

Honolulu, Hawaii

February 13, 2013

RE: H.B. No. 1417
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Sir:

Your Committees on Consumer Protection & Commerce and
Judiciary, to which was referred H.B. No. 1417 entitled:

"A BILL FOR AN ACT RELATING TO MEDIATION AFFECTING JUDICIAL
FORECLOSURE,"

beg leave to report as follows:

The purpose of this measure is to assist homeowners who are
at risk of foreclosure by expanding the availability of mandatory
mortgage foreclosure dispute resolution.

Specifically, this measure:

- (1) Requires mortgagees, at the mortgagor's election, to participate in mediation to avoid foreclosure or to mitigate damages from foreclosure prior to filing a judicial foreclosure action for property that has been the mortgagor's primary residence for a specified period; and
- (2) Extends the new dispute resolution requirement to include judicial foreclosure actions filed prior to the effective date of this measure and pending an initial court hearing.

The Office of Consumer Protection and three individuals testified in support of this measure. The Hawaii Bankers



Association, Hawaii Credit Union League, and Hawaii Financial Services Association testified in opposition to this measure.

Your Committees find that Act 48, Session Laws of Hawaii 2011, among other things established the Mortgage Foreclosure Dispute Resolution Program to require mortgagees, at the mortgagor's election and prior to conducting a public sale of the subject property, to participate in dispute resolution to avoid foreclosure or mitigate damages from foreclosure. Currently, the dispute resolution program applies only to nonjudicial foreclosures of property that has been the mortgagor's primary residence for a certain minimum period. To assist more homeowners, this measure expands the application of the dispute resolution program to include the same types of mortgagors and residential property that currently qualify for the program, albeit for judicial foreclosures, including those filed prior to the effective date of this measure and awaiting an initial court hearing.

Your Committees have amended this measure by:

- (1) Changing the effective date to July 1, 2112, to encourage further discussion on this measure; and
- (2) Making technical housekeeping amendments to Section 1 of the measure to correct references to "mortgagors" that were intended to refer to "mortgagees."

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. 1417, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1417, H.D. 1, and be referred to the Committee on Finance.



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

Karl Rhoads

KARL RHOADS, Chair

Angus L.K. McKelvey

ANGUS L.K. MCKELVEY, Chair



