

STAND. COM. REP. NO. 1208

Honolulu, Hawaii

March 24, 2011

RE: S.B. No. 652
S.D. 2

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Sir:

Your Committees on Consumer Protection & Commerce and
Judiciary, to which was referred S.B. No. 652, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO MORTGAGE FORECLOSURES,"

beg leave to report as follows:

The purpose of this bill is to address concerns with the
current foreclosure process in this state by implementing the
recommendations of the Mortgage Foreclosure Task Force in its
preliminary report submitted to the Legislature of the Regular
Session of 2011. As amended, this bill, among other things:

- (1) Requires that the notice of intent to foreclose under
power of sale be served not less than 21 days before the
date of sale and must be served on all persons entitled
to notice in the same manner as required for service of
a civil complaint;
- (2) Prohibits pursuit of a deficiency judgment by a
mortgagee against certain owner-occupants of a
residential property that was foreclosed on under power
of sale;
- (3) Allows an owner-occupant of a residential property
subject to a foreclosure under power of sale to convert
the action into a foreclosure by action;

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- (4) Specifies that public sales of real property pursuant to a nonjudicial power of sale foreclosure must be held at the state building in the county seat of the county where the property is located; and
- (5) Specifies that a mortgagor's interest is extinguished upon recordation of the affidavit in the Bureau of Conveyances or in the Land Court within 30 days of the sale.

The Department of Commerce and Consumer Affairs, the Hawaii Association of REALTORS®, the Mortgage Bankers Association of Hawaii, the Legal Aid Society of Hawaii, the Hawaii Financial Services Association, the Mililani Town Association, and several concerned individuals supported the bill. The Hawaii Bankers Association and the Hawaii Credit Union League supported this measure with reservations. The Judiciary opposed this bill. The Community Associations Institute-Hawaii Chapter provided comments.

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 S.B. No. 652, S.D. 2, 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-AGARAN, Chair



ROBERT N. HERKES, Chair



