

STAND. COM. REP. NO.

2045

Honolulu, Hawaii

FEB 05 2016

RE: S.B. No. 2329
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred S.B. No. 2329 entitled:

"A BILL FOR AN ACT RELATING TO SECURITY INTERESTS IN REAL
PROPERTY,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require a mortgagee or record assignee to provide to a mortgagor or borrower, upon full satisfaction of a mortgage and discharge of the secured debt, a reassignment or release of security interests in leases and rents that served as additional security for the mortgage;
- (2) Authorize title insurers or underwritten title companies to reassign or release mortgagees' security interests in leases and rents on behalf of the mortgagee or record assignee under certain conditions; and
- (3) Authorize certain entities to institute an action in any circuit court to obtain the release or reassignment instrument in the absence of compliance of a mortgagee or record assignee.

Your Committee received testimony in support of this measure from one individual.



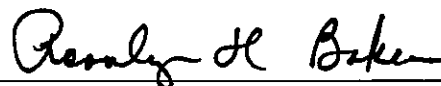
Your Committee finds that lenders may secure loans to a borrower through a mortgage and through an assignment of the borrower's rights in leases and rents. These security interests are generally recorded in the Bureau of Conveyances and the Office of the Assistant Registrar of the Land Court as separate documents with separate document numbers. Once a loan is paid in full and satisfied, the parties to the loan may record a release of the mortgage but may fail to record a release or reassignment of the security interest in leases and rents. As a result, many of these recorded assignments of leases and rents remain on the public record and continue to be found in subsequent title searches involving a property, even though these assignments are no longer enforceable.

Your Committee further finds that title insurers and underwritten title companies are authorized to execute the release of a satisfied mortgage in certain circumstances; however, there is no corresponding mechanism for clearing the public record of the assignments of leases and rents. Accordingly, this measure amends the procedure for clearing titles to included reassignments or releases of leases and rents. This will enable title companies to better facilitate the clearing of extraneous security interests on titles to real property from the public record.

Your Committee has amended this measure by 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, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2329, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2329, S.D. 1, and be referred to your Committee on Judiciary and Labor.

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



ROSALYN H. BAKER, Chair



The Senate
 Twenty-Eighth Legislature
 State of Hawai'i

Record of Votes
Committee on Commerce, Consumer Protection, and Health
CPH

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 2329	CPH, JDL	2-1-16		
<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 type="checkbox"/> Pass, unamended 2312 <input checked="" 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)	✓			
KIDANI, Michelle N. (VC)	✓			
ESPERO, Will	✓			
IHARA, Jr., Les	✓			
NISHIHARA, Clarence K.	✓			
RUDERMAN, Russell E.				✓
SLOM, Sam	✓			
TOTAL	6			1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Michelle N. Kidani</i>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes