

Honolulu, Hawaii

APR 01 2010

RE: H.B. No. 2132
H.D. 1
S.D. 2

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2010
State of Hawaii

Madam:

Your Committee on Judiciary and Government Operations, to which was referred H.B. No. 2132, H.D. 1, S.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 provide protections to mortgagors who are consumers and owner-occupants by:

- (1) Requiring a foreclosing mortgagee, who is foreclosing under a power of sale pursuant to section 667-5, Hawaii Revised Statutes (HRS), to provide the mortgagee with written notice of the availability of credit counseling through a credit counseling agency approved by the United States Department of Housing and Urban Development;
- (2) Prohibiting a foreclosing mortgagee from foreclosing under a power of sale pursuant to section 667-5, HRS, from initiating proceeding until the mortgagee provides a copy of the promissory note and mortgage document, if these documents are requested by the mortgagor; and
- (3) Providing that a public sale price of seventy per cent of the fair market value of the mortgaged property, as established by an appraisal or broker's price opinion, shall be fair and reasonable.



Written comments regarding this measure were submitted by the Department of Commerce and Consumer Affairs. Written comments presented to your Committee may be reviewed on the Legislature's website.

Your Committee finds that, in these difficult economic times, foreclosures have become more prevalent and have affected many homeowners, who may or may not understand the implications of the foreclosure process. While your Committee believes that protections should be in place to assist these vulnerable homeowners in avoiding confusion and misunderstandings regarding the foreclosure process, these protections should not unduly burden mortgagors or inappropriately create inflexible standards that are too rigid when applied in practice.

Your Committee has amended this measure by:

- (1) Deleting section 3 of the measure, which contains the provision that a public sale price of seventy per cent of the fair market value of the mortgaged property is fair and reasonable;
- (2) Inserting an effective date of September 14, 2047, to facilitate further discussion; and
- (3) Making technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2132, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2132, H.D. 1, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Government Operations,


BRIAN T. TANIGUCHI, Chair



The Senate
Twenty-Fifth Legislature
State of Hawaii

Record of Votes
Committee on Judiciary and Government Operations
JGO

Bill / Resolution No.:* HB 2132, SD1	Committee Referral: CPN, JGO	Date: 3/24/00		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="text-align: center;"> <input type="checkbox"/> Pass, unamended 2312 </div> <div style="text-align: center;"> <input checked="" type="checkbox"/> Pass, with amendments 2311 </div> <div style="text-align: center;"> <input type="checkbox"/> Hold 2310 </div> <div style="text-align: center;"> <input type="checkbox"/> Recommit 2313 </div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
TANIGUCHI, Brian T. (C)	✓			
TAKAMINE, Dwight Y. (VC)	✓			
BUNDA, Robert	✓			
GABBARD, Mike	✓			
NISHIHARA, Clarence K.	✓			
SLOM, Sam	✓			
TOTAL	6	0	0	0
Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 10px;"> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted </div>				
Chair's or Designee's Signature: 				
Distribution: <div style="display: flex; justify-content: space-between; font-size: small;"> <div>Original File with Committee Report</div> <div>Yellow Clerk's Office</div> <div>Pink Drafting Agency</div> <div>Goldenrod Committee File Copy</div> </div>				

***Only one measure per Record of Votes**