

Honolulu, Hawaii

MAR 03 2017

RE: S.B. No. 396
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 396 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 the Department of Land and Natural Resources, Hawaii Financial Services Association, and Title Guaranty of Hawaii, Inc.

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. Once a loan is paid in full and satisfied, the parties to the loan generally record a release of the mortgage but sometimes 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 include reassignments or releases of leases and rents, which 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:

- (1) Inserting an effective date of January 7, 2059, to encourage further discussion; and
- (2) Making a technical, nonsubstantive amendment for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 396, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 396, S.D. 1.



Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,


GILBERT S.C. KEITH-AGARAN, Chair



