

Honolulu, Hawaii

March 2, 2012

RE: H.B. No. 1875
H.D. 2

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Finance, to which was referred H.B. No. 1875, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO FORECLOSURES,"

begs leave to report as follows:

The purpose of this measure is to implement the recommendations of the Mortgage Foreclosure Task Force submitted to the Legislature for the Regular Session of 2012. Specifically, this measure, among other things:

- (1) Makes certain violations of the mortgage foreclosure law an unfair or deceptive act or practice following the expiration of the mortgage foreclosure dispute resolution program in 2014;
- (2) Provides for a single nonjudicial foreclosure process;
- (3) Makes permanent the process for converting nonjudicial foreclosures of residential property into judicial foreclosures;
- (4) Establishes an alternate power of sale process for the collection of unpaid assessments by condominium and planned community associations;



- (5) Allows condominium and planned community associations to proceed with a nonjudicial foreclosure notwithstanding a stay of foreclosure proceedings arising from a dispute resolution case opening, if the association has not been notified of the foreclosure action by the foreclosing mortgage or the dispute resolution case opening;
- (6) Allows planned community associations to be exempt from the requirements of the mortgage foreclosure dispute resolution program; and
- (7) Provides planned community associations with the same options and protections as condominium associations with regard to association liens for assessments and the collection of unpaid assessments from tenants or rental agents.

The Department of Commerce and Consumer Affairs testified in support of this measure. Legal Aid Society of Hawaii, Hawaii Bankers Association, Hawaii Credit Union League, Mortgage Bankers Association of Hawaii, Hawaii Financial Services Association, and Mililani Town Association testified in opposition to this measure. The Office of Consumer Protection, Hawaiian Community Assets, Community Associations Institute, Hawaii Association of REALTORS, RCO Hawaii, LLC, Hawaii State Bar Association, and two individuals provided comments on this measure.


Your Committee has amended this measure by:

- (1) Creating an exemption within the stay that goes into effect when participation in the Mortgage Foreclosure Dispute Resolution Program is elected by an owner-occupant;
- (2) Revising the public information statement for consistency;
- (3) Enabling the Department of Commerce and Consumer Affairs to contract with private organizations, housing counselors, and budget and credit counselors to provide services to the consumers participating in the Mortgage Foreclosure Dispute Resolution Program; and
- (4) 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1875, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1875, H.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Finance,


MARCUS R. OSHIRO, Chair



