

STAND. COM. REP. NO.

1245

Honolulu, Hawaii

APR 08 2011

RE: H.B. No. 1411  
H.D. 2  
S.D. 2

Honorable Shan S. Tsutsui  
President of the Senate  
Twenty-Sixth State Legislature  
Regular Session of 2011  
State of Hawaii

Sir:

Your Committee on Ways and Means, to which was referred H.B. No. 1411, H.D. 2, S.D. 1, entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to clarify the new and old nonjudicial foreclosure laws, strengthen the laws regarding mortgage servicers, broaden the duties of the Center for Alternative Dispute Resolution relating to foreclosures, and impose a three-month foreclosure moratorium.

Specifically, this measure:

- (1) Implements the recommendations of the Mortgage Foreclosure Task Force, pursuant to Act 162, Session Laws of Hawaii 2010, regarding the old nonjudicial foreclosure laws as well as best practices from other jurisdictions; and
- (2) Gives mortgagors the right to require mortgagees foreclosing under a nonjudicial foreclosure proceeding to participate in dispute resolution.

Your Committee received comments in support of this measure from Myoung Oh, Government Affairs Director, Hawaii Association of REALTORS.

HB1411 SD2 SSCR LRB 11-3001.doc



Your Committee received comments in opposition to this measure from Rodney A. Maile, Administrative Director of the Courts, The Judiciary; Gary Fujitani, Executive Director, Hawaii Bankers Association; Stefanie Sakamoto and Frank Hogan, on behalf of Hawaii Credit Union League; Philip S. Nerney, Chair, Legislative Action Committee, Community Associations Institute Hawaii Chapter; and Philip L. Lahne, Legislative Action Committee, Community Associations Institute.

Your Committee received comments on this measure from Kalbert K. Young, Director, Department of Budget and Finance; Marvin S.C. Dang, on behalf of Hawaii Financial Services Association; and Gary Slovin and Mihoko E. Ito, on behalf of USAA.

Your Committee finds that that this omnibus measure will provide much needed and comprehensive reform of Hawaii's mortgage foreclosure laws and will curb further incidents of industry abuses that are believed to have contributed greatly to the foreclosure crisis facing Hawaii's homeowners today.

Your Committee has amended this measure by:

- (1) Providing headings for parts I through V of the bill to facilitate understanding of its contents;
- (2) Adding a definition of "foreclosing mortgagee" applicable to part I of chapter 667, Hawaii Revised Statutes, that incorporates by reference the amended definition of that term in part II of that chapter;
- (3) Clarifying that, if a mortgagor elects to pursue dispute resolution with the mortgagee in a nonjudicial foreclosure, the mortgagor waives the right to later convert the non-judicial foreclosure action to a judicial one;
- (4) Moving the proposed new sections 667-G, 667-H, and 667-I, Hawaii Revised Statutes, so that they are added to part III of chapter 667 and applicable to both part I and part II of that chapter;
- (5) Consolidating the amendments to section 667-5, Hawaii Revised Statutes, proposed by two sections of the bill into a single section;



- (6) Repealing sections 667-34 and 667-35, Hawaii Revised Statutes; and
- (7) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1411, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1411, H.D. 2, S.D. 2.

Respectfully submitted on  
behalf of the members of the  
Committee on Ways and Means,

  
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DAVID Y. IGE, Chair



The Senate  
 Twenty-Sixth Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Ways and Means**  
**WAM**

Bill / Resolution No.:* <b>HB 141), HD2, SD1</b>	Committee Referral: <b>CPN, WAM</b>	Date: <b>3-30-11</b>		
<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
IGE, David Y. (C)	/			
KIDANI, Michelle N. (VC)			/	
CHUN OAKLAND, Suzanne	/			
DELA CRUZ, Donovan M.	/			
ENGLISH, J. Kalani	/			
ESPERO, Will	/			
FUKUNAGA, Carol	/			
KIM, Donna Mercado	/			
KAHELE, Gilbert	/			
KOUCHI, Ronald D.	/			
RYAN, Pohai	/			
TOKUDA, Jill N.	/			
WAKAI, Glenn	/			
SLOM, Sam			/	
<b>TOTAL</b>	<b>12</b>	<b>0</b>	<b>2</b>	<b>0</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Michelle N. Kidani</i>				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes