

Honolulu, Hawaii

APR 05 2013

RE: H.B. No. 25
H.D. 2
S.D. 2

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred
H.B. No. 25, H.D. 2, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO SUSPENSION OF FORECLOSURE
ACTIONS BY JUNIOR LIENHOLDERS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Allow a condominium association, as a junior lienholder, to commence or continue a nonjudicial foreclosure action on a property subject to a judicial foreclosure even if the lender has filed for foreclosure; and
- (2) Preserve the right of owner-occupants to require the foreclosing mortgagee to participate in the dispute resolution process in situations where an association forecloses on residential real property occupied by one or more owner-occupant mortgagors for whom the unit is and has been the person's primary residence for a continuous period of not less than two hundred days immediately preceding the date on which the notice is served and the mortgagee subsequently forecloses its lien on the same property.

Your Committee received testimony in support of this measure from the Office of Consumer Protection of the Department of Commerce and Consumer Affairs; Hawaii Council of Associations of



Apartment Owners; Community Associations Institute, Hawaii Chapter; and three individuals. Testimony in opposition to this measure was submitted by the Hawaii Financial Services Association, Hawaii Bankers Association, and one individual.

Your Committee finds that under Hawaii's existing foreclosure law, an association cannot foreclose nonjudicially if a lender is foreclosing. Even if an association has already begun a nonjudicial foreclosure before the lender begins the foreclosure, that association's nonjudicial foreclosure must be put on hold or converted to a judicial foreclosure. The judicial foreclosure process can incur significant delays, during which time a property can fall into a state of disrepair, which negatively affects neighboring properties and the community as a whole. This measure provides associations and their surrounding communities with a mechanism to mitigate the damage, neglect, and loss of revenue or value that results during the extended time that is currently required for a mortgagee to judicially foreclose on a property.

Your Committee has amended this measure by inserting an effective date of July 1, 2050, to encourage further discussion.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 25, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 25, H.D. 2, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,



CLAYTON HEE, Chair



The Senate
 Twenty-Seventh Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* HB 25^{HD2} SD1	Committee Referral: CPN, JDL	Date: 4/3/13		
<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
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile S.L. (VC)	✓			
GABBARD, Mike	✓			
IHARA, Jr., Les	✓			
SLOM, Sam	:	✓		
TOTAL	4	1		
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes