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PRESENTATION OF THE
OFFICE OF CONSUMER PROTECTION
TO THE HOUSE COMMITTEE ON JUDICIARY
THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2013
TUESDAY, APRIL 2, 2013
2:00 P.M.

TESTIMONY ON SENATE BILL NO. 960, S.D. 1, H.D. 1
RELATING TO FORECLOSURES.

TO THE HONORABLE KARL RHOADS, CHAIR,
AND TO THE HONORABLE SHARON E. HAR, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs (“DCCA”), Office of Consumer Protection (“OCP”) appreciates the opportunity to appear today and testify on Senate Bill No. 960, S.D. 1, H.D.1, Relating to Foreclosures. My name is Bruce B. Kim and I am the Executive Director of OCP.

OCP supports Senate Bill No. 960, S.D. 1, H.D. 1. H.D. 1 mandates that the foreclosure commissioner notify the mortgagor, the borrower and the foreclosing mortgagee of the postponement or cancellation of the foreclosure sale in Part IA judicial foreclosures. The changes track existing notice requirements applicable to Part II

nonjudicial foreclosures requiring that the foreclosing mortgagee give notice of the postponement or cancellation of a foreclosure sale, including a requirement that such notice be published. See, HRS § 667-28. H.D. 1 requires that notice of the cancellation or postponement of be given to the mortgagor and the borrower among others, including prior or junior creditors who have a recorded lien on the mortgaged property before the commencement of the foreclosure action. It also requires that the notice of postponement or cancellation of public sale be published once in the format described in HRS § 667-20. In the event that a sale is postponed four consecutive times, the foreclosing mortgagee must follow all of the public notice of public sale requirements required by HRS § 667-20.

As indicated in H.D. 1, the intent of the measure is to provide homeowners with timely notice of the cancellation or postponement of the sale and help them avoid severe financial penalties which could result from a cancelled foreclosure sale which they knew nothing about. H.D. 1 addresses real concerns that homeowners will abandon their homes after receiving the notice of a foreclosure sale even though the sale is subsequently cancelled or postponed by the foreclosing mortgagee multiple times. H.D. 1 requires that homeowners be given timely notice of a postponement or cancellation of the sale to mitigate this serious problem. It also affords other interested parties, including any party named in the foreclosure action and any prospective bidder who requested notice of the public sale date or any change in the public sale date, with timely notice of the postponement or cancellation of sale.

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H.D. 1 also includes amendments suggested by the Hawaii Financial Services Association. OCP concurs in the amendments insofar as they conform to existing foreclosure practice in state Circuit Court.

Thank you for the opportunity to submit testimony on Senate Bill No. 960, S.D. 1, H. D. 1. I would be happy to answer any questions members of the committee may have.



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Presentation To
House Committee on Judiciary
April 2, 2013 at 2:00 pm
State Capitol Conference Room 325

Testimony in Support of Bill S. B. 960, SD1, HD1

TO: The Honorable Karl Rhoads, Chair
The Honorable Sharon E. Har, Vice Chair
Members of Committee

My name is Edward Pei and I am the Executive Director of the Hawaii Bankers Association (HBA). HBA is the trade association representing all FDIC insured depository institutions operating in the State of Hawaii.

This measure, as amended, will require that the court appointed commissioner notify all relevant parties should a scheduled public sale of a foreclosed property be either postponed or canceled. We support this requirement and request that the only amendment to this measure should be to make the effective date “on approval”.

Thank you for the opportunity to submit this testimony and please let us know if we can provide further information.

Edward Pei
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April 2, 2013

Rep. Karl Rhoads, Chair
and members of the House Committee on Judiciary
Hawaii State Capitol
Honolulu, Hawaii 96813

Re: **Senate Bill 960, SD 1, HD 1 (Foreclosures)**
Hearing Date/Time: Tuesday, April 2, 2013, 2:00 p.m.

I am Marvin Dang, the attorney for the **Hawaii Financial Services Association** ("HFSA"). The HFSA is a trade association for Hawaii's consumer credit industry. Its members include Hawaii financial services loan companies (which make mortgage loans and other loans, and which are regulated by the Hawaii Commissioner of Financial Institutions), mortgage lenders, and financial institutions.

The HFSA submits comments on this Bill.

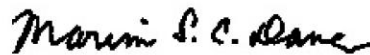
The purpose of this Bill is to establish a notice of postponement or cancellation of sale requirement under Part IA, Chapter 667, Hawaii Revised Statutes, relating to judicial foreclosures.

A previous version of this Bill was heard on March 11, 2013 by the House Committee on Consumer Protection & Commerce ("CPC"). At the hearing, the HFSA's testimony noted that certain provisions in the Bill should be revised because they are inconsistent with existing Court Orders, Court instructions, and practices regarding Hawaii judicial foreclosures. Attached to the HFSA testimony to the House CPC Committee were our proposed revisions in the form of a proposed House Draft 1. The revisions were to conform the requirements in the Bill to what currently exists in the court system.

The House Draft 1 version of this Bill, which was reported out of the House CPC Committee and which is before your Committee, generally incorporates the revisions we had proposed to the House CPC Committee.

For this reason, we do not object to the current version of this Bill.

Thank you for considering our testimony.



MARVIN S.C. DANG

Attorney for Hawaii Financial Services Association

(MSCD/hfsa)