STAND. COM. REP. NO. 1208

Honolulu, Hawaii Mark 24, 2011

RE: S.B. No. 652 S.D. 2

Honorable Calvin K.Y. Say Speaker, House of Representatives Twenty-Sixth State Legislature Regular Session of 2011 State of Hawaii

Sir:

Your Committees on Consumer Protection & Commerce and Judiciary, to which was referred S.B. No. 652, S.D. 2, entitled:

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

beg leave to report as follows:

The purpose of this bill is to address concerns with the current foreclosure process in this state by implementing the recommendations of the Mortgage Foreclosure Task Force in its preliminary report submitted to the Legislature of the Regular Session of 2011. As amended, this bill, among other things:

- Requires that the notice of intent to foreclose under power of sale be served not less than 21 days before the date of sale and must be served on all persons entitled to notice in the same manner as required for service of a civil complaint;
- (2) Prohibits pursuit of a deficiency judgment by a mortgagee against certain owner-occupants of a residential property that was foreclosed on under power of sale;
- (3) Allows an owner-occupant of a residential property subject to a foreclosure under power of sale to convert the action into a foreclosure by action;



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- (4) Specifies that public sales of real property pursuant to a nonjudicial power of sale foreclosure must be held at the state building in the county seat of the county where the property is located; and
- (5) Specifies that a mortgagor's interest is extinguished upon recordation of the affidavit in the Bureau of Conveyances or in the Land Court within 30 days of the sale.

The Department of Commerce and Consumer Affairs, the Hawaii Association of REALTORS®, the Mortgage Bankers Association of Hawaii, the Legal Aid Society of Hawaii, the Hawaii Financial Services Association, the Mililani Town Association, and several concerned individuals supported the bill. The Hawaii Bankers Association and the Hawaii Credit Union League supported this measure with reservations. The Judiciary opposed this bill. The Community Associations Institute-Hawaii Chapter provided comments.

As affirmed by the records of votes of the members of your Committees on Consumer Protection & Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 652, S.D. 2, and recommend that it pass Second Reading and be referred to the Committee on Finance.

> Respectfully submitted on behalf of the members of the Committees on Consumer Protection & Commerce and Judiciary,

ROBERT N. HERKES, Chair

GILBERT KEITH-AGARAN, Chair



State of Hawaii House of Representatives The Twenty-sixth Legislature



Record of Votes of the Committee on Consumer Protection & Commerce

Bill/Resolution No.: SB 652 SD 2 Committee Referral: CPC/JUD, FIN Date: 3/23/2011							
□ The committee is reconsidering its previous decision on the measure.							
The recommendation is to: Pass, unamended (as is) Pass, with amendments (HD) Hold Pass short form bill with HD to recommit for future public hearing (recommit)							
CPC Members	Ayes	Ayes (WR)	Nays	Excused			
1. HERKES, Robert N. (C)							
2. YAMANE, Ryan I. (VC)							
3. BROWER, Tom							
4. CABANILLA, Rida T.R.							
5. CARROLL, Mele							
6. ITO, Ken							
7. KEITH-AGARAN, Gilbert S.C.	/						
8. LUKE, Sylvia	/						
9. McKELVEY, Angus L.K.							
10. MORITA, Hermina M.							
11. OSHIRO, Blake K.							
12. SOUKI, Joseph M.							
13. TSUJI, Clift							
14. CHING, Corinne W.L.							
15. MARUMOTO, Barbara C.							
16. THIELEN, Cynthia							
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TOTAL (16) (15)	11			4			
The recommendation is: Adopted Adopted If joint referral, did not support recommendation.							
Vice Chair's or designee's signature:							
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO							

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Record of Votes of the Committee on Judiciary

	tee Referral:	Date:	 , ,	<u> </u>			
5B 652, 5D2 CPC	15UD, FIN 03/23/2011						
The committee is reconsidering its previous decision on the measure.							
The recommendation is to: X Pass, unamended (as is) Pass, with amendments (HD) Hold							
Pass short form bill with HD to recommit for future public hearing (recommit)							
JUD Members	Ayes	Ayes (WR)	Nays	Excused			
1. KEITH-AGARAN, Gilbert S.C. (C)							
2. RHOADS, Karl (VC)		_					
3. BROWER, Tom	~						
4. CABANILLA, Rida T.R.	<u> </u>						
5. CARROLL, Mele							
6. HERKES, Robert N.							
7. ITO, Ken							
8. LUKE, Sylvia							
9. McKELVEY, Angus L.K.							
10. MORITA, Hermina M.			·				
11. OSHIRO, Blake K.							
12. SOUKI, Joseph M.	~						
13. TSUJI, Clift	~						
14. FONTAINE, George R.	5		_				
15. MARUMOTO, Barbara C.	~						
16. THIELEN, Cynthia							
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			_				
TOTAL (16)	12	0	0	3			
The recommendation is: X Adopted D Not Adopted							
If joint referral, did not support recommendation.							
committee acronym(s)							
Vice Chair's or designee's signature: Kal Nhova							
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