

Honolulu, Hawaii

**Feb 2**, 2012

RE: H.B. No. 2019

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

Sir:

Your Committees on Consumer Protection & Commerce and  
Judiciary, to which was referred H.B. No. 2019 entitled:

"A BILL FOR AN ACT RELATING TO MORTGAGES,"

beg leave to report as follows:

The purpose of this measure is to strengthen protections for  
mortgage consumers by prohibiting deficiency judgments to recover  
the remaining balance on mortgage loans for certain residential  
property sold in a foreclosure action or short sale, if:

- (1) The mortgagor has continuously occupied the property as  
a principal residence from the time the loan interest  
was secured, excluding reasonable periods of absence;
- (2) The mortgagor used the proceeds of the mortgage to  
purchase the property; and
- (3) The mortgage has not been refinanced.

The Legal Aid Society of Hawaii and two concerned individuals  
testified in support of this measure. The Hawaii Bankers  
Association, Hawaii Financial Services Association, and Hawaii  
Credit Union League opposed this measure. The Department of  
Commerce and Consumer Affairs' Division of Financial Institutions  
and Office of Consumer Protection, and the Hawaii Association of  
REALTORS provided comments.



Your Committees find that the current economic climate has caused widespread unemployment among homeowners and reduced property values. Moreover, several types of home loans issued in the last decade, during a housing bubble, are based upon adjustable rate mortgages that will soon shift upwards, making it more difficult for struggling homeowners to stay current on their loans.

This measure seeks to limit deficiency judgments in short sales and foreclosures to prevent loan holders from obtaining a double recovery when they purchase the foreclosed property with a low bid, obtain a judgment for the deficiency, then sell the property to a third-party buyer at a higher price on the open market.

Furthermore, limiting deficiency judgments will assist homeowners' financial recovery and decrease bankruptcy filings by homeowners seeking to discharge these debts, along with the negative effects associated with bankruptcy. This measure will also reduce abusive debt collection practices by third parties who purchase at deep discounts the rights to collect deficiencies.

Your Committees respectfully request the Committee on Finance to consider the testimony on this measure suggesting amendments to:

- (1) Cover refinanced mortgage loans;
- (2) Eliminate or limit the uninterrupted occupancy requirement, or conform this requirement with the definition of "owner-occupant" in sections 667-21 and 667-72, Hawaii Revised Statutes (requiring occupancy as a primary residence for a continuous period of at least two hundred days immediately preceding the date on which the foreclosure notice was served); and
- (3) Apply this measure to situations in which the homeowner relinquishes the property deed in lieu of foreclosure.

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 H.B. No. 2019 and recommend that it pass Second Reading and be referred to the Committee on Finance.

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

  
\_\_\_\_\_  
GILBERT KEITH-AGAPAN, Chair

  
\_\_\_\_\_  
ROBERT N. HERKES, Chair



**Record of Votes of the Committee on Consumer Protection & Commerce**

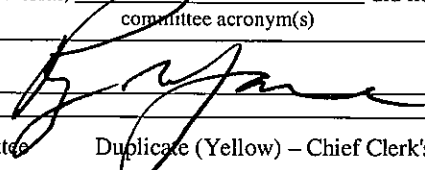
Bill/Resolution No.: <b>HB 2019</b>	Committee Referral: <b>CPC/JUD, FIN</b>	Date: <b>1/25/12</b>
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The committee is reconsidering its previous decision on the measure.

The recommendation is to:    Pass, unamended (as is)    Pass, with amendments (HD)    Hold  
 Pass short form bill with HD to recommit for future public hearing (recommit)

CPC Members	Ayes	Ayes (WR)	Nays	Excused
1. HERKES, Robert N. (C)	/			
2. YAMANE, Ryan I. (VC)	/			
3. BROWER, Tom	/			
4. CABANILLA, Rida T.R.				/
5. CARROLL, Mele	/			
6. COFFMAN, Denny				/
7. ITO, Ken	/			
8. KEITH-AGARAN, Gilbert S.C.	/			
9. LUKE, Sylvia	/			
10. McKELVEY, Angus L.K.	/			
11. SOUKI, Joseph M.	/			
12. TSUJI, Clift	/			
13. CHING, Corinne W.L.		/		
14. MARUMOTO, Barbara C.		/		
15. THIELEN, Cynthia	/			
<b>TOTAL (15)</b>	<b>11</b>	<b>2</b>		<b>2</b>

The recommendation is:    Adopted    Not Adopted  
If joint referral, \_\_\_\_\_ did not support recommendation.  
   committee acronym(s)

Vice Chair's or designee's signature: 

**Record of Votes of the Committee on Judiciary**

<b>Bill/Resolution No.:</b> <i>HB 2019</i>	<b>Committee Referral:</b> <i>CPC/JUD, FIN</i>	<b>Date:</b> <i>1/25/12</i>		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
<b>The recommendation is to:</b> <input checked="" type="checkbox"/> Pass, unamended (as is) <input type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
JUD Members	Ayes	Ayes (WR)	Nays	Excused
1. KEITH-AGARAN, Gilbert S.C. (C)	✓			
2. RHOADS, Karl (VC)	✓			
3. BROWER, Tom	✓			
4. CABANILLA, Rida T.R.				✓
5. CARROLL, Mele	✓			
6. COFFMAN, Denny				✓
7. HERKES, Robert N.	✓			
8. ITO, Ken	✓			
9. LUKE, Sylvia	✓			
10. McKELVEY, Angus L.K.	✓			
11. SOUKI, Joseph M.	✓			
12. TSUJI, Clift	✓			
13. FONTAINE, George R.	✓			
14. MARUMOTO, Barbara C.		✓		
15. THIELEN, Cynthia	✓			
<b>TOTAL (15)</b>	<i>12</i>	<i>1</i>	<i>0</i>	<i>2</i>
<b>The recommendation is:</b> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <div style="text-align:center; font-size: small;">committee acronym(s)</div>				
<b>Vice Chair's or designee's signature:</b> <i>Karl Rhoads</i>				
<b>Distribution:</b> Original (White) – Committee    Duplicate (Yellow) – Chief Clerk's Office    Duplicate (Pink) – HMSO				