

SB 651

WRITTEN ONLY

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
SENATE BILL NO. 651, S.D. 1

February 24, 2011

RELATING TO MORTGAGE FORECLOSURES

Senate Bill No. 651, S.D. 1, creates a Foreclosure Dispute Resolution special fund to be administered by the Judiciary. The special fund will receive moneys from fees of an unspecified amount from individuals bringing an action to the Circuit Court for foreclosure disputes pursuant to Section 667-1, HRS. The measure further appropriates an unspecified amount of general funds to be deposited into the special fund to cover the initial costs to establish the dispute resolution program.

As a matter of general policy, the Department of Budget and Finance does not support the creation of any special fund or revolving fund that does not meet the requirements of Sections 37-52.3 and 37-52.4, Hawaii Revised Statutes. Special and revolving funds should: 1) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program; 2) provide an appropriate means of financing for the program or activity; and 3) demonstrate the capacity to be financially self-sustaining. In regards to Senate Bill No. 651, S.D. 1, it is difficult to determine whether the Foreclosure Dispute Resolution special fund would be financially self-sustaining.



NEIL AMBERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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KEALI'I S. LOPEZ
DIRECTOR

EVERETT S. KANESHIGE
DEPUTY DIRECTOR

PRESENTATION OF THE
OFFICE OF CONSUMER PROTECTION

TO THE SENATE COMMITTEE ON WAYS AND MEANS

TWENTY-SIXTH LEGISLATURE
Regular Session of 2011

Thursday, February 24, 2011
9:00 a.m.

**WRITTEN COMMENTS ON SENATE BILL NO. 651, S.D. 1, RELATING TO
MORTGAGE FORECLOSURES.**

TO THE HONORABLE DAVID Y. IGE, CHAIR, AND MICHELLE KIDANI, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify in support of Senate Bill No. 651, S.D. 1, Relating to Foreclosures. My name is Stephen Levins, and I am the Executive Director of the Office of Consumer Protection ("OCP"), representing the Department.

Across our nation, mediation has rapidly grown in popularity as a means to avoid foreclosure. Jurisdictions throughout the United States have implemented various forms of mediation in response to the foreclosure crisis. These include programs operating under the auspices of the judiciary in Nevada, New Jersey, Ohio, Florida,

Connecticut, Indiana, Maine, New York, and Vermont, as well as programs established independent of the judiciary in the states of California, Oregon, Maryland, and Michigan. Despite some procedural differences, all of these programs have several features in common. They are designed to bridge the communication gap between loan services and homeowners, a gap that has often been cited as the major obstacle to effective loss mitigation. They do this by requiring active participation by a representative of the servicers with full authority to consider all loss mitigation options.

Senate Bill No. 651, S.D. 1, establishes in Hawaii an opt-in mediation program as a means to avoid unnecessary foreclosures. The program is based on one currently in use in Nevada, one of the most successful models currently operating in the United States. The Nevada program has kept 46% of participating homeowners in their homes. Senate Bill No. 651, S.D. 1 salient features include: having the Judiciary as the administrator of the program; suspending all pending foreclosure proceedings against the borrower until the mediation is completed; requiring that participants be fully prepared for the mediation proceeding; and mandating that the lender's representative have full authority to come to an agreement or have immediate access to someone who does.

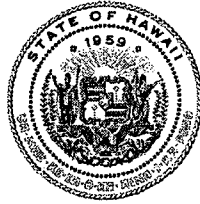
In view of the high success rate of the program in Nevada, the Department is in strong support of the operation of a similar program in Hawaii.

Written Comments on Senate Bill 651, S.D. 1
Thursday, February 24, 2011
Page 3

Despite being generally in strong support of this measure, the Department does have one significant concern, that being with the moratorium provision contained in Section 9 on page 20 of S.D. 1. The Department believes that implementation of a moratorium at this time may lead to unintended adverse economic consequences. In this regard, the Office of Consumer Protection defers to the expertise of the Division of Financial Institutions who is in a superior position to articulate them for the committee.

Thank you for providing me with the opportunity to testify on Senate Bill No. 651, S.D. 1. I will be happy to answer any questions that the committee members may have.

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
WILLIAM J. AILA, JR.
Chairperson**

**Before the Senate Committee on
WAYS AND MEANS**

**Thursday, February 24, 2011
9:00 AM
State Capitol, Conference Room 211**

**In consideration of
SENATE BILL 651, SENATE DRAFT 1
RELATING TO MORTGAGE FORECLOSURES**

Senate Bill 651, Senate Draft 1 requires that a foreclosing mortgagee participate in dispute resolution pursuant to the requirements of this measure and at the election of a mortgagor before a court may issue a judgment of foreclosure or before a public sale may be held in a nonjudicial power of sale foreclosure, creates a special fund to be expended by the Judiciary, composed of fees for dispute resolutions and filing fees for Circuit Court foreclosure actions and documents related to foreclosures filed with the Land Court and Bureau of Conveyances to fund the Foreclosure Dispute Resolution Program created by this measure and requires that an agreement of the parties reached through dispute resolution be memorialized in a resolution document that shall be filed with the Court, the Bureau of Conveyances, or the Land Court, as appropriate, and that shall be enforceable in a private contract action.

While the Department of Land and Natural Resources (Department) recognizes that this bill has merit, the Department has concerns with the role of the Bureau of Conveyances ("Bureau") in the foreclosure and related dispute resolution process. The bill requires a stay of foreclosure proceedings to be in effect pending the outcome of the dispute resolution process and that notice be given to the Bureau if mortgagor elects to waive the dispute resolution process. The Department believes that it is unmanageable to expect the Bureau to comply with the requirements to determine if a foreclosure document may be filed with the Bureau. Further, this bill requires the Bureau to collect fees for deposit into the Foreclosure Resolution Special Fund. The Department opposes any further burden of collection activity upon the Bureau.

WILLIAM J. AILA, JR.
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS



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KEALI'I S. LOPEZ
INTERIM DIRECTOR

EVERETT KANESHIGE
DEPUTY DIRECTOR

PRESENTATION OF THE
DIVISION OF FINANCIAL INSTITUTIONS

TO THE
SENATE COMMITTEE ON WAYS AND MEANS

THE TWENTY-SIXTH STATE LEGISLATURE
REGULAR SESSION OF 2011

Thursday, February 24, 2011
9:00 a.m.

WRITTEN COMMENTS ON S.B. NO. 651, S.D.1
RELATING TO MORTGAGE FORECLOSURES

TO THE HONORABLE DAVID Y. IGE, CHAIR, AND MICHELLE KIDANI, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Iris Ikeda Catalani, Commissioner of Financial Institutions
("Commissioner") and I appreciate the opportunity to provide written comments on
behalf of the Department of Commerce and Consumer Affairs ("Department") in
opposition to the mortgage foreclosure moratorium proposed by Section 9 of Senate Bill
No. 651, S.D.1.

While the Department's Division of Financial Institutions understands the thoughts behind a moratorium on mortgage foreclosures, the Division believes that consumers would like the State to take action in this situation.

An immediate effect of the moratorium will be a temporary stay of the foreclosure for hundreds of borrowers in default. The moratorium would offer only a brief relief for those borrowers. The unintended consequence may be a long term effect that may cause uneasiness in lending for financial institutions. Consider the following unintended consequences of a mortgage foreclosure moratorium.

The purview of the Division is to regulate financial institutions so that they operate in a safe and sound manner. In order to have financial institutions operate in a safe and sound manner, financial institutions cannot keep forestalling the foreclosure situation in certain circumstances. I would contend that all financial institutions would prefer to work with a borrower to find a solution that would enable a borrower to continue to make payments on the mortgage and stay in his or her home rather than have the financial institution take back the mortgage as a bank owned property.

For some borrowers, working out a loan is not an option if they do not have any income or have abandoned their property. In those situations, the banks should have the option to continue the foreclosure proceedings. An option for borrowers in this situation is a short sale. A short sale typically occurs when a homeowner can no longer afford their mortgage payment and the proceeds from the sale of their home will be insufficient to pay off all debts associated with the property. These debts can include

mortgages, liens, and closing costs that the seller may owe. The closing of the sale occurs within 14-21 days from the day the lender accepts the offer. The borrower is relieved of the debt and a new homeowner takes ownership of the home.

The last and probably most important unintended consequence is that the moratorium may negatively impact the safety and soundness of our financial institutions. The moratorium may cause bad loans to stay on the books of financial institutions, causing the financial institutions to reserve additional capital. The more bad loans there are on the books, the more capital needs to be reserved, leaving less capital available to make additional loans. The greater the amount of reserves, the more the federal and state regulators may determine financial institutions are at financial risk. Banks already have tightened their underwriting and the type of residential loans they make to potential borrowers. To the extent that the banks want to show regulators they are financially sound, the more conservative they will be in their lending practices.

While the Division is sympathetic to the mortgage foreclosure situation, it is also concerned about maintaining the financial stability of our local banks and allowing banks to continue to make residential loans to potential homeowners. Those advocating for a foreclosure moratorium are well intended, however, the Division believes the unintended consequences should be considered. Finding the right solution for all parties is the next step.

Thank you for the opportunity to provide written comments.



The Judiciary, State of Hawaii

Testimony to the Senate Committee on Ways and Means

Senator David Y. Ige, Chair
Senator Michelle Kidani, Vice Chair
Thursday, February 24, 2011, 9:00 a.m.
State Capitol, Conference Room 211

by
Rodney A. Maile
Administrative Director of the Courts

Bill No. and Title: Senate Bill No. 651, S.D. 1, Relating to Mortgage Foreclosures.

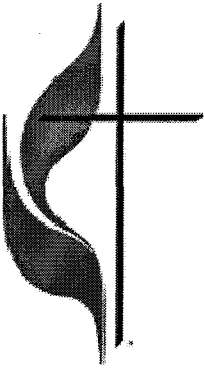
Purpose: The purpose of the bill is to create a mandatory foreclosure dispute resolution process conducted through the center for alternative dispute resolution within the Judiciary to avoid or mitigate the damages of foreclosure.

Judiciary's Position:

The Judiciary supports the intent of the bill insofar as it is intended to facilitate the effective, timely, and voluntary resolution of foreclosures disputes. However, the Judiciary suggests that there are many specific provisions in the bill related to details of the dispute resolution process that would be better left to be addressed in judicial rule making. As it is still relatively early in the Legislative calendar, these issues may be addressed at a later time.

Putting aside details of the program and concentrating on the financial impact of Senate Bill No. 651, S.D. 1, although the amount of the initial appropriation is blank, it is nevertheless incumbent on the Judiciary to point out that sufficient funds must be allocated to implement and administer this program. The Center for Alternative Dispute Resolution, and the Judiciary, has absorbed serious cuts in both budget and staff. There is not sufficient staff, budget, or workspace to absorb the foreclosure dispute resolution program within current allocations. Also, start-up costs should include, at a minimum, sufficient funds to contract for program design, staff, workspace, and related overhead expenses. The contemplated fees of \$400 per dispute will not be sufficient to defray the on-going expenses of the program. Section 2, 667-L (c) provides that other fees shall be put into the special fund that would be created for this program, but the Judiciary is concerned that these fees may not be sufficient to cover program costs.

Thank you for the opportunity to testify on Senate Bill No. 651, S.D. 1.



From the Desk of
The Rev. Samuel L. Domingo

February 22, 2011

RE: SB651

Senate Ways and Means Committee
Senator David Ige, Chair

Dear Senator Ige and members of the Ways and Means Committee:

I wish to testify in support of SB651. Many of our local families are being blindsided and aggressively manipulated by mainland banks. The banks seem to hold all the cards and our families are challenged by the fact that there is no face-to-face meetings with an authorized representative of the banks. SB651 will ensure a fairer process when the parties meet face-to-face.

I want to emphasize that this bill is based on the Nevada model which is self-sufficient, so this dispute resolution program will NOT add to the State budget.

I implore all members to support this bill as to help level the field and give our families the support needed save their homes.

Sincerely,

Rev. Samuel L Domingo,
Pastor, Keolumana United Methodist Church
and President of FACE Oahu

*204 Ku'uhoa Place
Kailua, Hawai'i 96734*

Dear Committee Members,

Thank you for this hearing and for this opportunity to testify.

I am a Maui home owner who has been fighting to save our home from foreclosure and have been shocked and overwhelmed by the treatment from my mainland servicer.

I SUPPORT this bill, HOWEVER, the I URGE you to to make a strong focus on FAIR mediation with a GOAL of Keeping Homeowners IN THEIR HOMES with a fair and affordable Loan Modification , rather than just avoiding foreclosure.

It has been my experience that the banks are trying to avoid fair loan modifications, even when it has been in the best interest of their own investors. Because the servicers, in most cases earn more by than by modification, they have a strong conflict of interest from the start.

Their idea of avoiding foreclosure is not fair modification, but short sales and cash for keys, Neither leaves the home owner with their home and usually is presented by the bank as "helping avoid forclosure " .

These might be options to foreclosure but **the GOAL and FOCUS should be keeping people in their homes.**

The banks have been using lack of transparency and every possible loophole in the modification process to avoid modifications .

Most people will have already tried to get loan modifications prior to mediation starting, so we can not allow the banks to use the same tactics they have already been using.

Successful mediation for both parties **MUST INCLUDE** the following:

- 1) The bank representative has to have the full authority to negotiate and approve a fair loan modification during the mediation with Full Transparency, with no loop holes for the servicer to abuse.**
- 2) The bank representative MUST bring to the mediation the original or a certified copy of the mortgage instrument and each assignment of the mortgage instrument.**
- 3) An Immediate Temporary Moratorium on foreclosures until the mediation program is in place.**

We are counting on you to make this a very strong Bill, because allowing loopholes will simply defeat the purpose and will NOT help home owners.

I live with my husband (a Maui County Firefighter) and our son in Kihei.

We have been trying to get a HAMP loan modification from Bank of America since January of 2010 .

1) Bank of America USED the Government HAMP program to cause us to default and put us into a situation where they can force foreclosure.

We feel betrayed by the government for allowing this, as the intention of HAMP was to help home-owners stay in their homes, not to CAUSE homeowners to default and leave them worse off than when they started and certainly not to increase Servicers income.

2) BANK OF AMERICA lied to us, multiple times, broke verbal agreements, sent incorrect mailings and notices and than gave conflicting advise about how to respond to those notices, and incorrect and conflicting advice and information so that any reasonable person would feel trapped and confused and blackmailed to do whatever they said for fear of losing their home.

We did what they asked in good faith and followed their instructions. BANK OF AMERICA has not acted in good faith, I don't believe they are acting in the best interest of their investor and I can't believe what they are doing is legal.

3) BANK OF AMERICA has directly broken several HAMP rules and requirements and has caused my family mental and financial harm, but there seems to be no enforcement or penalty for doing so.

4) Had BANK OF AMERICA not lied to us, if they had not told us verbally we were approved for HAMP Trial that would start in 30 days, we could have sold our home when it had a better market price. We would never have had to miss ANY payments and would have kept our excellent credit score.

We are not "customers", we are captives, we have no choice. BAC Home Loans Servicing LP would have NO customers if the customers could fire them. I know of NO business that is allowed to treat people this way.

My case is typical.

What would the bank consider fair?

What would the members of this committee see as a fair solution if they were in my shoes, or the shoes of so many with my same story?

I urge you to make sure this bill passes and to focus on FAIRNESS and Keeping The People of Hawaii in their homes.

Thank You for Listening.

Sincerely

Marcy Koltun-Crilley
Lawrence Crilley
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Kihei, HI, 96753
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February 24, 2011

The Honorable David Y. Ige, Chair
Senate Committee on Ways and Means
State Capitol, Room 211
Honolulu, Hawaii 96813

RE: S.B. 651, S.D. 1, Relating to Mortgage Foreclosures

DECISION MAKING: Thursday, 24, 2011 at 9:00 a.m.

Aloha Chair Ige, Vice Chair Kidani and Members of the Committee:

I am Myoung Oh, Government Affairs Director, submitting comments on behalf of the Hawai'i Association of REALTORS® ("HAR,") the voice of real estate in Hawai'i, and its 8,500 members. HAR **supports the intent** of S.B. 651, S.D. 1, Relating to Mortgage Foreclosures, **but opposes Section 9**, that places a moratorium on both judicial foreclosures by action and nonjudicial power of sale foreclosures.

While S.B. 651, S.D. 1, is modeled after Nevada's successful opt-in/voluntary mediation program, which HAR supports, other states including Maryland, Florida, and New Jersey have passed similar legislation requiring mediation for primary residences prior to initiating a foreclosure action.

HAR respectfully asks this Committee to consider deleting Section 9, which places a moratorium on all foreclosures.

HAR believes freezing foreclosures in Hawai'i is not the prudent step to take in this fragile housing market since a moratorium may motivate a borrower to stop making payments. Borrowers who stop making payments would face an increased financial risk of being deeper in debt, as more penalties and fees are incurred. The end result may be that these homeowners would be unable to recover from their situation.

We believe if a moratorium is implemented, a ballooning foreclosure backlog could prevent the market from clearing itself, which could result in decreasing home prices and exacerbate the housing-market crisis by increasing uncertainty.

HAR further believes that the cost will be borne directly by investors in mortgage-backed securities and mortgage servicing companies, and ultimately by American taxpayers, who now stand behind 90% of new mortgages, due to guarantees by Fannie Mae, Freddie Mac and the Federal Housing Administration.

Mahalo for the opportunity to submit comments.

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

February 24, 2011

The Honorable David Ige, Chair and
Members of the Senate Committee on
Ways and Means
State Capitol, Room 211
Honolulu, Hawaii 96813

Re: Senate Bill 651, SD 1 Relating to Mortgage Foreclosures

Chair Ige and Members of the Senate Committee on Ways and Means:

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 Senate Bill 651, SD 1 Relating to Mortgage Foreclosures. The MBAH does not support mandatory mediation because it creates costly processes that duplicate existing loss mitigation in a far more cumbersome manner. While there are a few jurisdictions that have implemented mandatory mediation, there is no empirical evidence that shows the effectiveness of such programs separate from the servicers' own loss mitigation efforts.

Lenders, however, often find mediation to be a foreclosure stall tactic that produces few positive results that are independent from their own loss mitigation efforts. Imposing mediation creates an expensive and bureaucratic process that is not necessary and confuses the loss mitigation process. Mediation programs are expensive, with direct fees to servicers and borrowers, duplication of requirements, increased investor, tax and insurance advances, duplication of foreclosure costs, technology and staffing time. These funds could be more wisely spent directly on loss mitigation efforts.

States should focus their efforts to encourage communications between lenders and borrowers to explore alternatives to foreclosure when borrowers are unable to afford their current mortgage payment. This could be achieved by state media campaigns.

Thank you for the opportunity to present this testimony.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 22, 2011 9:22 PM
To: WAM Testimony
Cc: Brianakiona@yahoo.com
Subject: Testimony for SB651 on 2/24/2011 9:00:00 AM

Testimony for WAM 2/24/2011 9:00:00 AM SB651

Conference room: 211
Testifier position: support
Testifier will be present: No
Submitted by: Brian Akiona
Organization: Individual
Address:
Phone:
E-mail: Brianakiona@yahoo.com
Submitted on: 2/22/2011

Comments:

Just want to support group testimony about foreclosure issues happening in Hawaii and to stop all the unlawful and disrespectful actions of the loan servicers and the lenders, who created this mess.

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 23, 2011 3:00 AM
To: WAM Testimony
Cc: bob@mainbob.com
Subject: Testimony for SB651 on 2/24/2011 9:00:00 AM

Testimony for WAM 2/24/2011 9:00:00 AM SB651

Conference room: 211
Testifier position: support
Testifier will be present: No
Submitted by: Bob OConnor
Organization: Individual
Address:
Phone:
E-mail: bob@mainbob.com
Submitted on: 2/23/2011

Comments:
This bill will help people / citizens and should pass! Thanks.

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 23, 2011 8:54 AM
To: WAM Testimony
Cc: stanfranco@hawaiiantel.net
Subject: Testimony for SB651 on 2/24/2011 9:00:00 AM

Testimony for WAM 2/24/2011 9:00:00 AM SB651

Conference room: 211
Testifier position: support
Testifier will be present: No
Submitted by: Stan Franco
Organization: FACE HAWAII
Address:
Phone:
E-mail: stanfranco@hawaiiantel.net
Submitted on: 2/23/2011

Comments:

I support SB 651 because it gives a home owner a chance to share his/her story about their financial situation. I hope we can agree that it is very important that we keep our neighborhoods without vacant homes which usually are vandalized. All neighbors suffer when a vandalized home or homes are in their community. The mediation process proposed by SB 651 is modeled after a process successfully used by the State of Nevada. Please help the residents of Hawaii share their stories in a safe, free standing mediation process. Thank you for voting the interests of all of Hawaii.

Stan Franco
Haiku, Maui
575-5075

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 23, 2011 9:37 AM
To: WAM Testimony
Cc: hbsteinhoff@msn.com
Subject: Testimony for SB651 on 2/24/2011 9:00:00 AM

Testimony for WAM 2/24/2011 9:00:00 AM SB651

Conference room: 211
Testifier position: support
Testifier will be present: No
Submitted by: Harold Steinhoff
Organization: Individual
Address:
Phone:
E-mail: hbsteinhoff@msn.com
Submitted on: 2/23/2011

Comments:

My mortgage is with Bank of America and I had applied for a loan modification a couple of years ago. Since then they continue to ask me for the same paper work every couple of months but there seems to be no progress. I have started making partial payments and am hoping that will help secure the loan modification. My concern is that they can foreclose on this property at any time. All I'm asking is that they have a representative meet with me to hash out a payment program that will work for both of us. I got into this financial situation due to the downturn of the economy, starting in 2007. Prior to that, I had no late payments on my mortgage. This bill, I believe, will help myself and a lot of homeowners in my position save our homes.

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 23, 2011 12:38 PM
To: WAM Testimony
Cc: brownpunabud@gmail.com
Subject: Testimony for SB651 on 2/24/2011 9:00:00 AM

Testimony for WAM 2/24/2011 9:00:00 AM SB651

Conference room: 211
Testifier position: support
Testifier will be present: No
Submitted by: Roger Brown
Organization: Individual
Address:
Phone:
E-mail: brownpunabud@gmail.com
Submitted on: 2/23/2011

Comments:

Aloha,

I write you folks in support of SB651 FORECLOSURE Prevention measures. I'm a retired Waikiki Beachboy who grew tired of my living arrangements on Oahu. I knew if I didn't do something, and something soon I could possibly end up being a lifetime renter. I spoke often about this with my wife Yoko. After some soul searching we decided to go for the 'American Dream', homeownership was within our grasp. Both my wife Yoko and I had near perfect credit ratings. At the time we signed our mortgage. I believe both our our Fico scores were in the high 700s almost 800. This is were our nightmare began. After working nearly 20 yrs on the Beach of Waikiki, I learned to trust most individuals. So as you can imagine it has caused many problems in my past. To make a long story short. For Yoko and I, this was our first home, and probably our only chance at purchasing a home! We flew into Hilo knowing that Puna & Kau districts still had cheap property to be had. My thinking was if I'm gonna pay \$1500.00 a month rent plus utilities. I might as well be paying that or thereabouts in a mortgage and have a place to call our own. Now mind you. We found ourselves what I thought was a wonderful Real Estate Agent. One who offered us everything we were looking for. Plus she seemed nice and well like within the community of Puna. But did she pick us because of Predatory lending? Did we fit the "MO"? First time home buyers, nieve to everything dealing with Real Estate. We were made outta heaven for a blood thirsty real estate agent ,who still at this time seemed like an angel.

But at one point going over contract and speaking about due diligence. I asked her if I should retain an attorney? So she said ,"no need, we are like family." At that point the red flag came up briefly. Then I just blew it off as me being paranoid. I'm telling you folks all this because the entire process was tainted from day one!

I later come to find out after my house roof is leaking in the first year I live there. That my house wasn't built by a contractor, or even a sub contractor. My house was built by the real estate agents own work crew, just a couple of sub-par carpentars. I come to find out, she does it all. Meaning all phases of home building, to selling of homes.

Move ahead I get ill, and could no longer work my trade. I contact the folks who are serving my mortgage, CitiCorps. I let them know about a Staph infection I got. Told them I need a modifacation to Mortgage to avoid trouble. Been underwater almost since day one of purchase. CitiMortgage told me right out the gate that I don't qualify. Why? Because I was current on my mortgage!?!? Well we fell behind, and they still denied us a Modification. Last month CitiMortgage threw us in Foreclosure on the 12th or 14th. not sure right off the

top of my head. Wow, no certified mail for this notice? Then the roller coaster ride these SOB's put you through is criminal.

Right now our home is set to be auctioned off on March 14th I think on the street outside of the capitol building in Hilo. I'm forced to file Bankruptcy too because of all of this. Until all this happened, we were current on our mortgage for almost three and a half years. That was until we thought we needed to be delinquent on payments to get a modification.

So now I feel the state of Hawaii needs to change their laws concerning foreclosures. Why is it necessary to have two different types of foreclosures in Hawaii? More importantly, why haven't more democratic lawmakers stepped up concerning this problem Hawaii residents now face? Please move forward swiftly to stop the unfair foreclosure of homes in Hawaii.

mahalo,

Roger & Yoko Brown

Dear WAM Chair & Members

My name is Melba Amaral, wife of Edmund K. Amaral Jr, who has testified twice for both HB1411 & SB651 previously.

The need to have these bills passed is a necessity that is long overdue. Hard working residents of the state of Hawaii are continuously loosing there homes, due to a broken system that only benefits the rich & the greedy. We are not only hard working, but also contributing to create a better society. We invest into the community. Yours & mine.

As a struggling homeowner, it is extremely exhausting to have gone thru this solo attempt at modification. The money that I had, I paid a Law firm to "negotiate" on our behalf. This is only due to the impasse with BOA. When they tell you that you need twenty-two thousand dollars to negotiate and to go and ask family & friends to "bail" you out & that any amount you send that is less than the default amount, it will not be accepted." Imagine for a moment, If that was you being told that? That is quiet deplorable, isn't it? Since Sept 2009 to now, We are still waiting.

When a homeowner decides to go "solo" & "negotiate" with the bank two things usually happens. They end up with terrible terms because by the time the lender offers them anything (you have been waiting for over a year, you lack sleep, you are emotional, your marriage is falling apart, UNKNOWLEDGEABLE, AFRAID & MOST OF ALL, ASHAMED). Your grateful that the bank has FINALLY come to their senses, that you will say YES to anything that they offer you. Last, you end up in the same situation that you are in, but this time you are worst off, Hence, you end up getting foreclosed.

Having all that said, having SEN ROZ BAKER'S SB651 will give innocent homeowners a fighting chance to keep their homes because there will be someone looking out for their interest. When a homeowner has a person who isn't emotional, afraid, unknowledgeable or ashamed representing them, nine times out of ten..they get a much better result than if one was to attempt to do it all by themselves. You very will be at the mercy of the lender.

SB651 is based on the Nevada Model, which is completely self-sufficient. Hence, Hawaii's Mandatory Mediation program can & will be self-sufficient too. But only, If it is passed. And It MUST.

Mahalo,

Edmund K. Amaral Jr.
Melba. Amaral
Kaimi Amaral.

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 23, 2011 3:26 PM
To: WAM Testimony
Cc: schenbeckchang@hawaiiantel.net
Subject: Testimony for SB651 on 2/24/2011 9:00:00 AM

Testimony for WAM 2/24/2011 9:00:00 AM SB651

Conference room: 211
Testifier position: support
Testifier will be present: No
Submitted by: Esther Schenbeck Chang
Organization: Individual
Address:
Phone:
E-mail: schenbeckchang@hawaiiantel.net
Submitted on: 2/23/2011

Comments: