

STAND. COM. REP. NO. 1207

Honolulu, Hawaii

March 24, 2011

RE: S.B. No. 651  
S.D. 2  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Sixth State Legislature  
Regular Session of 2011  
State of Hawaii

Sir:

Your Committees on Consumer Protection & Commerce and  
Judiciary, to which was referred S.B. No. 651, S.D. 2, entitled:

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

beg leave to report as follows:

The purpose of this bill is to give a mortgagor the power to  
require a foreclosing mortgagee to engage in dispute resolution  
with the mortgagor prior to a judicial or nonjudicial mortgage  
foreclosure in an effort to avoid foreclosure or mitigate damages  
if foreclosure is unavoidable.

The Maui Filipino Working Group, Faith in Action for  
Community Equity, Progressive Democrats of Hawaii, the Legal Aid  
Society of Hawaii, and numerous individuals supported this bill.  
The Department of Commerce and Consumer Affairs supported the bill  
with some concerns. The Judiciary supported the intent of the  
measure. The Mortgage Bankers Association of Hawaii, the Hawaii  
Financial Services Association, the Hawaii Credit Union League,  
the Hawaii Bankers Association, and a couple concerned individuals  
opposed the bill. The Department of Land and Natural Resources,  
the Community Associations Institute - Hawaii Chapter, the Hawaii  
Association of REALTORS®, Hawaii Financial Services Association,  
the Nonprofit Federation of the Direct Marketing Association, and  
a couple concerned individuals provided comments.

SB651 HD1 HSCR CPC-JUD HMS 2011-3293



Your Committees find that this measure establishes a dispute resolution process to address the abuses in the mortgage industry and the foreclosure crisis currently facing the State. However, your Committees recognize that dispute resolution is not a complete answer and would work most effectively within a tighter regulatory framework to ensure that foreclosing mortgagees and their agents comply with their legal and contractual obligations. Your Committees further recognize that the foreclosure crisis is a complicated issue and that meaningful legislation must strike the right balance to give homeowners that have fallen on hard times the opportunity to meet with their lenders to reach a mutually agreeable arrangement while avoiding depressing the local mortgage lending industry and overburdening the courts.

Your Committees have amended this measure by deleting its contents and replacing it generally with the contents of H.B. No. 1411, H.D. 2, which will retain dispute resolution provisions.

As amended, this measure:

- (1) Repeals the old nonjudicial foreclosure process;
- (2) Clarifies the new nonjudicial foreclosure process;
- (3) Strengthens laws regarding mortgage servicers; and
- (4) Broadens the duties of the Center for Alternative Dispute Resolution.

Furthermore, your Committees have amended the contents of H.B. No. 1411, H.D. 2, that were inserted into this measure by, among other things:

- (1) Limiting the applicability of the dispute resolution provisions to nonjudicial foreclosures;
- (2) Deleting provisions that require the foreclosing mortgagee to maintain the mortgaged property;
- (3) Adding provisions for a 45 day phase-in period for conversions;
- (4) Modifying the effective date for the dispute resolution provisions; and



(5) Adding a repeal date for the conversion provisions.

As affirmed by the records of votes of the members of your Committees on Consumer Protection & Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 651, S.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 651, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Respectfully submitted on  
behalf of the members of the  
Committees on Consumer  
Protection & Commerce and  
Judiciary,

  
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GILBERT KEITH-AGARAN, Chair

  
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ROBERT N. HERKES, Chair





