

SB2329

- Measure Title:** RELATING TO SECURITY INTERESTS IN REAL PROPERTY.
- Report Title:** Mortgages and Security Interests; Reassignment of Interests in Leases and Rents
- Description:** Requires a mortgagee or record assignee to provide to a mortgagor or borrower, upon full satisfaction of the 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. Authorizes title insurers or underwritten title companies to make demands on mortgagees and, in the absence of compliance, to reassign or release mortgagees' security interests in leases and rents on behalf of the mortgagee or record assignee, under certain conditions. Authorizes 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.
- Companion:**
- Package:** None
- Current Referral:** CPH, JDL
- Introducer(s):** BAKER, ENGLISH, KEITH-AGARAN, KIDANI, RUDERMAN, Espero, Ihara, Nishihara, Taniguchi

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January 30, 2016

The Honorable Senator Rosalyn H. Baker, Chair
The Honorable Senator Michelle N. Kidani, Vice Chair
Members of the Senate Committee On Commerce, Consumer Protection, And Health
Conference Room 229, State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Re: Hearing Date: Monday, February 1, 2016 at 9:00 a.m.
Testimony IN SUPPORT of Senate Bill 2329 Relating To
Security Interests In Real Property

Dear Senator Baker, Senator Kidani, and Members of the Senate Committee On Commerce, Consumer Protection, and Health:

As general counsel at Title Guaranty of Hawaii, Inc., I have dealt with many title search issues for real property in the State of Hawaii. In my experience, it is common for lenders to secure their loans with both mortgages and assignments of the borrower's rights in leases and rents. Most of the time, these security interests are recorded in the bureau of conveyances and the office of the assistant registrar as separate documents with separate document numbers.

When the loans are paid and satisfied, we have seen many instances where the parties will make sure to record a release of the mortgage, but they overlook the need to record a release/reassignment of the security interest in the leases and rents. The result is that there are many of these recorded assignments that are no longer enforceable but continue to clog the public record because they continue to be found in subsequent title searches involving the property.

Title companies currently have authority under Hawaii Revised Statutes Section 506-8 to institute a procedure for recording a release of a satisfied mortgage where the lender has failed to do so; however, there is no corresponding mechanism for clearing the public record of the assignments of leases and rents. The current version of Senate Bill 2329 is designed to allow this.

The benefit to the public will be that title companies will be better able to facilitate clearing extraneous security interests from titles to real property.

I appreciate the opportunity to submit this testimony in support of Senate Bill 2329, and respectfully request that the Committee vote in favor of the Bill.

Respectfully submitted,


Lorrin Hirano