

Honolulu, Hawaii

FEB 20 2009

RE: S.B. No. 1623
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Madam:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 1623 entitled:

"A BILL FOR AN ACT RELATING TO FORECLOSURES,"

begs leave to report as follows:

The purpose of this measure is to avoid mortgage foreclosures when possible and to mitigate the effect of mortgage foreclosures on homeowners and tenants when avoidance is not possible by requiring early contact between mortgagees and mortgagors to explore options to modify or restructure loans when appropriate and to afford tenants a timely opportunity to secure new housing.

Your Committee received testimony in support of this measure from Legal Aid Society of Hawai'i and one private citizen. Testimony in opposition to this measure was received from the Hawaii Bankers Association and Hawaii Credit Union League. Hawaii Financial Services Association and Hawaii Association of Realtors submitted comments regarding this measure. Written testimony presented to the Committee may be reviewed on the Legislature's website.

Your Committee finds that in this era of financial crisis, mortgage foreclosures can have a devastating effect on communities. Your Committee finds that this measure will help to ensure that homeowners in default of mortgage payments have ample time and opportunity to explore options that may be available to avoid foreclosure or to mitigate the effects of losing their home. Your Committee also finds that residential tenants of properties



in foreclosure also merit protection in the form of adequate notice before removal from the property and protection of their security deposits.

Your Committee notes that while additional protections may become available to homeowners under future federal programs, the State still has an important role in formulating policy to respond to local economic conditions. Your Committee recognizes that some opposition exists to this measure, yet still finds this measure to be meritorious and necessary for the protection of Hawaii's homeowners and communities. Finally, your Committee notes that the notice provisions contained in this measure are intended to apply equally to judicial foreclosure, foreclosure by power of sale, and foreclosure by alternate power of sale.

Your Committee has amended this measure by:

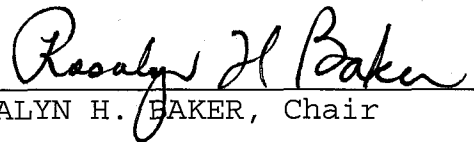
- (1) Requiring notice of a homeowner's right to representation or assistance in foreclosure proceedings and the availability of alternate dispute resolution methods such as mediation and negotiation to attempt to avoid foreclosure;
- (2) Repealing the requirement that a mortgagor sign a conveyance document in a foreclosure by alternate power of sale;
- (3) Removing the provision that allowed a tenant of a foreclosed property to elect to maintain the rental agreement in full force and effect after receiving notice of foreclosure;
- (4) Providing one hundred twenty days notice of foreclosure to a tenant before termination of a month-to-month tenancy;
- (5) Providing that a tenant of a property in foreclosure may apply the tenant's security deposit to the last month's rent;
- (6) Making technical, nonsubstantive changes for the purposes of clarity and accuracy in the language of this measure; and



- (7) Deferring the effective date of this measure in order to encourage further discussion.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1623, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1623, S.D. 1, and be referred to the Committee on Judiciary and Government Operations.

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



ROSALYN H. BAKER, Chair



The Senate
Twenty-Fifth Legislature
State of Hawaii

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:* <i>SB1623</i>	Committee Referral: <i>CPN, J90</i>	Date: <i>2/17/2009</i>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
IGE, David Y. (VC)	✓			
ESPERO, Will	✓			
GREEN, M.D., Josh	✓			
IHARA, Jr., Les	✓			
SAKAMOTO, Norman				✓
HEMMINGS, Fred	✓			
TOTAL	<i>6</i>	<i>0</i>	<i>0</i>	<i>1</i>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align:center;"><i>David Y Ige</i></div>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes