

STAND. COM. REP. NO.

2209

Honolulu, Hawaii

FEB 12 2010

RE: S.B. No. 2910

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. 2910 entitled:

"A BILL FOR AN ACT RELATING TO REAL PROPERTY,"

begs leave to report as follows:

The purpose of this measure is to prohibit a foreclosing mortgagee from requiring a buyer of residential real property that is improved by four or fewer dwelling units to purchase the services of a title insurer or escrow depository specified by the foreclosing mortgagee.

Your Committee received testimony in support of this measure from Title Guaranty Escrow Services, Inc. Written testimony presented to the Committee may be reviewed on the Legislature's website.

Your Committee finds that as foreclosures increase in the State, it becomes even more important to assure that the process is carried out fairly to all parties involved, including the purchasers of foreclosed properties. Your Committee finds that this measure prohibits a foreclosing mortgagee from unfairly using its institutional leverage to purchase title insurance or guarantee services from a provider dictated by the mortgagee. Your Committee finds that this practice not only impinges on the purchaser's right to contract freely and disadvantages local businesses in favor of out-of-state interests that have preexisting relationships with large institutional lenders, but it also contravenes federal law. Your Committee notes that although the Real Estate Settlement Procedures Act prohibits a seller from



requiring a buyer to purchase title insurance from a particular insurer as a condition of sale, the federal law is rarely enforced and the practice continues to be widespread. Finally, your Committee notes that California and Florida have also passed similar legislation to this measure.

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. 2910 and recommends that it pass Second Reading 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>SB 2910</i>	Committee Referral: <i>CPN, J90</i>	Date: <i>02/10/10</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 checked="" type="checkbox"/> Pass, unamended 2312 <input 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	6			1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align: center; font-family: cursive; font-size: 1.2em;">David Y. Ige</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