
10 one out of twenty-nine Hawaii homeowners will experience
11 foreclosure due to a high-cost loan by the end of 2010,
12 exceeding the national average of one out of thirty-three.
13 Additionally, more than half of Hawaii's remaining homeowners
14 will see the value of their homes decline by a projected average
15 of \$24,786 as a result of these foreclosures.

16 Economic loss and other hardships resulting from
17 foreclosures are not limited to individual homeowners. The



1 projected loss to Hawaii's state and local tax base caused by
2 declines in property values is \$4,160,000,000. In a December
3 2008 speech, Federal Reserve System Board Chairman Ben Bernanke
4 stated that recent losses to lenders on the defaulted subprime
5 mortgages that account for most foreclosures have averaged
6 between fifty and sixty per cent of the loan balance. The need
7 to adjudicate a growing number of foreclosures will, for some
8 time to come, increase the workload of Hawaii's courts and
9 adversely affect all users of the justice system.

10 In other states, foreclosure mediation has produced better
11 outcomes than adjudication for homeowners and lenders. Giving
12 homeowners facing foreclosure the right to request mediation
13 will help homeowners and lenders avoid unnecessary foreclosures
14 and reduce lender losses while also benefitting other property
15 owners, preserving the tax base, and keeping Hawaii's
16 neighborhoods free of blight and crime associated with vacant
17 houses. Early resolution and avoidance of foreclosure will
18 additionally ease the burden on courts currently facing a
19 growing number of foreclosure actions.

20 SECTION 2. Chapter 667, Hawaii Revised Statutes, is
21 amended by adding a new section to be appropriately designated
22 and to read as follows:



1 "§667- Foreclosure mediation. (a) A homeowner who is
2 in default of the homeowner's mortgage agreement shall have the
3 right to participate in mediation to give the homeowner and the
4 lender an opportunity to negotiate in good faith in order to
5 avoid foreclosure. This section shall apply to:

6 (1) Foreclosure by power of sale subject to part I;

7 (2) Alternate power of sale foreclosure subject to
8 part II; and

9 (3) Foreclosure by action subject to sections 667-1 to
10 667-4, unless a comparable right to mediation in the
11 action is available to the homeowner through the
12 court.

13 (b) A lender shall notify the homeowner of the
14 availability of foreclosure mediation in writing, on forms
15 prescribed by the department of commerce and consumer affairs.
16 The notice shall contain instructions for requesting mediation.
17 The notice shall be delivered to the homeowner:

18 (1) In a foreclosure by action, prior to the entry of a
19 default or the filing of any motion; or

20 (2) In a foreclosure by power of sale, prior to the notice
21 required by section 667-5(a)(2) or 667-22.



1 (c) The homeowner shall request mediation within
2 twenty-one days of receiving the notice required by subsection
3 (b) or the right to mediation under this section is waived.

4 (d) If the homeowner requests mediation, no action
5 relating to foreclosure shall occur until after the mediator
6 declares in writing to the parties that the mediation is
7 terminated with no agreement reached.

8 (e) Throughout the mediation process, all parties shall
9 negotiate in good faith and shall attempt to reach a mutually
10 acceptable agreement in order to avoid foreclosure. The lender
11 shall attempt to reduce the interest rate, reduce the remaining
12 loan balance, extend the loan repayment period, or any
13 combination of the foregoing, so that the homeowner's required
14 monthly mortgage payment falls within affordability guidelines
15 based on monthly household income established by the Federal
16 National Mortgage Association, the Federal Home Loan Mortgage
17 Corporation, or the Federal Deposit Insurance Corporation.

18 (f) The director of commerce and consumer affairs shall
19 adopt rules pursuant to chapter 91 to implement the provisions
20 of this section.

21 (g) As used in this section:



1 "Homeowner" means an owner-occupant of a residential real
2 property, used as a primary residence, in Hawaii, who is also a
3 borrower under a mortgage encumbering the property.

4 "Lender" means the original lender under a mortgage, its
5 successors or assigns, or the mortgage servicer."

6 SECTION 3. Section 667-1, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§667-1 Foreclosure by action.** (a) The circuit court may
9 assess the amount due upon a mortgage, whether of real or
10 personal property, without the intervention of a jury, and shall
11 render judgment for the amount awarded, and the foreclosure of
12 the mortgage. Execution may be issued on the judgment, as
13 ordered by the court[-]; provided that a plaintiff in any
14 foreclosure action shall fully comply with section 667-52 before
15 seeking an entry of default, filing any motion, or requesting
16 the entry of judgment."

17 SECTION 4. Section 667-5, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) When a power of sale is contained in a mortgage, and
20 where the mortgagee, the mortgagee's successor in interest, or
21 any person authorized by the power to act in the premises,
22 desires to foreclose under power of sale upon breach of a



1 condition of the mortgage, the mortgagee, successor, or person
2 shall be represented by an attorney who is licensed to practice
3 law in the State and is physically located in the State. The
4 attorney shall:

5 (1) Give notice to the homeowner of the homeowner's right
6 to mediation pursuant to section 667- .

7 ~~[(1)]~~ (2) Give notice of the mortgagee's, successor's, or
8 person's intention to foreclose the mortgage and of
9 the sale of the mortgaged property, by publication of
10 the notice once in each of three successive weeks
11 (three publications), the last publication to be not
12 less than fourteen days before the day of sale, in a
13 newspaper having a general circulation in the county
14 ~~[in which]~~ where the mortgaged property lies; and

15 ~~[(2)]~~ (3) Give any notices and do all acts as are
16 authorized or required by the power contained in the
17 mortgage."

18 SECTION 5. Section 667-22, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) When the mortgagor or the borrower has breached the
21 mortgage agreement, and when the foreclosing mortgagee intends
22 to conduct a power of sale foreclosure under this part, the



1 foreclosing mortgagee shall prepare a written notice of default
2 addressed to the mortgagor, the borrower, and any guarantor.

3 The notice of default shall state:

4 (1) The name and address of the current mortgagee;

5 (2) The name and last known address of the mortgagor, the
6 borrower, and any guarantor;

7 (3) The address or a description of the location of the
8 mortgaged property, and the tax map key number of the
9 mortgaged property;

10 (4) The description of the default, and if the default is
11 a monetary default, an itemization of the delinquent
12 amount shall be given;

13 (5) The action that must be taken to cure the default,
14 including the amount to cure the default, together
15 with the estimated amount of the foreclosing
16 mortgagee's attorney's fees and costs, and all other
17 fees and costs estimated to be incurred by the
18 foreclosing mortgagee related to the default by the
19 deadline date;

20 (6) The date ~~[by which]~~ when the default must be cured,
21 ~~[which deadline date]~~ that shall be at least sixty
22 days after the date of the notice of default;




1 (7) That if the default is not cured by the deadline date
 2 stated in the notice of default, the entire unpaid
 3 balance of the moneys owed to the mortgagee under the
 4 mortgage agreement will be due, that the mortgagee
 5 intends to conduct a power of sale foreclosure to sell
 6 the mortgaged property at a public sale without any
 7 court action and without going to court, and that the
 8 mortgagee or any other person may acquire the
 9 mortgaged property at the public sale; [and]

10 (8) The name, address, including electronic address, and
 11 telephone number of the attorney who is representing
 12 the foreclosing mortgagee; provided that the attorney
 13 shall be licensed to practice law in the State and
 14 physically located in the State[-]; and

15 (9) A homeowner's right to mediation pursuant to section
 16 667- ."

17 SECTION 6. Statutory material to be repealed is bracketed
 18 and stricken. New statutory material is underscored.

19 SECTION 7. This Act shall take effect on July 1, 2009.

20 *Will Egan*
 INTRODUCED BY: *Erzanne Cruz Adalana*
Michelle N. Kidani
SBT
 2009-0847 SB SMA.doc

Clerene K. Siskin
Q. Lee Gell
Anthony...

Report Title:

Mortgage Foreclosure, Real Estate

Description:

Grants owner-occupants of residential real property the right to engage in mediation with a mortgagee in order to prevent foreclosure of the residential property. Establishes notice requirements.





The Judiciary, State of Hawaii

Testimony to the Senate Committee on Commerce and Consumer Protection

The Honorable Rosalyn H. Baker, Chair
The Honorable David Y. Ige, Vice Chair
Thursday, February 12, 2009, 8:30 a.m.
State Capitol, Conference Room 229

by
Elizabeth Kent
Director
Center for Alternative Dispute Resolution

Bill No. and Title: Senate Bill No. 1328, Relating to Foreclosures.

Purpose: Grants owner-occupants of residential real property the right to engage in mediation with a mortgagee in order to prevent foreclosure of the residential property. Establishes notice requirements.

Judiciary's Position:

The Judiciary supports use of mediation in appropriate foreclosure actions and believes mediation could provide a useful forum for homeowners and lenders to find creative and satisfying solutions, and preserve business relationships. Because the stakes are so high, and the consequences of foreclosure so severe, mediation could be especially useful in such stressful discussions as mediation provides an informal setting in which an impartial, third party (the mediator) may alleviate some of the tension. Even if parties are unable to reach agreement on terms to keep homeowners in their homes, mediation can provide a setting in which the parties can work out a transition plan that will allow homeowners a reasonable amount of time to find alternate housing.

The Judiciary notes the following items in Senate Bill No. 1328:

- **“Good faith.”** Negotiating in “good faith” is required in at least two sections of the bill. A “good faith” requirement is generally not included in mediation rules and statutes in Hawaii. Keeping the term in may open the doors to litigation or complaints following the mediation process. Mediation is intended to be a private process that is separate from litigation. Deleting the term “good faith” would help to strengthen the mediation process.



Senate Bill No. 1328, Relating to Foreclosures
Senate Committee on Commerce and Consumer Protection
Thursday, February 12, 2009
Page 2

- **Will there be enough mediators?** The bill does not specify where mediation will take place or who will pay for the mediation service. Currently the Judiciary has a contract for purchase of Health and Human Services (POS) with the Mediation Centers of Hawaii, Inc., to provide statewide mediation and related dispute resolution services. This contract ensures that mediation is available at a reasonable cost for parties on all islands, and at a reduced rate for those who need it.

With the current budget crisis, POS contracts are in danger of being cut or reduced. If the current mediation POS contract amount is decreased, the community mediation centers most likely will not be able to maintain their current level of service. This means that the infrastructure for mediation will not be available and parties may not be able to find a mediator for their cases.

Thank you for the opportunity to testify on Senate Bill No. 1328.



SB 1328 Relating to

Foreclosures

Senate Committee on Commerce and Consumer Protection

February 12, 2009
229

8:30 am

Room

The Office of Hawaiian Affairs supports the purpose and intent of SB 1328.

Consumer protection laws benefit all of Hawai'i's residents which include the beneficiaries of the Office of Hawaiian Affairs.

The Office of Hawaiian Affairs advocates for systemic changes to address the immediate needs of our citizens that may have their homes foreclosed. Sufficient written notice from a lender to a homeowner of a mediation option to consider is a systemic change in law that can be applicable beyond the present economic situation of the real estate market. The mediation option to negotiate in good faith by both the lender and the homeowner to avoid foreclosure will benefit all parties.

We recognize that physical solutions by themselves will not solve social and economic problems, but neither can economic vitality, community stability, and environmental health be sustained without a coherent and supportive physical framework. This bill will provide an opportunity to create a needed physical framework to keep our homeowners in their homes.

Mahalo nui loa for the opportunity to provide this testimony.



HAWAII BANKERS ASSOCIATION

1000 BISHOP ST., SUITE 301B • HONOLULU, HAWAII 96813-4203
PHONE: (808) 524-5161 • FAX: (808) 521-4120

Presentation to the Senate Committee on
Commerce and Consumer Protection
Thursday, February 12, 2009, at 8:30AM

Testimony for SB 1328 Relating to Foreclosures

TO: The Honorable Rosalyn H. Baker, Chair
The Honorable David Y. Ige, Vice Chair
Members of the Senate Committee on Commerce and Consumer Protection

My name is Neal Okabayashi and I testify for the Hawaii Bankers Association in opposition to SB 1328. While the intent of this bill is laudable, the consequences will be harmful to the people this bill is intended to help.

Hawaii has been very fortunate in avoiding the number of foreclosures prevalent in certain mainland states. In part, that has been due to the conservative lending of local banks but also in part to the strength of our economy. Unfortunately, as our economy deteriorates, we can expect foreclosures to increase because the reasons for loan defaults basically remain the same: job loss or underemployment, health issues, death and divorce – three factors worsened by economic downturns. Complicating this effort is that many nonbanks, as well as some banks, made nontraditional mortgages which has led to borrowers with no or little equity in a property or unable to make payments due.

During the heydays of mortgage lending, mainland lenders had the largest market share. For example, in 2006, the local lenders (primarily banks and credit unions) were about 27% of the market while mainland banks and nonbanks were about 55% of the market. Because of the turmoil in the credit markets and demise of certain mainland lenders, local banks and credit unions were about 50% of the market last year and mainland lenders were about about 35% of the market. Because of the imprecision of the figures provided by Title Guaranty, these figures are just estimates.

Thankfully, we are not well represented in foreclosures. Our sense is that, perhaps as a consequence of the large market share of mainland lenders during a time of low rates and high home prices, mainland lenders like Countrywide and WAMU (seized by federal banking regulators and sold to JP Morgan Chase) are much more involved in foreclosure proceedings than local lenders. Because some of the mainland lenders are federal savings banks, any laws which inhibit their ability to collect on their loans may be preempted by state law and then we would be left with a law applicable to those who are not the problem.

Lenders are actually very active in foreclosure mitigation programs because lenders are hurt by foreclosures and would prefer alternatives such as deferrals and loan modifications but because they must be decided on a case-by-case basis, we oppose any statutorily mandated programs. The net effect of a law that mandates pre-foreclosure procedures and timelines will

only incentive lenders to begin the foreclosure proceedings earlier and undermine existing and future mitigation programs.

It should be noted that banks (meaning those that accept deposits) are all federally regulated whether they are chartered by the federal government or by a state government and are under greater scrutiny regarding lending and servicing operations, and under an obligation to perform such activities prudently to protect the bank and the depositors of the bank, as well as the FDIC. Forcing banks to act according to a statutory framework is counterproductive to such goal.

As Treasury Secretary Tim Geithner put it on February 10, 2009, in introducing the Financial Stability Plan, “. . . the recession is putting greater pressure on banks. This is a dangerous dynamic, and we need to arrest it.” Enacting laws such as this will add to the pressure on banks and thus should be avoided.

Secretary Geithner also announced that in a few weeks the details of a plan to address the housing crisis will be unveiled in a few weeks. It is widely anticipated that this foreclosure mitigation program will carry a price tag in the neighborhood of 50 billion dollars.

We do not want to work counter to the Geithner plan and thus rather than passing this bill, we should let the federal programs as well as the individual programs of banks take effect.

Lenders have not been waiting for the Geithner plan to be announced to take affirmative steps to conduct foreclosure mitigation.

Examples of steps already taken by banks include the following. We do contact delinquent borrowers (who often are mainland investors) to discuss options with them. Much of this is based on the Fannie Mae/Freddie Mac guidelines for selection of an appropriate workout program which starts with an indication by the property owner whether the owner wants to keep the property or not. Based on that indication, certain steps are taken.

The Fannie Mae/Freddie Mac approach mirrors the approach of the FDIC which seeks to keep a borrower in a home when the borrower is able and willing to make a reduced payment or to encourage a short sale or deed in lieu of foreclosure when the borrower is unable to make the reduced payment. To protect the owner of the loan, the FDIC requires that the cost of the modification be less than the cost of the foreclosure. The FDIC model follows the one used by the FDIC after taking over IndyMac.

We do notify borrowers of available consumer credit counseling agencies in Hawaii since that is required by federal law. Some lenders contact a tenant if the property is investor owned.

Banks also engage in a variety of other mitigation efforts. One alternative is forbearance if payment sources are identified. The forbearance may take the shape of lowering payments until the source of payment is made or some other alternative.

Another effort may be a modification of the loan, concentrated on lowering the monthly payment. This may take the form of extending the term of the loan, lowering the interest rate, reamortizing the loan – all of which reduces the monthly payment.

Try as we might, not all delinquencies can result in a successful workout. Studies by federal banking regulators revealed that 50% of loans modified became delinquent again. This is a function of a deteriorating economy. If a borrower is unemployed and unrealistically refuses to sell the property, the lender's alternatives are reduced. In Hawaii, just as in some mainland states such as California, many of the foreclosures are of investors, especially those in resort

areas who relied on a rental income stream to pay the loan. Our sense, which is anecdotal, is that more than half of our foreclosures are investors.

As for banks, because we are regulated by a federal banking agency, we have less flexibility on loans made with a loan-to-value greater than 80%, meaning the down payment was less than 20%. In such cases, we are required to obtain private mortgage insurance from an insurer when we make the loan, and any modification must be approved by the insurer.

There are other programs. A coalition of mortgage servicers, lenders, housing counselors and investors have come together to form the Hope Now Alliance, which has produced a set of loan mitigation guidelines similar to the FDIC program.

The FHA has a program aimed at facilitating loan modifications called Hope for Homeowners.

The Federal Reserve System has taken unprecedented steps to reduce the short term interest rates which has an indirect downward push on mortgage rates. Such steps, along with President Obama's stimulus plan which is intended to reduce unemployment or at least reduce the rate of unemployment, will improve the economic climate which is the best foreclosure mitigation program. The Federal Reserve also announced its plan to purchase up to 600 billion dollars in mortgage related debt which has the impact of lowering mortgage rates, which would have two beneficial effects: increase housing prices and reduce mortgage rates, both of which will help borrowers refinance their loans. The stimulus plan about to go to conference also includes a tax credit for homebuyers which would help stabilize and provide an upward lift to home prices, thus helping existing homeowners.

Mitigation programs must have two prongs. One is to increase the ability of borrowers to refinance loans, and the Federal Reserve and this administration have taken those steps. The other is exploring modification of the loan or forbearance, and the lenders have taken those steps.

While lenders are actively pursuing mitigation strategies, we are mindful that we are in an economy that is not conducive to mitigation. Housing prices have dropped which impacts those who paid less than 20% down but in some cases, even those who did pay 20% down. Chairman Ben Bernanke testified before Congress on December 4, 2008 that the available evidence indicates the two most important factors in default are affordability (which depends on both the income of the borrower and the monthly payment) and the borrower's equity in the property. Thus, for those with little or no equity in the property, or even underwater, there are challenges to resurrecting the loan and a bill such as this does not improve the situation.

We are in the midst of the worst economy since the depression. Lenders are actively attempting to help. Passage of measures such as this create downward pressures on lenders and the last thing we need to do is to pressure the financials of a lender who at the heart of our economic system. At the end of the day, the best foreclosure mitigation program is to jump start the economy and create jobs.



HAWAII CREDIT UNION LEAGUE

1654 South King Street
Honolulu, Hawaii 96826-2097
Web Site: www.hcul.org

Telephone: (808) 941-0556
Fax: (808) 945-0019
Email: info@hcul.org



Testimony before the Senate Committee on Commerce and Consumer Protection
Thursday, February 12, 2009 at 8:30 a.m.

Testimony opposing SB 1328, Relating to Foreclosures

To: The Honorable Rosalyn Baker, Chair
The Honorable David Ige, Vice Chair
Members of the Committee

My name is Stefanie Sakamoto and I am testifying on behalf of the Hawaii Credit Union League, which represents approximately 810,000 credit union members across the state.

We are in opposition to SB 1328. Our primary concern regarding this measure is the impact it will have on lengthening the foreclosure process. This is particularly troubling at a time when the real estate sales are so soft and market prices of residential real estate are falling. Under such conditions, the longer it takes for the property to be auctioned, the less the collateral will be worth. Consequently, the lender could suffer a larger loss, and the borrowers could be faced with a larger deficiency balance in the event the property is sold for less than the borrowers' mortgage obligations. Even if there is positive equity, the borrowers will realize less equity in a declining market.

As such, passage of this measure would hurt financial institutions, and would in turn, adversely affect consumers.

Thank you for the opportunity to testify.

HAWAII FINANCIAL SERVICES ASSOCIATION

c/o Marvin S.C. Dang, Attorney-at-Law

P.O. Box 4109

Honolulu, Hawaii 96812-4109

Telephone No.: (808) 521-8521

Fax No.: (808) 521-8522

February 12, 2009

Senator Rosalyn H. Baker, Chair
and members of the Senate Committee on Commerce and Consumer Protection
Hawaii State Capitol
Honolulu, Hawaii 96813

Re: **Senate Bill 1328 (Foreclosures)**
Hearing Date/Time: Thursday, February 12, 2009, 8:30 A.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 which are regulated by the Hawaii Commissioner of Financial Institutions under the Code of Financial Institutions (Chapter 412, Article 9 of the Hawaii Revised Statutes).

The HFSA wants to **comment** on this Bill.

The purpose of this Bill is to grant owner-occupants of residential real property the right to engage in mediation with a mortgagee in order to prevent foreclosure of the residential property. It also contains specific notice requirements regarding the owner-occupants' right to mediation.

We have read a draft of the testimony to be submitted by the Hawaii Bankers Association. We concur with the points made about the efforts of banks to affirmatively work with borrowers to avoid foreclosures. In fact, financial services loan companies do the same things.

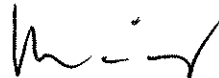
Based on my experience as an attorney in private practice who has actively handled foreclosures for 31 years since 1978, I would like to make the following additional comments:

1. During the first 120 days in which a loan is in default, lenders generally make reasonable attempts to contact the mortgagor (borrower) and to work on alternatives to foreclosure. A lender should not be forced to follow a rigid statutory procedure when a lender is working with a mortgagor (borrower) to avoid foreclosure on a defaulted loan.

2. Parts of this Bill would make changes to Part II of Chapter 667 of the Hawaii Revised Statutes ("HRS"). Part II is the "Alternate Power of Sale Foreclosure Provisions". I was involved in drafting Part II during the 1997 and 1998 legislative sessions. However, before the legislation passed in 1998, the legislature made certain changes to Part II that made it unusable and unworkable. As a result, no lender uses the Part II alternate power of sale provisions which are in the HRS Sections 667-21 through 667-51. Instead, all non-judicial foreclosures use the provisions in HRS Sections 667-5 through 667-10, much of which were first enacted 135 years ago in 1874.

We are willing to work with your Committee to revise Part II of Chapter 667 and this Bill as needed.

Thank you for considering our comments.



MARVIN S.C. DANG

Attorney for Hawaii Financial Services Association

The Honorable Rosalyn H. Baker, Chair
The Honorable David Y. Ige, Vice Chair
Senate Committee on Commerce and Consumer Protection

Hearing : Thursday, February 12, 2009, 8:30 a.m.
State Capitol, Conference Room 229

IN SUPPORT OF SB 1328

Chair and Members of the Committee:

My name is Ryker Wada, representing the Legal Aid Society of Hawai'i ("LASH"). I am advocating for our clients who include the working poor, seniors, citizens with English as a second language, disabled and other low and moderate income families who are consumers. We are testifying in support of SB 1328 as it would strengthen protections for consumers in the State of Hawaii.

I supervise a housing counseling program in the Consumer Unit at the Legal Aid Society of Hawaii. The Homeownership Counseling Project provides advice to individuals and families about homeownership issues. Specifically the project provides information on how to prepare yourself before purchasing a home and what to do if you are in danger of losing your home through foreclosure. In the past Fiscal Year we serviced more than 200 clients in our Project and more than 70 in the past 2 months.

SB 1328 seeks to amend HRS 667 to grant a residential real property owner facing foreclosure the right to engage in mediation with a mortgagee in order to prevent foreclosure.

In some cases, homeowners who are faced with foreclosure simply do not have enough time to complete all that is required by the mortgagee in order to save their homes. SB1328 would create vehicle by which homeowners would be allowed more time and tools to save their homes. SB 1328 would require that a mortgagee who intends to foreclose on a property give notice to the homeowner. Additionally the homeowner would have the right to participate in mediation and require the mortgagee negotiate in good faith.

LASH anticipates a growing number of foreclosures in the coming years as the so-called exotic mortgage products mature and consumers are not able to keep up with their adjusted mortgage payments

or find a suitable refinance. With the growing number of foreclosures, there will only be an increase in the number of homeowners who are harmfully displaced by the foreclosure process.

The Legal Aid Society of Hawaii supports SB 1328 and its efforts to protect homeowners and renters from a swift foreclosure process.

Conclusion:

We appreciate these committees' recognition of the need to protect consumers in the State of Hawaii. SB 1328 attempts to strengthen protections for consumers by giving homeowners more time to find appropriate solutions to their potential foreclosure problems and the right to mediation with a mortgagee. We support SB 1328 and its attempts to protect homeowners in the State of Hawaii. Thank you for the opportunity to testify.