

STAND. COM. REP. NO.

2246

Honolulu, Hawaii  
FEB 12 2010

RE: S.B. No. 2472  
S.D. 1

Honorable Colleen Hanabusa  
President of the Senate  
Twenty-Fifth State Legislature  
Regular Session of 2010  
State of Hawaii

Madam:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 2472 entitled:

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

begs leave to report as follows:

The purpose of this measure is to strengthen protection for homeowners in a mortgage foreclosure by requiring the foreclosing mortgagee to attach a copy of the original, signed mortgage agreement to the notice of default.

Your Committee received testimony in support of this measure from Legal Aid Society of Hawai'i, Hawaiian Alliance, LLC, and three private citizens. Testimony in opposition to this measure was received from the Mortgage Bankers Association of Hawaii, the Hawaii Bankers Association, and Hawaii Financial Services Association. Comments on this measure were received from the Office of Consumer Protection of the Department of Commerce and Consumer Affairs. Written testimony presented to the Committee may be reviewed on the Legislature's website.

Your Committee finds that as more Hawaii homeowners experience unemployment and underemployment due to the continuing economic recession, the number of foreclosures in the State will continue to increase. Your Committee finds that while most local lenders have demonstrated a commitment to continuing investment in the community, many out-of-state lenders engage in predatory practices that place local homeowners at an unfair disadvantage in the foreclosure process. Your Committee finds that the



requirements of the original version of this measure were both overly burdensome for mortgagees and insufficient to provide real protections for mortgagors facing foreclosure. Your Committee notes that the amendments it has made to this measure are the result of cooperation among stakeholders representing the interests of both homeowners and local lenders.

Your Committee has amended this measure by:

- (1) Adding a new section to require a foreclosing mortgagee to provide the mortgagor with a notice of intent to foreclose that includes notice that mortgage counseling is available through agencies approved by the United States Department of Housing and Urban Development;
- (2) Replacing the requirement that a foreclosing mortgagee in a power of sale foreclosure attach a copy of the original, signed mortgage document and any amendments to the notice of default with a new provision requiring a foreclosing mortgagee to provide the mortgagor with a copy of the promissory note and mortgage document upon request of the mortgagor before commencing foreclosure proceedings; and
- (3) Specifying that a public sale price of seventy per cent of the tax assessed value of a fee-simple, owner-occupied property in foreclosure shall be reasonable and fair.

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. 2472, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2472, 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,

  
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ROSALYN H. BAKER, Chair



