

STAND. COM. REP. NO. 2087

Honolulu, Hawaii

FEB 06 2014

RE: S.B. No. 2482

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 S.B. No. 2482 entitled:

"A BILL FOR AN ACT RELATING TO ASSOCIATION ALTERNATIVE POWER OF SALE FORECLOSURE PROCESS, "

begs leave to report as follows:

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

Your Committee received testimony in support of this measure from the Department of Commerce and Consumer Affairs Office of Consumer Protection; Collection Law Section of the Hawaii State Bar Association; Hawaii Council of Associations of Apartment Owners; Hawaii First, Inc.; and one individual.

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. 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 if these entities or individuals cannot be found. This prevents the association's nonjudicial foreclosure from going forward, and the financial and

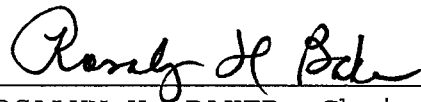


time saving benefits of the nonjudicial foreclosure process are lost.

Your Committee finds that this measure addresses this concern by allowing a judge to approve service of certain other missing defendants by publication 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 S.B. No. 2482 and recommends that it pass Second Reading and be referred to the Committee on Judiciary and Labor.

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

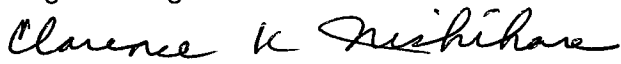


ROSALYN H. BAKER, Chair



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:		
SB 2482	CPN, JDL	2/4/14		
<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			1
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

*Only one measure per Record of Votes