

Honolulu, Hawaii

FEB 26 2010

RE: S.B. No. 2472
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 S.B. No. 2472, 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:

- (1) Require a foreclosing mortgagee to provide the mortgagor with thirty days written notice of its intent to foreclose on the mortgage and advise the mortgagor of the availability of mortgage counseling;
- (2) Require a foreclosing mortgagee to, upon the request of the mortgagor, provide a copy of the promissory note and mortgage documents to the mortgagor prior to commencing foreclosure proceedings; and
- (3) Clarify that a public sale price of seventy per cent of the latest real property tax assessed value is fair and reasonable.

Your Committee finds that providing a mortgagor with written notice of the intent of a foreclosing mortgagee to foreclose on the mortgage, as well as making the mortgagor aware of the availability of mortgage counseling, provides the mortgagor with sufficient opportunity to prevent a default on the mortgage and provide the mortgagor with better protection of their legal rights. Your Committee also finds that the use of an objective



and independent process of applying a fair market value to fee simple and leasehold properties undergoing foreclosure proceedings will help to standardize the valuing process in a fair and reasonable manner that is equitable to each party involved in a foreclosure proceeding.

Your Committee has amended this measure by:

- (1) Changing how a fair and reasonable public sale price is determined in the public sale of a foreclosed property by making it seventy per cent of the fair market value of the property, rather than seventy per cent of the latest real property tax assessed value, so that a fair and reasonable public sale price can be objectively and independently determined for leasehold property by an appraisal or broker's price opinion;
- (2) Changing the effective date to July 1, 2050, to facilitate further discussion on this measure; and
- (3) Making technical, nonsubstantive amendments for the purposes of 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 S.B. No. 2472, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2472, 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.: SB 2472, SDI	Committee Referral: CPN, JGO	Date: 2/24/10		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
TANIGUCHI, Brian T. (C)	✓			
TAKAMINE, Dwight Y. (VC)				✓
BUNDA, Robert	✓			
GABBARD, Mike	✓			
NISHIHARA, Clarence K.	✓			
SLOM, Sam	✓			
TOTAL	5	—	—	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align: center; font-family: cursive; font-size: 1.2em;">Clarence K. Nishihara</div>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

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