

Late
SB 235



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LATE

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February 1, 2011

The Honorable Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: S.B. 235 Relating to Deficiency Judgments

HEARING: Wednesday, February 2, 2011 at 8:30 a.m.

Aloha Chair Baker, Vice Chair Taniguchi and Members of the Committee:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate, and its 8,500 members. HAR **supports the intent** of S.B. 235, which prohibits deficiency judgments against a mortgagor after a short sale of residential real property.

A short sale is a sale of residential real property in which the sale proceeds are less than the balance owed on the property's loan. The purpose of a short sale is to aid homeowners who are in distress avoid the negative consequences of a foreclosure. Real estate licensees often assist homeowners in this situation, helping them avoid foreclosure by representing homeowners and negotiating with lenders.

Presently under the law, notwithstanding the intent of a short sale to result in a certain amount of loan forgiveness, a lender may still technically seek a deficiency judgment from the homeowner for the balance owed. While in practice this may not occur frequently, removing the ability to obtain a deficiency judgment will help eliminate an unjust result that could occur as a result of a short sale transaction.

HAR would recommend reorganizing the language of the bill to clarify its intent as follows:

"667- Deficiency judgment prohibited. No court shall issue a judgment, pursuant to a foreclosure by action or foreclosure by power of sale under this chapter against a mortgagor of residential real property for the unpaid balance of a mortgage debt after a short sale of the property ~~pursuant to a foreclosure by action or foreclosure by power of sale under this chapter.~~

Recognizing the possibility that homeowners may continue to face greater hardship and that this bill would serve address a part of the foreclosure problem facing our State HAR respectfully requests your favorable consideration of this measure for continued dialogue to ensure that all concerns in regard to this issue can be adequately addressed.

Mahalo for the opportunity to testify.

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Testimony for CPN 2/2/2011 8:30:00 AM SB235

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Donald C. Chaikin

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Submitted on: 2/2/2011

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Comments:

This bill would hurt Associations as a whole while trying to protect delinquent owners.

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