STAND. COM. REP. NO. 3422

Honolulu, Hawaii

APR - 7 2006

RE: H.B. No. 3100

H.D. 1 S.D. 1

Honorable Robert Bunda President of the Senate Twenty-Third State Legislature Regular Session of 2006 State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Housing, to which was referred H.B. No. 3100, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO MORTGAGE FORECLOSURES,"

begs leave to report as follows:

The purpose of this measure is to limit the down payment in a power of sale or nonjudicial foreclosure auction to not more than ten per cent of the highest successful bid price, with the down payment to be used, if the sale does not close, for the mortgagee's auction and escrow expenses, with the balance returned to the successful bidder.

Testimony in support of this measure was submitted by Title Guaranty of Hawaii, Inc.; the Hawaii Bankers Association; and the Hawaii Association of Realtors. Comments were submitted by the Hawaii Financial Services Association and the Community Associations Institute-Hawaii Chapter.

Your Committee finds that the parties have successfully discussed and resolved the issues regarding notice of power of sale foreclosures to owners within planned community associations. Your Committee also notes that the parties have agreed to continue discussions during the interim regarding the receipt of realistic contact information from lenders and transparency of the distribution of proceeds from power of sale foreclosures.

Accordingly, your Committee adopts the amendments proposed by Community Associations Institute-Hawaii Chapter following the parties' discussion. This measure has been amended by:

- (1) Removing the provision that the balance on the property would be due within ninety days following the sale;
- (2) Removing the provision that if the sale does not close, the down payment is to cover the auction expenses and escrow expenses incurred by the foreclosing mortgagee, with the balance of the down payment to be returned to the successful bidder:
- (3) Adding planned community associations to the list of entities that receive notice of power of sale foreclosures as provided in section 667-5.5, Hawaii Revised Statutes; and
- (4) Changing the effective date to September 1, 2006, to allow lenders a period for education before the measure is effective.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3100, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3100, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

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

RON MENOR, Chair

The Senate Twenty-Third Legislature State of Hawaii

Record of Votes of the Committee on Commerce, Consumer Protection and Housing (Bills and Resolutions)

HB 3100 HO1 Committee Referral:			Date: 4-5-06		
The committee is reconsidering its previous decision on this measure.					
If so, then the previous decision was to:					
The Recommendation is to:					
Pass, unamended Pass, with a (2312) (231	Hold Recommit (2310) (2313)				
Members	Ayes	Ayes(WR)	Nays	Excused	
MENOR, Ron (C)					
BAKER, Rosalyn H. (VC)					
ESPERO, Will C.					
IGE, David Y.					
SAKAMOTO, Norman					
HOGUE, Bob					
TOTAL	4	_	-	2	
Recommendation: Adopted Not Adopted					
Chair's or Designee's Signature: Losoly H Bill					
Distribution: U Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy					

^{*}Do <u>not</u> list more than one measure per Record of Votes.