

Honolulu, Hawaii

FEB 12 2013

RE: S.B. No. 960  
S.D. 1

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Seventh State Legislature  
Regular Session of 2013  
State of Hawaii

Madam:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 960 entitled:

"A BILL FOR AN ACT RELATING TO FORECLOSURES,"

begs leave to report as follows:

The purpose and intent of this measure is to establish that it is a prohibited practice for a foreclosing mortgagee or foreclosing association to cancel a public sale at any time before the date of the public sale without written notification of the cancellation delivered to the mortgagor, the borrower, and other specified persons.

Your Committee received testimony in support of this measure from the Office of Consumer Protection of the Department of Commerce and Consumer Affairs and Community Associations Institute Hawaii Chapter.

Your Committee finds that pursuant to Act 48, Session Laws of Hawaii 2011, the foreclosing mortgagee in a nonjudicial foreclosure is legally required to provide notice of the postponement or cancellation of the public sale to specific persons. It is prohibited conduct for a foreclosing mortgagee to fail to notify identified persons and entities of the postponement or cancellation of a nonjudicial foreclosure sale. Your Committee further finds that amendments are necessary because the suggested language proposed by this measure replicates existing notice requirements for nonjudicial foreclosures.



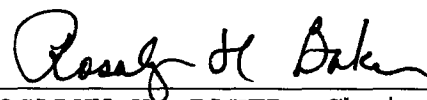
However, your Committee additionally finds that although the protections relating to the postponement or cancellation of sale apply to nonjudicial foreclosures, there is not a similar requirement for judicial foreclosures under part IA, chapter 667, Hawaii Revised Statutes. Your Committee therefore concludes that these existing protections for nonjudicial foreclosures should also apply to mortgagors and borrowers involved in the judicial foreclosure process.

Accordingly, your Committee has amended this measure by:

- (1) Inserting language that establishes a notice of postponement or cancellation of sale requirement under part IA, chapter 667, Hawaii Revised Statutes, relating to judicial foreclosures;
- (2) Removing language that would have required foreclosing mortgagees in a nonjudicial foreclosure to provide notice of the postponement or cancellation of a public sale to specific persons, as this requirement is already imposed on a foreclosing mortgagee under sections 667-28 and 667-97, Hawaii Revised Statutes;
- (3) Amending the purpose section for clarity; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

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. 960, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 960, S.D. 1, 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



