

HB-1957

Submitted on: 2/13/2018 1:52:45 PM

Testimony for CPC on 2/14/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	OCC Legislative Priorities Committee of the Democratic Party of Hawaii	Support	No

Comments:

HAWAII FINANCIAL SERVICES ASSOCIATION

c/o Marvin S.C. Dang, Attorney-at-Law

P.O. Box 4109

Honolulu, Hawaii 96812-4109

Telephone No.: (808) 521-8521

February 14, 2018

Rep. Roy M. Takumi, Chair
Rep. Linda Ichiyama, Vice Chair
and members of the House Committee on Consumer Protection & Commerce
Hawaii State Capitol
Honolulu, Hawaii 96813

Re: **H.B. 1957 (Mortgage Foreclosures)**
Hearing Date/Time: Wednesday, February 14, 2018, 2:00 p.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 **opposes** this Bill.

This Bill prohibits a person who is entitled to enforce a mortgage note as a negotiable instrument from also foreclosing on the property in a foreclosure by action unless the person is the owner, as opposed to a holder, of the mortgage note.

The preamble to this Bill states that the purpose of this Act is to override the ruling in Bank of New York Mellon v. Rumbawa, which is a Summary Disposition Order issued by the Hawaii Intermediate Court of Appeals on February 4, 2016 (CAAP-15-0000024).

We contend that this Bill should not override Bank of New York Mellon v. Rumbawa. The holding in Rumbawa is consistent with the Hawaii Uniform Commercial Code and with what is written in an American Bar Association article about the 2011 Report of the Permanent Editorial Board for the Uniform Commercial Code.

As stated by the Intermediate Court of Appeals in the Rumbawa case:

Courts have rejected the argument that before a party may foreclose on a property, “it must first prove the validity of every transfer in the chain of title.” “Instead, the court looks to whether a lender seeking to foreclose or defending a prior foreclosure was, at the time it sought to foreclose, the holder of the note and mortgage it seeks to foreclose.” “In order to enforce a note and mortgage under Hawaii law, a creditor must be ‘a person entitled to enforce’ the note. One person entitled to enforce an instrument is a ‘holder’ of the instrument. A ‘holder’ is the ‘person in possession of a negotiable instrument.’ ”

(Emphasis added; citations omitted.)

“Negotiable instruments”, such as mortgage notes, are covered in Article 3 of the Hawaii Uniform Commercial Code. Hawaii Revised Statutes § 490:3-301 of Article 3 provides:

§490:3-301 Person entitled to enforce instrument. “Person entitled to enforce” an instrument means (i) the holder of the instrument, (ii) a nonholder in possession of the instrument who has the rights of a

**Testimony of Hawaii Financial Services Association
H.B. 1957 (Mortgage Foreclosures)
Page 2**

holder, or (iii) a person not in possession of the instrument who is entitled to enforce the instrument pursuant to section 490:3-309 or 490:3-418(d). A person may be a person entitled to enforce the instrument even though the person is not the owner of the instrument or is in wrongful possession of the instrument.

(Emphasis added.)

In HRS § 490:1-201 of the Hawaii UCC, “holder” means :

The person in possession of a negotiable instrument that is payable either to bearer or to an identified person that is the person in possession; ...

(Emphasis added.)

An article in the December 2011 issue of Business Law Today (published by the American Bar Association) discusses the 2011 Report of the Permanent Editorial Board for the Uniform Commercial Code. Attached is the article which is titled “Setting the UCC Record Straight on Mortgage Notes”.

Highlighted in that ABA article is a section covering “Who is Entitled to Enforce a Mortgage Note”. UCC § 3-301 is cited in that section. (HRS § 490:3-301 is identically worded to UCC § 3-301.) The article states that a person is the person entitled to enforce the note “if any” of three alternatives are satisfied:

These alternatives for becoming the person entitled to enforce the mortgage note are satisfied (or not) as follows:

- The first alternative is satisfied only if the person (or its agent) has possession of the mortgage note and the mortgage note is payable or endorsed to that person or endorsed in blank.
- The second approach also requires that the person (or its agent) has possession of the mortgage note. If the mortgage note is not payable to the person in possession or to bearer, then the person is not a “holder.” However, if the mortgage note was “delivered” to the person in possession “for the purpose of giving” that person the right to enforce the instrument, the second alternative applies.
- The third alternative requires proof of the elements noted above, along with the terms of the mortgage note.

(Emphasis added.)

Another section in that same American Bar Association article is titled “The Mortgage Follows the Note”. That section points out:

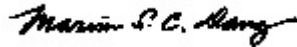
“The law in the United States has long followed the Mary's Little Lamb rule--wherever the mortgage note goes the related mortgage is sure to follow. Restatement (Third) of Property (Mortgages) § 5.4.”

**Testimony of Hawaii Financial Services Association
H.B. 1957 (Mortgage Foreclosures)
Page 3**

Clearly, the holding in Rumbawa is consistent with the Hawaii Uniform Commercial Code and with what is written in the American Bar Association article about the 2011 Report of the Permanent Editorial Board for the Uniform Commercial Code. Rumbawa should not be overridden by this Bill.

Accordingly, we ask that your Committee “hold” this Bill and not pass it.

Thank you for considering our testimony.



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

(MSCD/hfsa)

BUSINESS LAW TODAY

The ABA Business Law Section's Online Resource

Keeping Current: UCC Setting the UCC Record Straight on Mortgage Notes

By [Steven O. Weise](#)

The press is full of articles concerning residential real estate foreclosures. Sometimes questions arise in these judicial and non-judicial proceedings concerning ownership and enforcement of the notes and related mortgages. Uniform Commercial Code Articles 3 and 9 (and related definitions in Article 1) address some of the issues that have come up in these proceedings. The litigants and the courts considering these matters sometimes do not recognize the applicability of the UCC or may have difficulty applying the rules of the UCC. *See, e.g., U.S. Bank v. Ibanez*, 458 Mass. 637, 941 N.E.2d 40 (2011).

The Permanent Editorial Board for the Uniform Commercial Code has just issued a report (Report) to explain the application of UCC provisions that govern selected aspects of these matters and how those provisions apply to common fact patterns in this area. The PEB Report addresses how the UCC governs the following matters:

- Who is the person entitled to enforce a mortgage note?
- How is the transfer of a property interest (ownership or a security interest to secure an obligation) in a mortgage note accomplished?
- What effect does the transfer of a mortgage note have on the related mortgage?

- How can a person enforce a mortgage note by foreclosing non-judicially if the person does not have a recordable assignment of the mortgage?

Procedure

The PEB prepared and issued a draft Report for public comment in March 2011. The PEB received comments and prepared revisions to the Report. The final Report was issued in mid-November. It is available on the webpages of the two sponsors of the UCC, the American Law Institute (www.ali.org) and the Uniform Law Commission (www.uniformlaws.org).

During the course of the comment period, at least two courts cited the draft Report when considering issues addressed by the Report. *See In re Jackson*, 451 B.R. 24 (Bankr. E.D. Calif. 2011) and *In re Veal*, 449 B.R. 542 (9th Cir. BAP 2011). In each case the court held for the homeowner, concluding that the person seeking to enforce the particular mortgage note had not satisfied the relevant requirements of the UCC, as explained in the (draft) PEB Report.

What the Report Does Not Cover

The Report limits its discussion to selected UCC issues:

- The Report states several times that

the UCC governs the issues that it governs, but does not address issues of real property law.

- The Report sometimes refers to the UCC's use of other law in connection with the application of the UCC's rules, for example agency law. In those circumstances, the Report notes the applicability of the other law (such as agency law) but does not discuss the content of the other law. In particular, where the UCC requires "possession" of a note to create certain rights, the Report observes that both Article 3 and Article 9 (with an assist from UCC § 1-103(b)) recognize that possession of the note can occur through an agent.
- The Report's discussion of Article 3 recognizes that Article 3 applies only to "negotiable instruments" as that term is defined in Article 3; the Report observes that if a mortgage note is not a "negotiable instrument," the Report's discussion of Article 3 issues does not apply to that mortgage note.
- The Report's discussion of Article 9 issues notes that Article 9 applies to all instruments, i.e., both negotiable and non-negotiable notes.
- The Report does not address all issues that might arise under the UCC

in this context, such as the possible status of a holder of a mortgage note as a holder in due course of the mortgage note and the effect that that status might have on possible defenses that the maker might be able to assert.

Who is Entitled to Enforce a Mortgage Note?

Article 3 employs the concept of a “person entitled to enforce” a note to determine the person to whom the maker of the note owes its payment obligation. UCC § 3-301. That person might or might not be the owner of the note (UCC § 3-203, Comment 1), but payment to that person discharges the maker’s obligation under the note. UCC §§ 3-412 and 3-602.

A person is the person entitled to enforce the note if *any* of the following is true:

1. The person is the “holder” of the note,
2. The person is in possession of the note, which was “transferred” to that person, but the person is not a “holder” of the note, and
3. The note has been lost or destroyed (or is unavailable for other reasons) and the person who had been in possession was a person entitled to enforce the note

These alternatives for becoming the person entitled to enforce the mortgage note are satisfied (or not) as follows:

- The first alternative is satisfied only if the person (or its agent) has possession of the mortgage note and the mortgage note is payable or endorsed to that person or endorsed in blank.
- The second approach also requires that the person (or its agent) has possession of the mortgage note. If the mortgage note is not payable to the person in possession or to bearer,

then the person is not a “holder.” However, if the mortgage note was “delivered” to the person in possession “for the purpose of giving” that person the right to enforce the instrument, the second alternative applies.

- The third alternative requires proof of the elements noted above, along with the terms of the mortgage note.

Transfer of Ownership

Unlike Article 3, Article 9 applies to interests in both negotiable and non-negotiable instruments. UCC § 9-102(a)(47). Article 9 applies to both a security interest in a mortgage note to secure an obligation and to the rights of a buyer of a mortgage note. UCC § 9-109(a)(1) and (3). Article 9 thus determines the requirements for an “effective” transfer of rights in those two situations. UCC § 9-203.

The requirements for an effective transfer of ownership (in the case of a sale) or a security interest to secure an obligation (in the case of a loan secured by the mortgage note) are straightforward:

1. Value must be given—this is typically satisfied by the payment of the purchase price in the case of a sale of a mortgage note and the promise to make a loan or the advance of the loan amount in the case of a security interest to secure an obligation. UCC § 1-204.
2. The seller or person creating the security interest to secure an obligation must have “rights” in the mortgage note—this too is usually easy to satisfy.
3. Generally, the seller or person creating a security interest to secure an obligation must “authenticate” a security agreement describing the mortgage note. UCC § 9-203(b)(3) (A). Whether the agreement covers the sale of the mortgage note or a security interest to secure an obligation, the agreement sufficiently describes the mortgage note if the agreement “reasonably identifies”

the mortgage note. UCC § 9-108(a). For example, a description of mortgage notes by “category” or “type” is sufficient. UCC § 9-108(b)(2) and (3). (An oral (or other unauthenticated) security agreement is also possible in some circumstances. UCC § 9-203(b)(3)(B)).

If these requirements are satisfied, the buyer or lender with a security interest in a mortgage note to secure an obligation obtains a property interest in the note as owner or holder of the security interest to secure an obligation.

The Mortgage Follows the Note

The law in the United States has long followed the *Mary’s Little Lamb* rule—wherever the mortgage note goes the related mortgage is sure to follow. *Restatement (Third) of Property (Mortgages) § 5.4.*

UCC § 9-203(g) codifies this rule for both sales of a mortgage note and a security interest in a mortgage note to secure an obligation. Further, perfection of a security interest in the mortgage note (whether in favor of a buyer or a lender with a security interest to secure an obligation) also perfects the security interest in the buyer’s or lender’s security interest in the seller’s or borrower’s rights in the mortgage. References to a “mortgage” in UCC § 9-203(g) include other types of consensual rights in real property to secure an obligation, such as a deed of trust. UCC § 9-102(a)(55).

Getting the Mortgage in the Secured Party’s Name

To save effort and money for all concerned, often a buyer of a mortgage note or a lender with a security interest in the mortgage note to secure an obligation will not record an assignment of the mortgage in the real estate records. As Article 9 makes clear, recording an assignment is not necessary for the buyer or lender to perfect its rights in the seller’s or borrower’s rights in the mortgage.

However, if the buyer or lender wants to foreclose, it may not have and may not be able to obtain the documents necessary to record the assignment in the real estate

records, which may be necessary under local real estate law. Article 9 provides a procedure for the buyer or lender to record a document in the real estate records to reflect that assignment. UCC § 9-607(b).

Conclusion

The PEB Report describes the application of selected provisions of UCC Articles 3 and 9 to several key issues that may come up in connection with mortgage notes.

There may well be additional UCC issues or issues arising under other law that also must be resolved, but the Report should help both practitioners and courts understand many of the issues that the UCC addresses in this area.

Steven O. Weise is a partner in the Los Angeles office of Proskauer Rose LLP.

Presentation To The
Committee on Consumer Protection & Commerce
February 14, 2018 at 2:00 PM
State Capitol Conference Room 329

Testimony in Opposition to House Bill 1957

TO: The Honorable Roy M. Takumi, Chair
The Honorable Linda Ichiyama, Vice Chair
Members of the Committee

My name is Neal K. Okabayashi, the Executive Director of the Hawaii Bankers Association (HBA). HBA is the trade association representing banks with branches in Hawaii.

The Hawaii Bankers Association opposes House Bill 1957 on the grounds that it overturns the governing law across the nation and deprives Hawaii of the guidance of legal precedents in courts across the nation.

A foreclosure process must be commenced by a person entitled to enforce the note. Usually the person entitled to enforce the note is a holder. As a general rule, the holder is the person who has possession of the note. That simplifies the determination of who is entitled to enforce the mortgage note. The matter is further complicated by the absence of an applicable definition of “owner” in the Uniform Commercial Code.

The concepts of holder and holder in due course are embedded in the uniform commercial laws of this country enabling commercial interaction to proceed with some semblance of clarity and uniformity; all of which is essential to a smoothly operating economy. HBA also finds it ironic that HB 1954, also addressing foreclosure procedures, attempts to add new language to chapter 667 but uses the term “holder” and not “owner”.

HB 1957 only serves to confuse the judicial process. The HBA further incorporates the testimony of the Hawaii Financial Services Association.

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

Neal K. Okabayashi
(808) 524-5161

HB-1957

Submitted on: 2/13/2018 2:14:30 PM

Testimony for CPC on 2/14/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Desiree Watson	Individual	Support	No

Comments:

Committee on Consumer Protection and Commerce
House of Representatives
Hawaii State Legislature
State Capitol
415 South Beretania Street
Honolulu, HI 96813

February 13, 2018

Aloha, to whom it may concern:

My family has lived in Hawaii since 2005, and our home is in Waikoloa, HI. Our life savings is in our home. Recently, we have needed to talk with the owner of our mortgage to ask for a modification of the terms so that we can pay it. But three different companies have claimed to own rights to our Note. And it has been impossible for us to find out which one really does own it. The title records at the Bureau of Conveyances are of no help. This is because, in our State, any company can foreclose a mortgage without having to prove that it owns the Note that is secured by the mortgage, so they simply refuse to answer our questions. HB 1957 would solve our problem completely. Everyone has a right to know who owns his family's mortgage. We think HB 1957 is the most important thing that the legislature could possibly do to protect every family in this State from unethical practices

Thank you,

Desiree Watson

HB-1957

Submitted on: 2/13/2018 1:42:52 PM

Testimony for CPC on 2/14/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mark Watson	Individual	Support	No

Comments:

Committee on Consumer Protection and Commerce
House of Representatives
Hawaii State Legislature
State Capitol
415 South Beretania Street
Honolulu, HI 96813

February 13, 2018

Aloha, to whom it may concern:

My family has lived in Hawaii since 2005, and our home is in Waikoloa, HI. Our life savings is in our home. Recently, we have needed to talk with the owner of our mortgage to ask for a modification of the terms so that we can pay it. But three different companies have claimed to own rights to our Note. And it has been impossible for us to find out which one really does own it. The title records at the Bureau of Conveyances are of no help. This is because, in our State, any company can foreclose a mortgage without having to prove that it owns the Note that is secured by the mortgage, so they simply refuse to answer our questions. HB 1957 would solve our problem completely. Everyone has a right to know who owns his family's mortgage. We think HB 1957 is the most important thing that the legislature could possibly do to protect every family in this State from unethical practices.

Mark Watson

HB-1957

Submitted on: 2/13/2018 4:05:35 PM

Testimony for CPC on 2/14/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sharon K Torbert	Individual	Support	No

Comments:

I am in support of bills HB1954 and HB1957 as they will provide much needed consumer protections currently missing from Hawaii real property law. Due to experience of very dear friends, they have been adversely affected in ways that could have been prevented had these laws been in effect. Please approve these bills.



Testimony to the House Committee on Consumer Protection & Commerce
Wednesday, February 14, 2018, 2:00 pm
State Capitol, Room 329

In Opposition to HB 1957 – Relating to Mortgage Foreclosures

To: The Honorable Roy Takumi, Chair
The Honorable Linda Ichiyama, Vice-Chair
Members of the Committee

LATE

My name is Stefanie Sakamoto, and I am testifying on behalf of the Hawaii Credit Union League, the local trade association for 57 Hawaii credit unions, representing over 800,000 credit union members across the state.

We are in opposition to HB 1957, Relating to Mortgage Foreclosures. This bill would prohibit a person who is entitled enforce a mortgage note as a negotiable instrument from also foreclosing on the property in a foreclosure by action unless the person is the owner, as opposed to a holder, of the mortgage note.

Approximately 40 Hawaii credit unions currently offer mortgage loans. As illustrated by the detailed testimony offered by the Hawaii Financial Services Association, this bill would be in conflict with the Hawaii Uniform Commercial Code and existing case law on the subject. As such, we are in opposition.

Thank you for the opportunity to provide comments.

Rep. Roy M. Takumi
Chair, Committee on Consumer Protection and Commerce
House of Representatives Hawaii State Legislature State Capitol
415 South Beretania Street
Honolulu, HI 96813 <http://www.capitol.hawaii.gov/submittestimony.aspx>

February 13, 2018

LATE

Re: HB 1957

Aloha e Representative Roy M. Takumi:

My family has lived in Hawaii since before 1896, and our family home at 3248 Esther Street in Kapahulu, Hawaii has been a part of our family for over fifty years. I have raised my family there and I have invested my life savings into our home.

Recently, I have needed to talk with the owner of our mortgage to ask for a modification of the terms so that we can pay it. However, there have been four to five different companies who have claimed to own our Note. It is impossible for me to find out which company really owns it. The title records at the Bureau of Conveyances is of no help to my family.

The reason being is that in the State of Hawai'i, any company can foreclose a mortgage without having to prove nor provide evidence that it does in fact own the Note that is secured by the mortgage. Therefore, I have not been able to get answers to my questions.

Today, HB 1957 would solve our problem completely and ensure my family's capacity to fair and ethical consumer protection. We as the people of Hawai'i have the right to know who owns our family's mortgage. I believe that HB 1957 is the most significant bill that our Hawai'i legislature could do to protect every family here in Hawai'i from unethical practices.

Aloha,


R. Kawehilani Akau

4186 Kilauea Avenue

Honolulu, HI 96816

Rep. Roy M. Takumi
Chair, Committee on Consumer Protection and Commerce
House of Representatives
Hawaii State Legislature
State Capitol
415 South Beretania Street
Honolulu, HI 96813
<http://www.capitol.hawaii.gov/submittestimony.aspx>

LATE

February 13, 2018

Re: HB 1957

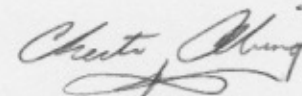
Aloha, Mr. Takumi:

My local family has lived in Hawaii since 1986, and our home is in Waipio Gentry, Waipahu. Our life savings and major investment has been our home.

Recently, we have needed to talk with the owner of our mortgage to ask for a modification of the terms so that we can pay it. But three different companies have claimed to own our Note and caused me to wonder how did this happen? And it is impossible for us to find out which one really *does* own it. The title records at the Bureau of Conveyances are of no help. This is because, in our State, any company can quickly foreclose a mortgage **without having to prove** that it owns the Note that is secured by the mortgage, so oddly enough, we have not been able to get answers to our questions.

HB 1957 would solve our problem completely. Everyone has a right to know who owns his family's mortgage. We think HB 1957 is the most important thing that the legislature could possibly do to protect every family in this State from unethical practices. Immoral entities have much monetarily to gain from fraudulent behavior without regard to the many families who just want to save and keep their homes. Let's stop the wrong these companies are doing with this initiative and have them NOT make a mockery of Hawaii's court system.

Signed:



Chester Abing

94-1114 Pohnu, Place

Waipahu, Hawaii 96797

LATE

Rep. Roy M. Takumi
Chair, Committee on Consumer Protection and Commerce
House of Representatives
Hawaii State Legislature
State Capitol
415 South Beretania Street
Honolulu, HI 96813
<http://www.capitol.hawaii.gov/submittestimony.aspx>

Greetings Mr. Takumi:

My family and I have lived in Hawaii all of our lives, and our home is in Maili. We have worked very hard to purchase our home where we can raise our family.

Recently, we have tried to talk with the owner of our mortgage to ask for a modification of the terms so that it would be more affordable for us. But about five different companies claim to own our Note for our home. It has been nearly impossible for us to find out which company really owns the note. The title records at the Bureau of Conveyances weren't of any help either. This is because, in Hawaii, a company can foreclose on a mortgage without having to prove that they are the owners of the Note and that is secured by the mortgage. Because of this, we have not been able to get our questions answered. HB 1957 would definitely help to solve our problems as well as many other families problems.

I strongly believe that we have the right to know who owns our family's mortgages. HB 1957 would protect every family in Hawaii from having to endure unethical practices.

Sincerely,

Adrian and Denise Cabral
87-619 Manuu St. Waianae HI. 96792

HB-1957

Submitted on: 2/14/2018 9:20:51 AM

Testimony for CPC on 2/14/2018 2:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Sue DeShaw	Individual	Support	No

Comments:

Please see letter attached.

February 13, 2018

Rep. Roy M. Takumi
Chair, Committee on Consumer Protection and Commerce
House of Representatives
Hawaii State Legislature
State Capitol
415 South Beretania Street
Honolulu, HI 96813
<http://www.capitol.hawaii.gov/submittestimony.aspx>

LATE

Aloha, Mr. Takumi:

My family has lived in Hawaii since 1950, and our home is in Mililani Mauka. Our life savings is in our home.

In and around 2009 my husband was injured on his job and we tried without success to get help from the mortgage company at that time. They refused to help us. At first they offered a "payment plan" which we were told would lead to a modification with them as long as we complete our part of the agreement, which we did. We were asked to put down \$7,000 plus and to pay approximately \$3,700 each month for the next 7 months (I have exact dates in my file). Unfortunately, they did not give us a modification instead they wanted a foreclosure. We wrote to Sheila Bair the FDIC chairperson at that time, other government agencies and finally our late Senator Inouye. Senator Inouye sent the mortgage company a letter and the mortgage company stopped the foreclosure and took us on a "roller coaster ride" for the next several years.

We finally hired attorneys and found out that the mortgage company did not have the original Note. After many Court battles our forensic witness was not allowed to examine the Note to confirm if it was the original.

Prior to the current mortgage company our Note was sold to at least 4 different mortgage companies. On **November of 2015** we were forced to leave our home by a Sheriff. We are now staying with our parents.

Our home has stood vacant since then and is still vacant. No one has purchased our home. We believe that this mortgage company illegally kicked us out of our home as they've refused to allow us to examine the Note which can only mean that they have a "copy" of it. In that case any bank can make a "copy" of the Note and demand payment.

The regulation/law stating that a mortgage company must have the "original" Note not only protects the Homeowner but the mortgage company itself.

The title records at the Bureau of Conveyances are of no help. This is because, in our State, any company can foreclose a mortgage without having to prove that it owns the Note that is secured by the mortgage, so we have been foreclosed on illegally. HB 1957 would solve our problem completely.

Everyone has a right to know who owns his family's mortgage. We think HB 1957 is the most important thing that the legislature could possibly do to protect every family in this State from unethical practices.

Signed: 

Name: Mrs. Melldine Wegesend

Address of Home: 95-1100 Kelakela St., Mililani

Address at now: 95-218 Moelehua Pl., Mililani

HB-1957

Submitted on: 2/13/2018 9:59:00 PM

Testimony for CPC on 2/14/2018 2:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Johnathan Baliguat	Individual	Support	No

Comments:

Aloha, Mr. Takumi:

My 'Ohana has lived in Hawaii all my life (I'm 50yrs old), and our home is in Makakilo. We purchased it in 2000, and my late Parents wish was to have this home of ours kept within our 'Ohana for generations to come. I live with my Brothers, Sisters, Nephew, and Nieces and our entire life savings is in our home.

Recently, we have needed to talk with the owner of our mortgage to ask for a modification of the terms so that we can pay it. But more than a few (3, 4, 5?) different companies have claimed to own our Note. And it is virtually impossible for us to find out which one really does own it. The title records at the Bureau of Conveyances are of little to no help. This is because, in our State, any company can foreclose a mortgage without having to prove that it owns the Note that is secured by the mortgage, so we have not been able to get answers to our questions. HB 1957 would solve our problem completely.

Everyone has a right to know who owns his/her 'Ohana's mortgage. We think HB 1957 is the most important thing that the legislature could possibly do to protect us and every other 'Ohana in this State from unethical practices.

Johnathan F. K. Baliguat

92-694 Wainohia Way

Kapolei, HI 96707-1224

HB-1957

Submitted on: 2/13/2018 9:50:07 PM

Testimony for CPC on 2/14/2018 2:00:00 PM

LATE

Submitted By	Organization	Testimony Position	Present at Hearing
william	Individual	Support	No

Comments:

my family have lived in hawaii since2006and our home is in mililani andhb1957 would help us know who owns his family s mortgage

HB-1957

Submitted on: 2/13/2018 9:43:50 PM

Testimony for CPC on 2/14/2018 2:00:00 PM



Submitted By	Organization	Testifier Position	Present at Hearing
Lisa Yee	Individual	Support	No

Comments:

I am in support of bills HB1954 and HB1957 as they will provide much needed consumer protections currently missing from Hawaii real property law. Due to my own personal experience I have been adversely affected in ways that could have been prevented had these laws been in effect. Please approve these bills.

HB-1957

Submitted on: 2/13/2018 9:26:33 PM

Testimony for CPC on 2/14/2018 2:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Wendi O'Neill Wasson	Individual	Support	No

Comments:

I am in support of bills HB1954 and HB1957 as they will provide much needed consumer protections currently missing from Hawaii real property law. Due to my own personal experience, I have been adversely affected in ways that could have been prevented had these laws been in effect. Please approve these bills.

Thank you!

HB-1957

Submitted on: 2/13/2018 6:16:20 PM

Testimony for CPC on 2/14/2018 2:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Jean-Francois Benoist	Individual	Support	No

Comments:

I am in support of bill HB1957 as this will provide much needed consumer protections currently missing from Hawaii real property law. Due to my own personal experience I have been adversely affected in ways that could have been prevented had these laws been in effect. Please approve these bills. Jean-Francois Benoist

From: Elaine Kam <hulanews@gmail.com>
Sent: Wednesday, February 14, 2018 1:24 PM
To: CPCtestimony
Subject: Fwd: HB1957 RE: MORTGAGE FORECLOSURES (SUPPORT)

To: cpctestimony@capitol.hawaii.gov
[http://www.capitol.hawaii.gov/
submit_testimony.aspx](http://www.capitol.hawaii.gov/submit_testimony.aspx)

Rep. Roy M. Takumi
Chair & Committee, Consumer Protection and Commerce
Meeting Rm. 329

HB 1957 Re: Mortgage Foreclosures (IN SUPPORT)

I strongly support HB 1957 and urge you and your committee members to please vote yes to this important issue..

When homeowners want a loan modification or to refinance their home it is important to know who owns their mortgage.

In Hawaii, unfortunately, ANY COMPANY can foreclose a mortgage without proving that it owns the note that is secured by the mortgage.

We have been unable to get answers to this question from the Bureau of Conveyances which contains our Property Title records.

(Perhaps, throughout the years, our mortgage has been sold to many investors who have not recorded it at the Bureau of Conveyances.)

Hawaii has too many homeless people for the taxpaying citizens to support. Please help THE PEOPLE IN HAWAII TO KEEP THEIR HOMES by passing HB 1957.

Mahalo.

Elaine Kam
James Kam

From: Ches <getches@gmail.com>
Sent: Wednesday, February 14, 2018 1:12 PM
To: CPCtestimony
Subject: HB1957 please initiate! thx

Aloha, Mr. Takumi:

My local family has lived in Hawaii since 1986, and our home is in Waipio Gentry, Waipahu. Our life savings and major investment has been our home.

Recently, we have needed to talk with the owner of our mortgage to ask for a modification of the terms so that we can pay it. But three different companies have claimed to own our Note and caused me to wonder how did this happen? And it is impossible for us to find out which one really *does* own it. The title records at the Bureau of Conveyances are of no help. This is because, in our State, any company can quickly foreclose a mortgage without having to *prove* that it owns the Note that is secured by the mortgage, so oddly enough, we have not been able to get answers to our questions.

HB 1957 would solve our problem completely. Everyone has a right to know who owns his family's mortgage. We think HB 1957 is the most important thing that the legislature could possibly do to protect every family in this State from unethical practices. Immoral entities have much monetarily to gain from fraudulent behavior without regard to the many families who just want to save and keep their homes. Let's stop the wrong these companies are doing with this initiative and have them NOT make a mockery of Hawaii's court system.

Chester Abing
94-1114 Pohnu Place
Waipahu, Hawaii 96797

From: Elaine Kam hulanews@gmail.com
Subject: Fwd: HB1957 RE: MORTGAGE FORECLOSURES (IN SUPPORT)
Date: February 14, 2018 at 1:28 PM
To: cptestimony@capitol.hawaii.gov

LATE

EK

To: cptestimony@capitol.hawaii.gov
<http://www.capitol.hawaii.gov/>

Rep. Roy M. Takumi

Chair & Committee, Consumer Protection and Commerce
Meeting Rm. 329

HB 1957 Re: Mortgage Foreclosures (IN SUPPORT)

I strongly support HB 1957 and urge you and your committee members to please vote yes to this important issue..

When homeowners want a loan modification or to refinance their home it is important to know who owns their mortgage.

In Hawaii, unfortunately, ANY COMPANY can foreclose a mortgage without proving that it owns the note that is secured by the mortgage.

We have been unable to get answers to this question from the Bureau of Conveyances which contains our Property Title records.

(Perhaps, throughout the years, our mortgage has been sold to many investors who have not recorded it at the Bureau of Conveyances.)

Hawaii has too many homeless people for the taxpaying citizens to support. Please help THE PEOPLE IN HAWAII TO KEEP THEIR HOMES by passing HB 1957.

Mahalo.

Elaine Kam
James Kam

LATE

Rep. Roy M Takumi
Chair, Committee on Consumer Protection and Commerce
House of Representatives Hawai'i State Legislature
State Capitol
415 South Beretania St
Honolulu HI 96813
<http://www.capitol.hawaii.gov/submittestimony.aspx>
February 14, 2018

Aloha Mr Takumi:

My family has lived in Hawaii since September 1998, and our is in good and quiet neighborhood in Waipahu. We have put our life savings in it. Recently, we have talked to our lender for modification of the terms so that we can afford to pay it. We are worried because here in Hawaii, any company can foreclose a mortgage without having to prove that it owns the note that is secured by the mortgage.

We strongly support HB 1957 because we firmly believe that it would help every Hawaii Family from unethical practices.


NORMA PASCUAL RODIL

94-550 Farrington Hwy
Waipahu HI 96797

Sent from my iPhone

<https://mail.yahoo.com/d/folders/1/messages/53782>

2/14/2018

LATE

HB-1957

Submitted on: 2/14/2018 2:24:47 PM

Testimony for CPC on 2/14/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
DENNIS DESHAW	Individual	Support	No

Comments:

Rep. Roy M. Takumi

Chair, Committee on Consumer Protection and Commerce

House of Representatives

HI State Legislature

State Capitol

415 South Beretania St.

Honolulu HI 96813

<http://www.capitol.hawaii.gov/submittestimony.aspx>

Aloha, Mr. Takumi,

When my wife and I purchased our first home in Oahu, HI, we were thrilled. It is in Village Park, in Waipahu.

In 2010, we foresaw hardship and attempted several times to get a loan modification from the different services. Several different companies have claimed to own our mortgage note over the years. We have sent QWR's (Qualified Written Request) requesting they provide proof of ownership, and their responses have always been to send a copy of the original loan and an accounting ledger of payments, with no evidence of proper assignment. It is impossible to determine who the current owner of the note really is. The title records at the Bureau of Conveyances are of no assistance. This is because, in Hawaii, any company can foreclose a mortgage without having to

prove that it owns the mortgage, which to us, is a deceitful and unethical business practice.

HB 1957 would solve our problem completely. Every homeowner has the right to know who owns their mortgage. We think HB 1957 is the most important thing that the legislature could possibly do to protect every family from these questionable practices.

Thank you for your sincerest consideration,

Dennis DeShaw

94-1011 Kaaholo St.

Waipahu HI 96797

Rep. Roy M. Takumi
Chair, Committee on Consumer Protection and Commerce
House of Representatives Hawaii State Legislature State Capitol
415 South Beretania Street
Honolulu, HI 96813 <http://www.capitol.hawaii.gov/submittestimony.aspx>

February 13, 2018

Re: HB 1957

Aloha e Representative Roy M. Takumi:

My family has lived in Hawaii since before 1896, and our family home at 3248 Esther Street in Kapahulu, Hawaii has been a part of our family for over fifty years. I have raised my family there and I have invested my life savings into our home.

Recently, I have needed to talk with the owner of our mortgage to ask for a modification of the terms so that we can pay it. However, there have been four to five different companies who have claimed to own our Note. It is impossible for me to find out which company really owns it. The title records at the Bureau of Conveyances is of no help to my family.

The reason being is that in the State of Hawai'i, any company can foreclose a mortgage without having to prove nor provide evidence that it does in fact own the Note that is secured by the mortgage. Therefore, I have not been able to get answers to my questions.

Today, HB 1957 would solve our problem completely and ensure my family's capacity to fair and ethical consumer protection. We as the people of Hawai'i have the right to know who owns our family's mortgage. I believe that HB 1957 is the most significant bill that our Hawai'i legislature could do to protect every family here in Hawai'i from unethical practices.

Aloha,


R. Kawehilani Akau

4186 Kilauea Avenue

Honolulu, HI 96816

Rep. Roy M. Takumi
Chair, Committee on Consumer Protection and Commerce
House of Representatives Hawaii State Legislature State Capitol
415 South Beretania Street
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Aloha,


Roger Lynn K.A. Napoleon

3248 Esther Street

Honolulu, HI 96815

LATE

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Aloha,


Patrick F.K. Akau, Jr.

4186 Kilauea Avenue

Honolulu, HI 96816

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House of Representatives Hawaii State Legislature State Capitol
415 South Beretania Street
Honolulu, HI 96813 <http://www.capitol.hawaii.gov/submittestimony.aspx>

February 13, 2018

Re: HB 1957

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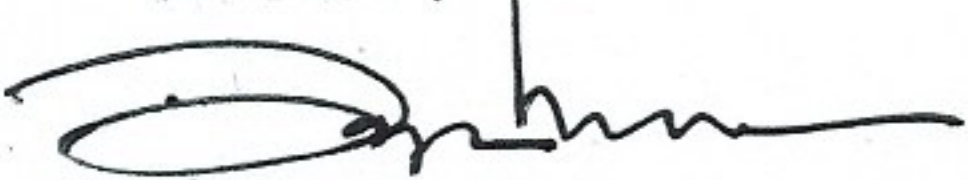
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Roger W.S. M. Napoleon, Sr.

3248 Esther Street

Honolulu, HI 96815

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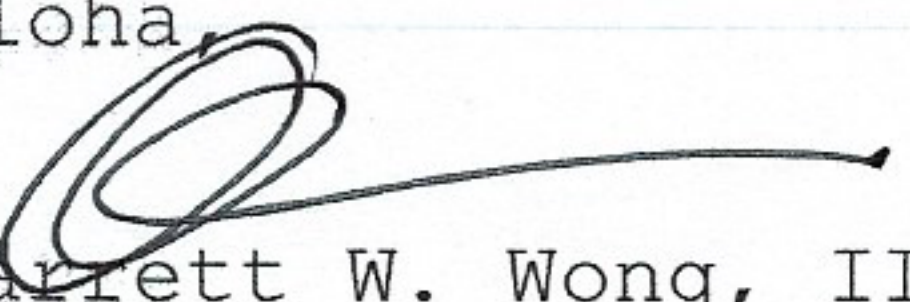
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Aloha,


Garrett W. Wong, III

3248 Esther Street

Honolulu, HI 96815

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