HOUSE CONCURRENT RESOLUTION

REQUESTING THE AUDITOR TO CONDUCT A STUDY ON PREDATORY MORTGAGE LENDING IN HAWAII.

1 WHEREAS, Hawaii has seen a dramatic increase in housing
2 costs over the past few years; and
3
4 WHEREAS, with the combination of high housing costs and
5 moderate incomes, many Hawaii residents purchasing homes have
6 been induced to use methods of financing, including subprime
7 lending and other lending programs, despite the well-publicized
8 risks and warnings of the pros and cons of such lending programs
9 by consumer advocates; and
10
11 WHEREAS, many of the lending practices engaged in by
12 predatory mortgage brokers have included: stripping equity
13 through exorbitant fees and/or pre-payment penalties, yield-
14 spread premiums (kickbacks to brokers), balloon payments,
15 steering borrowers to higher interest loans, loan flipping, and
16 mandatory arbitration; and
17
18 WHEREAS, some Hawaii homeowners have been issued mortgages
19 despite having inadequate resources to repay these mortgages and
20 not understanding the ramifications of such predatory practices
21 and, as such, are at risk of foreclosure; and
22
23 WHEREAS, Hawaii is among the 23 states that have no anti-
24 predatory lending policies to curb these and other abuses in the
25 mortgage industry, while 18 states have adopted state versions
26 of the existing federal anti-predatory lending law, and the rest
27 have even tougher standards; and
28
29 WHEREAS, over the last five years, there have been various
30 attempts by the Legislature to regulate the mortgage lending
31 industry through legislation and by the creation of task forces,
32 with little or no success; and

1   WHEREAS, the State has a vital interest in ensuring that
2 there are legal mechanisms available to protect its residents
3 from predatory mortgage lending practices; now, therefore,
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5   BE IT RESOLVED by the House of Representatives of the
6 Twenty-fourth Legislature of the State of Hawaii, Regular
7 Session of 2007, the Senate concurring, that the Auditor is
8 requested to conduct a study of predatory mortgage lending
9 practices in Hawaii; and
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11   BE IT FURTHER RESOLVED that the study include:
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13   (1) An overview and examination of Hawaii laws governing
14   mortgage lending and housing mortgage lending
15   practices that are predatory;
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17   (2) An examination of federal laws protecting borrowers
18   from mortgage lending, subprime lending, and housing
19   mortgage lending practices that are predatory;
20
21   (3) An examination of other states' laws and a comparison
22   thereof with Hawaii's laws governing mortgage lending
23   and predatory housing mortgage lending practices;
24
25   (4) An assessment of the risk to Hawaii consumers through
26   a review of complaints made relating to:
27
28   (A) Subprime loans issued despite qualifications to
29   the contrary;
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31   (B) Rate of foreclosure on loans executed utilizing
32   programs or techniques that are allegedly
33   predatory; and
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35   (C) Any other relevant information;
36
37   and
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39   (5) Any recommendations for legislation to protect Hawaii
40   consumers from predatory lending practices;
41
42 and

1   BE IT FURTHER RESOLVED that the study should address the
2 acts and practices of mortgage brokers who are required to be
3 licensed under Chapter 454, Hawaii Revised Statutes; and
4
5   BE IT FURTHER RESOLVED that the Auditor is requested to
6 consult with organizations and individuals, including but not
7 limited to the Department of Commerce and Consumer Affairs, the
8 Judiciary, banks, mortgage lenders, the Hawaii Alliance for
9 Community-Based Economic Development, the Legal Aid Society of
10 Hawaii, the Hawaii Homeownership Center, Consumer Credit
11 Counseling, and attorneys specializing in predatory lending and
12 foreclosure; and
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14   BE IT FURTHER RESOLVED that the Auditor is requested to
15 submit findings and recommendations to the Legislature no later
16 than 20 prior to the convening of the Regular Session of 2008;
17 and
18
19   BE IT FURTHER RESOLVED that a certified copy of this
20 Concurrent Resolution be transmitted to the Auditor.