

STAND. COM. REP. NO. **2890**

Honolulu, Hawaii

MAR 17 2014

RE: H.B. No. 2585

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawaii

Madam:

Your Committee on Commerce and Consumer Protection, to which was referred H.B. No. 2585 entitled:

"A BILL FOR AN ACT RELATING TO FORECLOSURES,"

begs leave to report as follows:

The purpose and intent of this measure is to clarify the parties that a homeowners association can serve notice of default and intention to foreclose through publication and posting, after a hearing before a judge, in a nonjudicial foreclosure proceeding.

Your Committee received testimony in support of this measure from the Office of Consumer Protection of the Department of Commerce and Consumer Affairs, Collection Law Section of the Hawaii State Bar Association, Community Association Institute, and two individuals.

Your Committee finds that under section 667-92, Hawaii Revised Statutes, an association is required to serve its notice of default and intention to nonjudicially foreclose on certain parties. If an association cannot find the unit owner, it may go to court to ask for permission to serve the owner by publication and posting. However, section 667-92, Hawaii Revised Statutes, has been interpreted in some cases to not specifically allow an association to serve any other potential defendants, such as defunct lenders or long lost judgment holders, by publication and posting if these entities or individuals cannot be found. This prevents the association's nonjudicial foreclosure from going forward, and the financial and time saving benefits of the nonjudicial foreclosure process are lost.

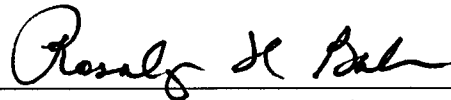
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Your Committee finds that this measure addresses this concern by allowing a judge to approve service of certain other missing defendants by publication and posting so an association's nonjudicial foreclosure can continue. In doing so, this measure also supports the intent of chapter 667, part VI, Hawaii Revised Statutes, which is to provide associations with a means to foreclose nonjudicially without having to resort to the expensive and time-consuming judicial foreclosure process.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2585, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Commerce and
Consumer Protection,



ROSALYN H. BAKER, Chair



The Senate
 Twenty-Seventh Legislature
 State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:*	Committee Referral:	Date:
HB 2585	CPN	3-11-14
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____		
The Recommendation is:		
<input checked="" type="checkbox"/> Pass, unamended 2312 <input type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313		
Members	Aye	Aye (WR)
Nay	Excused	
BAKER, Rosalyn H. (C)	✓	
TANIGUCHI, Brian T. (VC)	✓	
NISHIHARA, Clarence K.	✓	
WAKAI, Glenn	✓	
SLOM, Sam		✓
TOTAL	4	0
0	0	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted		
Chair's or Designee's Signature:		
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy		

*Only one measure per Record of Votes