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PRESENTATION OF THE  
OFFICE OF CONSUMER PROTECTION  
TO THE HOUSE COMMITTEE ON HOUSING  
TWENTY-SIXTH LEGISLATURE  
Regular Session of 2011  
Wednesday, February 2, 2011  
8:30.m.

**TESTIMONY ON HOUSE BILL NO. 1119, RELATING TO MORTGAGE  
FORECLOSURES.**

TO THE HONORABLE RIDA T.R. CABANILLA, CHAIR, AND MEMBERS OF THE  
COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify regarding House Bill No. 1119, Relating to Mortgage Foreclosures. My name is Stephen Levins, and I am the Executive Director of the Office of Consumer Protection ("OCP"), representing the Department.

House Bill No. 1119 seeks to require the remainder of proceeds following a foreclosure sale to be paid to the previous mortgagor of the foreclosed property or to the unclaimed property trust fund. The Department is unclear why the proposed amendments as stated in House Bill No. 1119 are needed since it appears that current

Testimony on House Bill No. 1119

Wednesday, February 2, 2011

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law already mandates the obligations which this measure seeks. Section 667-10 of the Hawaii Revised Statutes already requires that a surplus be paid to the owner of a mortgaged property and Hawaii's unclaimed property law, chapter 523 of the Hawaii Revised Statutes, already requires unclaimed funds to be transmitted to the State.

Thank you for providing me with the opportunity to testify on House Bill No. 1119. I will be happy to answer any questions that the committee members may have.



*Mortgage Bankers Association of Hawaii*  
*P.O. Box 4129, Honolulu, Hawaii 96812*

January 31, 2011

The Honorable Rida T.R. Cabanilla, Chair  
and Members of the House Committee on  
Housing  
State Capitol, Room 325  
Honolulu, Hawaii 96813

Re: House Bill 1119 Relating to Mortgage Foreclosures

Chair Cabanilla and Members of the House Committee on Housing:

I am Rick Tsujimura representing the Mortgage Bankers Association of Hawaii ("MBAH"). The MBAH is a voluntary organization of real estate lenders in Hawaii. Our membership consists of employees of banks, savings institutions, mortgage bankers, mortgage brokers, and other financial institutions. The members of the MBAH originate the vast majority of residential and commercial real estate mortgage loans in Hawaii. When, and if, the MBAH testifies on legislation, it is related only to mortgage lending.

The MBAH opposes House Bill 1119 Relating to Mortgage Foreclosures. The Mortgage Bankers Association of Hawaii strongly feels that these bills relating to the matter of foreclosures should be vetted as part of the mortgage foreclosure task force since both consumer and lender groups are represented and can work on the details of each bill to come to a consensus. We feel that the bills, as presented, have merit but include processes which may potentially cause harm to consumers and lenders.

Thank you for the opportunity to present this testimony.

# HAWAII FINANCIAL SERVICES ASSOCIATION

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February 2, 2011

Rep. Rida T.R. Cabanilla, Chair,  
and members of the House Committee on Housing  
Hawaii State Capitol  
Honolulu, Hawaii 96813

Re: **House Bill 1119 (Mortgage Foreclosures)**  
**Hearing Date/Time: Wednesday, February 2, 2011, 8:30 A.M.**

I am the attorney for the Hawaii Financial Services Association ("HFSA"). The HFSA is the trade association for Hawaii's financial services loan companies, which are regulated by the Hawaii Commissioner of Financial Institutions. Financial services loan companies make mortgage loans and other loans.

The HFSA **opposes** this Bill as drafted.

This Bill would require the remainder of proceeds following a foreclosure sale to be paid to the previous mortgagor of the foreclosed property or to the unclaimed property trust fund.

This testimony is based, in part, on my role as the Vice Chairperson of the Hawaii Mortgage Foreclosure Task Force ("Task Force"). I served as a member of the Task Force as the designee of the HFSA. This testimony is also based on my experience as an attorney who has actively done foreclosures for nearly 33 years since 1978.

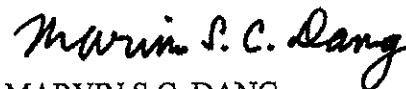
The Task Force, which was created by Act 162 of the 2010 Session Laws of Hawaii, issued its 2011 Preliminary Report to the Legislature. The Task Force's recommendations are contained in other bills. We believe that the recommendations are substantive and provide meaningful improvements to the non-judicial foreclosure process. The recommendations are the result of consensus by the 17 Task Force members who represented diverse, and in some instances opposing, interests.

It is unclear what problem this Bill is intended to solve based on the current wording of this Bill. The provisions in this Bill (House Bill 1119) are not part of the Task Force's recommendations.

The HFSA believes that only the recommendations of the Task Force should be adopted by the legislature.

Any other issues, such as the one raised by this Bill, can be reviewed by the Task Force over the remainder of this year as the Task Force considers other recommendations for the 2012 Legislature.

Accordingly, we ask that you do not pass this Bill. Thank you for considering our testimony.



MARVIN S.C. DANG

Attorney for Hawaii Financial Services Association

Presentation to the House Committee on Housing

Wednesday, February 2, 2011, at 8:30 a.m., Conf Rm 325

Testimony for HB 1119 Relating to Mortgage Foreclosures

Offering Comments

TO: The Honorable Rida Cabanilla, Chair  
The Honorable Pono Chong, Vice Chair  
Members of the House Committee on Housing

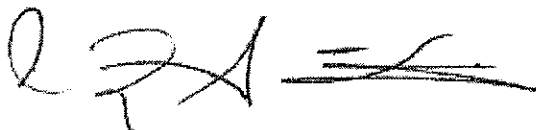
My name is Gary Fujitani, Executive Director of the Hawaii Bankers Association, offering comments on HB 1119, which requires remainder of proceeds following a foreclosure sale to be paid to the previous mortgagor of the foreclosed property or to the unclaimed property trust fund.

We offer the following comments:

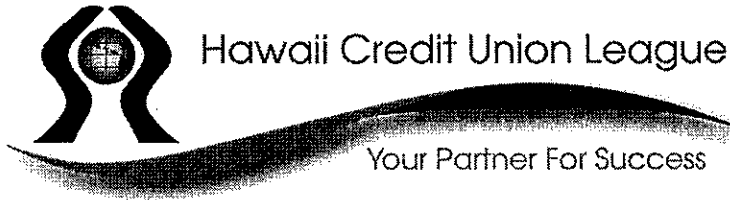
It is unclear why the proposed change is needed. We are unaware of any problems with the existing law. After a non-judicial foreclosure auction sale is completed and after all claims and expenses are paid, on the rare occasion when there is any remaining proceeds from the foreclosure sale, that surplus is paid to the person who was being foreclosed on. Foreclosing lenders usually have escrow companies make the disbursement of any surplus.

We defer for now to any testimony to your Committee from Hawaii's escrow companies regarding this Bill.

Thank you for allowing us the opportunity to comment.



Gary Y. Fujitani  
Executive Director



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Testimony to the House Committee on Housing  
Wednesday, February 2, 2011 at 8:30 a.m.

Comments / No position on HB 1119, Relating to Mortgage Foreclosures

To: The Honorable Rida Cabanilla, Chair  
The Honorable Pono Chong, Vice-Chair  
Members of the Committee on Housing

My name is Stefanie Sakamoto and I am testifying on behalf of the Hawaii Credit Union League, the local trade association for 85 Hawaii credit unions, representing approximately 810,000 credit union members across the state.

We take no position on HB 1119, Relating to Mortgage Foreclosures. We are in agreement with the comments provided by the Hawaii Bankers Association.

Thank you for the opportunity to testify.