

HB 2513

Measure Title: RELATING TO MORTGAGE FORECLOSURES.

Report Title: Mortgage Foreclosures; Affirmation Required When Action Commenced

Description: Requires that an affirmation be filed with the court at the time a mortgage foreclosure action is commenced.

Companion:

Package: None

Current Referral: CPN, JDL

Introducer(s): LOWEN, McKelvey



NEIL ABERCROMBIE
GOVERNOR

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PRESENTATION OF THE
OFFICE OF CONSUMER PROTECTION

TO THE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

THE TWENTY-SEVENTH
REGULAR SESSION OF 2014

MARCH 11, 2014
9:30 AM

TESTIMONY OFFERING COMMENTS ON H.B. 2513, RELATING TO MORTGAGE FORECLOSURES.

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND TO THE HONORABLE BRIAN T. TANIGUCHI, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs, Office of Consumer Protection ("OCP") appreciates the opportunity to appear today and offer comments on H. B. 2513, Relating to Mortgage Foreclosures. My name is Bruce B. Kim and I am the Executive Director of OCP.

H. B. 2513 amends HRS §667-17 to specify that the attorney affirmation in judicial foreclosure ("affirmation") must be filed at the commencement of the action. The affirmation section was a part of Act 182, SLH 2012, which substantially amended HRS Chapter 667 at the recommendation of the Mortgage Foreclosure Task Force ("MFTF"),

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after the enactment of Act 48, SLH 2011. However, the affirmation was not included among the recommendations of the MFTF.

At the time of the affirmation's enactment, there was lively debate as to how it would function and the requirements it would impose on foreclosing mortgagees' counsel. It is not immediately apparent from Standing Committee Report No. 626-12 of the expectations of the Committee on Consumer Protection & Commerce as to when the affirmation should be submitted. OCP believes that additional clarification regarding the timing of the affirmation would be appropriate, given the current lack of specificity, if the Legislature sees fit to do so.

Thank you for the opportunity to offer comments on H. B. 2513. I would be happy to answer any questions members of the committee may have.

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March 11, 2014

Sen. Rosalyn H. Baker, Chair
Sen. Brian T. Taniguchi, Vice Chair
and members of the Senate Committee on Commerce & Consumer Protection
Hawaii State Capitol
Honolulu, Hawaii 96813

Re: **House Bill 2513 (Mortgage Foreclosures)**
Hearing Date/Time: Tuesday, March 11, 2014, 9:30 a.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 **supports the intent** of this Bill as drafted.

The purpose of this Bill is to require that an affirmation be filed with the court at the time a mortgage foreclosure action is commenced.

The reason why we support the intent is because we understand that it will generally not be a problem for attorneys to file the attorney affirmation at the same time that they are filing the foreclosure complaint.

Thank you for considering our testimony.



MARVIN S.C. DANG
Attorney for Hawaii Financial Services Association

(MSCD/hfsa)



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Presentation To
Senate Committee on Commerce and Consumer Protection
March 11, 2014 at 9:30am
State Capitol Conference Room 229

Testimony in Support of House Bill 2513

TO: The Honorable Rosalyn H. Baker, Chair
The Honorable Brian T. Taniguchi, Vice Chair
Members of the 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.

The Hawaii Bankers Association supports the intent of HB 2513 to require attorney affirmations of the accuracy of documents to be submitted to the court at the time a mortgage foreclosure action is commenced. It is our understanding that this is already a standard practice but this measure will further encourage compliance.

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

A handwritten signature in black ink, appearing to read 'Edward Y. W. Pei', written in a cursive style.

Edward Y. W. Pei
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Testimony to the Senate Committee on Commerce & Consumer Protection
March 11, 2014

Testimony in support of the intent of HB 2513, Relating to Mortgage Foreclosures

To: The Honorable Rosalyn Baker, Chair
The Honorable Brian Taniguchi, Vice-Chair
Members of the Committee on Commerce & Consumer Protection

My name is Stefanie Sakamoto, and I am testifying on behalf of the Hawaii Credit Union League, the local trade association for 75 Hawaii credit unions, representing approximately 804,000 credit union members across the state.

Approximately 60 credit unions offer mortgage loans in the State of Hawaii.

We are in support of the intent of HB 2513, which concerns the filing of the attorney affirmation in foreclosure actions. This would conform to existing practice.

Thank you for the opportunity to testify.