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PRESENTATION OF THE
OFFICE OF CONSUMER PROTECTION

TO THE HOUSE COMMITTEES ON CONSUMER PROTECTION & COMMERCE
AND JUDICIARY

TWENTY-FIFTH STATE LEGISLATURE
Regular Session 2010

Wednesday, January 27, 2010
2:00 p.m.

**TESTIMONY ON HOUSE BILL NO. 2132 -- RELATING TO MORTGAGE
FORECLOSURES.**

TO THE HONORABLE ROBERT N. HERKES AND JON RIKI KARAMATSU, CHAIRS,
AND MEMBERS OF THE COMMITTEES:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to comment on House Bill No. 2132, Relating to Mortgage Foreclosures.

My name is Stephen Levins, and I am the Executive Director of the Department's Office of Consumer Protection ("OCP").

House Bill No. 2132 imposes a requirement on foreclosing lenders to formally notify their mortgagors, prior to the initiation of foreclosure proceedings, to seek mortgage counseling. Mortgage counseling is a laudatory concept so long as the counselor is well trained, has no ulterior motive of self dealing and is sincere in assisting

the mortgagor work through their financial difficulties. Counselors approved by the United States Department of Housing and Urban Development (HUD) appear to meet these criteria. They offer services to homeowners that involve repayment plans, refinancing options, and financial counseling. To the extent that House Bill No. 2132 can help mortgagors receive this kind of assistance from the HUD counselors the Department is generally supportive of the intent of this Bill.

The Department has one specific area of concern with House Bill No. 2132, however, which is the Bill's mandate that the Department adopt a form of written notice for the mortgagors. In this regard, the Department believes that it would be more efficient and cost effective to place the particular language of the desired written notice in the Bill itself rather than delegating this function to the Department.

Thank you for this opportunity to testify on House Bill No. 2132. I will be happy to answer any questions that the Committee members may have.

George J. Zweibel, Esq.
President, Board of Directors

M. Nalani Fujimori Kaina, Esq.
Executive Director

The Honorable Robert N. Herkes, Chair
The Honorable Glenn Wakai, Vice Chair
House Committee on Consumer Protection and Commerce

The Honorable Jon Riki Karamatsu, Chair
The Honorable Ken Ito, Vice Chair
House Committee on Judiciary

The Honorable Joseph M. Souki, Chair
The Honorable Karen Leinani Awana, Vice Chair
House Committee on Transportation

The Honorable Angus L.K. McKelvey, Chair
The Honorable Isaac W. Choy, Vice Chair

Hearing : Wednesday, January 27, 2010, 2:00 p.m.
State Capitol, Conference Room 325

IN SUPPORT OF HB 2132

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, other low and moderate income families who are consumers and families facing default and foreclosure on their homes. We are testifying in support of HB 2132 as it may 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, what to do if you are in danger of losing your home through foreclosure and issues relating to predatory mortgage lending.

HB 2132 seeks to require mortgage lenders who are looking to foreclose on a mortgage to notify their mortgagors about appropriate foreclosure counseling services that may be available to them. HB 2132 requires forty-five days notice to a consumer prior to initiating any foreclosure, and that the notice

provides the mortgagor information regarding the availability of counseling through approved mortgage counseling agencies, as well as appropriate contact information. HB 2132 also requires that a failure of this notice requirement would render the foreclosure void.

In practical effect this would give distressed property owners facing foreclosure more relevant information and direction that may help them find options to save their home or lessen the damage to their credit and finances. Many of our clients facing foreclosure have no idea what options are available to them and who they might turn to for help. Additionally the opportunity to save a home from foreclosure has a much better chance if the problem is addressed earlier in the process. Once a home enters foreclosure a family has a much harder time in attempting the save the home. This notice 45 days prior to initiating a foreclosure should give more valuable and more timely information to a homeowner thereby allowing them a better chance of saving their home.

Additionally HB 2132 would provide homeowners with information directing them to approved non-profit housing counseling agencies instead of business who may charge consumers hefty fees for the exact same, or in many cases lesser, services than can be provided by HUD approved agencies. This information should help to protect consumers from dishonest businesses purporting to be counseling agencies.

The Legal Aid Society of Hawaii supports the bill, and its efforts to protect the consumers in the State of Hawaii.

Conclusion:

We appreciate these committees' recognition of the need to protect consumers in the State of Hawaii. HB 2132 attempts to strengthen protections for consumers by requiring mortgage lenders to provide notification of approved housing counseling services before instituting foreclosure proceedings. We support HB 2132 its attempts to protect homeowners in the State of Hawaii. Thank you for the opportunity to testify.

The Twenty-Fifth Legislature
Regular Session of 2010

HOUSE OF REPRESENTATIVES
Committee on Consumer Protection & Commerce
Rep. Robert N. Herkes, Chair
Rep. Glenn Wakai, Vice Chair
Committee on Judiciary
Rep. Jon Riki Karamatsu, Chair
Rep. Ken Ito, Vice Chair

State Capitol, Conference Room 325
Wednesday, January 27, 2010; 2:00 p.m.

**STATEMENT OF THE ILWU LOCAL 142 ON H.B. 2132
RELATING TO MORTGAGE FORECLOSURES**

The ILWU Local 142 supports H.B. 2132, which requires foreclosing lenders to notify their mortgagors about mortgage counseling and makes foreclosure void if notice is not provided.

By the time foreclosure action is needed, the mortgagor may not be in a position to salvage their homes. However, any advance notice about foreclosure and counseling resources available to assist the mortgagor should be helpful. Resources like the Hawaii Homeownership Center are available at any stage of homeownership, but often the homeowner is not aware of the potential help. Notice by the lender should help the homeowner seek help, work out a plan to move on if saving their home is not possible, and put them on the path to developing better credit for the future.

The ILWU urges passage of H.B. 2132. Thank you for the opportunity to testify on this measure..



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Presentation to the House Committee on Consumer Protection & Commerce,
and Committee on Judiciary

Wednesday, January 27, 2010, at 2:00 p.m., Room 325

Testimony for HB 2132 Relating to Mortgage Foreclosures

TO: The Honorable Robert Herkes, Chair
The Honorable Glenn Wakai, Vice Chair
Members of the House Committee on Consumer Protection and Commerce

The Honorable Jon Karamatsu, Chair
The Honorable Ken Ito, Vice Chair
Members of the House Committee on Judiciary

My name is Neal K. Okabayashi and I represent the Hawaii Bankers Association.

HBA opposes HB 2132 on the simple grounds that it is already required under federal law. Under the Housing and Urban Development Act of 1968, lenders must notify homeowners of the availability of homeownership counseling, not later than 45 days after the loan becomes delinquent, and either provide to them a list of HUD approved nonprofit counseling centers or provide the toll free HUD number and HUD will provide the information.

Thus, this legislation is not needed as it is duplicative of existing federal law.

This bill also poses administrative problems for lenders. The bill provides that a foreclosure is void if the notice is not provided which opens the floodgates of litigation as every foreclosed defendant will claim that they did not receive the notice. To avoid that issue, lenders will have to send out the notice, signature restricted but that does not solve the problem because if the delinquent borrower simply does not pick up the letter at the post office, there will be no proof that the delinquent borrower received the notice, even if the lender separately sends the notice by regular mail.

For these reasons, we oppose this bill and respectfully request that the bill be held.



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Testimony to the House Committee on Consumer Protection & Commerce
and the House Committee on Judiciary

Testimony in opposition to HB 2132, Relating to Mortgage Foreclosures

To: The Honorable Robert Herkes, Chair
The Honorable Glenn Wakai, Vice-Chair
Members of the Committee on Consumer Protection and Commerce

The Honorable Jon Riki Karamatsu, Chair
The Honorable Ken Ito, Vice-Chair
Members of the Committee on Judiciary

My name is Stefanie Sakamoto and I am testifying on behalf of the Hawaii Credit Union League, the local trade association for over 90 Hawaii credit unions, representing approximately 810,000 credit union members across the state.

We are in opposition to HB 2132. This provision is already required by federal law, thus, it is duplicitous. This bill may also needlessly lengthen the foreclosure process, which would be burdensome to all parties involved.

Thank you very much for the opportunity to testify.