

**Testimony for HB1875 on 1/25/2012 2:00:00 PM**  
mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**LATE TESTIMONY**

**Sent:** Wednesday, January 25, 2012 11:16 AM

**To:** CPCtestimony

**Cc:** plsngyou@gmail.com

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Testimony for CPC/JUD 1/25/2012 2:00:00 PM HB1875

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Larry Bennett  
Organization: Individual  
E-mail: plsngyou@gmail.com  
Submitted on: 1/25/2012

Comments:

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**LATE TESTIMONY**

**Sent:** Wednesday, January 25, 2012 9:12 AM

**To:** CPCtestimony

**Cc:** rebeccar@moililicc.org

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Testimony for CPC/JUD 1/25/2012 2:00:00 PM HB1875

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Rebecca R Senutovitch

Organization: Individual

E-mail: rebeccar@moililicc.org

Submitted on: 1/25/2012

Comments:

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mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**LATE TESTIMONY**

**Sent:** Wednesday, January 25, 2012 9:52 AM

**To:** CPCtestimony

**Cc:** SSAKAMOTO@hcul.org

**Attachments:** HB1875 1-25-12.pdf (1 MB)

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Testimony for CPC/JUD 1/25/2012 2:00:00 PM HB1875

Conference room: 325

Testifier position: Oppose

Testifier will be present: Yes

Submitted by: STEFANIE SAKAMOTO

Organization: HCUL

E-mail: SSAKAMOTO@hcul.org

Submitted on: 1/25/2012

Comments:

# LATE TESTIMONY



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Testimony to the House Committee on Commerce and Consumer Protection  
And the House Committee on Judiciary  
Wednesday, January 25, 2012 at 2:00 p.m.

## Testimony in Opposition to HB 1875, Relating to Foreclosures

To: The Honorable Robert Herkes, Chair  
The Honorable Ryan Yamane, Vice-Chair  
Members of the Committee on Commerce & Consumer Protection

The Honorable Gil Keith-Agaran, Chair  
The Honorable Karl Rhoads, Vice-Chair  
Members of the Committee on Judiciary

My name is Stefanie Sakamoto, and I am testifying on behalf of the Hawaii Credit Union League, the local trade association for 83 Hawaii credit unions, representing approximately 811,000 credit union members across the state. Approximately 60 of our credit unions write mortgage loans in the State of Hawaii. HCUL respectfully offers the following testimony regarding HB 1875, which is the legislation produced by the Mortgage Foreclosure Task Force. Francis P. Hogan, Esq. of was the representative of the Hawaii Credit Union League on the Task Force.

HB 1875 was the result of many months of meetings and work by the task force members. While we appreciate the hard work that went into attempting to re-work Act 48 to make its provisions more palatable to all parties, a number of concerns still exist. Attached, please find the "Minority Report" prepared by Mr. Hogan, which was submitted to the Mortgage Foreclosure Task Force and included in the task force's report. This document outlines the issues that remain.

Thank you for the opportunity to provide comments.

**2011 Mortgage Foreclosure Task Force  
Report on behalf of the Hawaii Credit Union League**

The Hawaii Credit Union League represents 83 federal credit unions in the State of Hawaii. Our credit unions are not-for-profit, member-owned financial cooperatives. Sixty-one of our credit unions write mortgage loans and are concerned about some of the provisions in the recently amended Chapter 667. The League respectfully submits the following comments concerning the draft report of the 2011 Mortgage Foreclosure Task Force.

1. **§667-56: Prohibited practices:** The League seeks repeal of §§667-56(5), -56(6) and -56(7). In all three subsections, the phrase “completing nonjudicial foreclosure proceedings is ambiguous. It is unclear whether that period ends with: recordation of an affidavit of sale; recordation of a conveyance document to the foreclosure sale purchaser; or recovery of possession from the foreclosed mortgagor of the foreclosed property by the purchaser.

(a) Section 667-56(5) also ignores that a lender or servicer may not have notice of a pending short sale escrow at the time of completion of a nonjudicial foreclosure sale.

(b) Section 667-56(6) also uses the vague phrase “bona fide loan modification negotiations.” If a mortgagor has been denied a loan modification, can the mortgagor then reapply seriatum and maintain the mortgagor’s status as pending bona fide loan modification negotiations? Does the time reset each time a mortgagor submits a loan modification request notwithstanding the requests are not materially different than one already denied?

(c) Section 667-56(7) also is too vague because it fails to define with clarity when a mortgagor is being evaluated and when a mortgagor is no longer being evaluated for a loan modification program. Section 667-56(7) presumes that there will be timely-issued documentation that a borrower is no longer being evaluated when that is not always the case.

2. **§667-58(a):** As worded, the subsection implies credit unions must file affiliate statements naming their own officers. The League suggests it be amended to begin as follows:

Any notices made pursuant to this chapter may be issued only by the foreclosing mortgagee or lender, or by a person identified by the foreclosing mortgagee or lender in an affiliate statement signed by that foreclosing mortgagee or lender and recorded . . . .

3. **§667-59:** This section, captioned, “Actions and Communications with the Mortgagor in Connection with a Foreclosure,” should be amended to include the words “in writing,” in the first sentence so that it will read as follows:

“A foreclosing mortgagee shall be bound by all agreements, obligations, representations, or inducements to the mortgagor, which are made in writing by its agents, including but not limited to its . . . .”

4. **§667-60:** This section should be repealed. Many Hawaii credit unions are too small to survive even one successful attack under this section. Lenders have always been subject to Chapter 480. Making virtually any technical mistake in the administration of a foreclosure an “unfair and deceptive act or practice” will defeat the intent of the drafters of Act 48, because no rational lender will initiate the complicated nonjudicial foreclosure process. As a result none of those lenders and their loans will go through the dispute resolution process.

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**LATE TESTIMONY**

**Sent:** Wednesday, January 25, 2012 2:30 PM

**To:** CPCtestimony

**Cc:** kessler808@gmail.com

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Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Ken Kessler

Organization: Individual

E-mail: kessler808@gmail.com

Submitted on: 1/25/2012

Comments: