

Linda Lingle
GOVERNOR



KAREN SEDDON
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
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IN REPLY REFER TO

Statement of
Karen Seddon
Hawaii Housing Finance and Development Corporation
Before the

HOUSE COMMITTEE ON HOUSING

March 18, 2009 9:30 a.m.
Room 325, State Capitol

In consideration of
S.B. 862, S.D. 2
RELATING TO HOUSING.

The HHFDC supports S.B. 862, S.D. 2, which enables the HHFDC and county housing agencies to more easily collect the value of shared appreciation equity and other restrictions when an affordable housing property is sold and to require advance written notification of intent to foreclose on properties encumbered by such priority liens. **Passage of this bill will allow the HHFDC and county housing agencies to avoid costly litigation when enforcing its claims on affordable for-sale homes undergoing foreclosure.**

The sale of affordable housing properties sponsored or assisted by the HHFDC is subject to a buyback restriction and a shared appreciation equity (SAE) lien. The HHFDC has also provided deferred sales price liens to assist low or moderate income homebuyers in purchasing a first home. Upon the sale or transfer of an HHFDC-assisted home, the SAE is collected and deposited into the Dwelling Unit Revolving Fund, where it can be used to support the development of additional affordable housing projects.

Recently, the HHFDC has not been receiving sufficient prior notice of foreclosure proceedings on HHFDC-assisted properties. The lack of sufficient advance notice makes it difficult for HHFDC to prepare to bid at foreclosure sales. This measure would afford the HHFDC with notice of intent to foreclose forty-five days before commencement of the foreclosure. This notice period will allow HHFDC sufficient time to conduct our due diligence and, when appropriate and beneficial to do so, prepare to bid at the foreclosure sale.

Additionally, because SAE or other government entity liens are priority liens (following the purchase money mortgage), the mortgagee pursuing the foreclosure must satisfy the amount due to the HHFDC before claiming the property at the auction. However, the HHFDC has had to intervene in over 50 bankruptcy and foreclosure actions and litigate to assert our rights as a priority lien holder. Passage of this bill will protect HHFDC's lien rights in the event of foreclosure, and enable us to recover funds to support the development of additional housing.

Thank you for the opportunity to testify.



SB 862, SD 2 Relating to Housing
House Committee on Housing

March 18, 2009
325

9:30 am

Room

The Office of Hawaiian Affairs supports the purpose and intent of SB 862, SD 2.

The growing affordable housing problem is one of the most critical issues faced by our communities, especially our Native Hawaiian communities. This issue seems to have many of our families struggling to find adequate housing and to make ends meet.

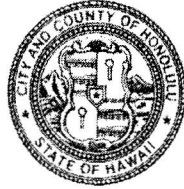
The continued increased pressure on government to provide financing assistance and reduce government barriers for the development of affordable housing has not ceased. The demand for affordable housing has not ceased. The partnerships created by government with non profit and for profit developers to keep our affordable housing inventory in a position to meet the demand reasonably need to address the "how to" versus "we cannot do it". The necessary housekeeping amendments to be able to service the shared appreciation equity during foreclosure proceedings is a "how to" and provides for fair servicing of terms originally agreed to by 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 may assist HHFDC a much needed changed framework.

Mahalo nui loa for the opportunity to provide this testimony and request your support.

DEPARTMENT OF COMMUNITY SERVICES
CITY AND COUNTY OF HONOLULU

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MUFI HANNEMANN
MAYOR

DEBORAH KIM MORIKAWA
DIRECTOR

ERNEST Y. MARTIN
DEPUTY DIRECTOR

March 16, 2009

The Honorable Rida Cabanilla, Chair
and Members of the Committee on Housing
The House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Cabanilla and Members:

Subject: Senate Bill 862, SD2
Relating to Housing

The Department of Community Services strongly supports S.B. 862, SD2, a bill sponsored by the Hawaii Housing Finance and Development Corporation (HHFDC). Section 46-15.1, Hawaii Revised Statutes, gives to the counties the same housing powers as HHFDC pursuant to Chapter 201H. S.B. 862, SD2 enables the HHFDC and counties to more easily collect the value of shared appreciation equity and other restrictions when an affordable housing property is sold and requires advance written notification of intent to foreclose on properties encumbered by such priority liens.

The sale of affordable housing properties sponsored or assisted by the HHFDC or a county is subject to a buyback restriction and a shared appreciation equity (SAE) lien. In recent years, the HHFDC and counties have not been receiving sufficient prior notice of foreclosure proceedings on assisted properties. This measure would afford the HHFDC or county with notice of intent to foreclose 45 days before commencement of the foreclosure, providing sufficient time to conduct due diligence and when appropriate to do so, prepare to bid at the foreclosure sale.

Additionally, because SAE or other government entity liens are priority liens (following the purchase money mortgage), the mortgagee pursuing the foreclosure must satisfy the amount due to the HHFDC or county before claiming the property at the auction. Passage of this bill will protect HHFDC or the county's lien rights in the event of foreclosure, and enable the respective agency to recover funds to support the development of additional housing.

We respectfully request your favorable consideration of this important bill. Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in cursive script that reads "Deborah Kim Morikawa".

Deborah Kim Morikawa, Director
Department of Community Services

DKM:gk
SB862SD2