STAND. COM. REP. NO. 787 -14 Honolulu, Hawaii

, 2014

RE: H.B. No. 2485

Honorable Joseph M. Souki Speaker, House of Representatives Twenty-Seventh State Legislature Regular Session of 2014 State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred H.B. No. 2485 entitled:

"A BILL FOR AN ACT RELATING TO ASSOCIATION ALTERNATIVE POWER OF SALE FORECLOSURE PROCESS,"

begs leave to report as follows:

The purpose of this measure is to facilitate the nonjudicial foreclosure process that condominium and homeowner associations may pursue against unit owners who are delinquent in paying association assessments.

Specifically, this measure allows associations who are unable to serve creditors and other interested parties with the notice that initiates the nonjudicial foreclosure process to make service by publication using the same means currently allowed for service upon unit owners.

The Collection Law Section of the Hawaii State Bar Association and one individual testified in support of this measure.

Your Committee finds that current law allows condominium and homeowner associations to pursue nonjudicial foreclosure proceedings against a unit owner who has defaulted on the payment of association assessments. The process is initiated by service of notice to the unit owner, creditors with a recorded lien on the unit, and other stakeholders that are specified in section 667-92(e), Hawaii Revised Statutes. Current law also provides the

HB2485 HSCR LRB 14-1075.doc

STAND. COM. REP. NO. **387**-14 Page 2

association with several options if the association is unable to serve all of the parties entitled to receive notice. One of these options allows the association to seek court permission to proceed with the nonjudicial foreclosure by serving notice to the unit owner by publication and posting. However, this option does not specifically allow the association to serve any of the creditors or other parties by publication if they cannot be found, which may prevent the nonjudicial foreclosure from moving forward. At that point, the association may have to pursue foreclosure by judicial proceedings, which involve substantially more time and cost. By specifically allowing associations to serve notice to creditors and other parties by publication, this measure enables associations to continue seeking cost-effective and efficient nonjudicial foreclosures against delinquent unit owners.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2485 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

HB2485 HSCR LRB 14-1075.doc

Respectfully submitted on behalf of the members of the Committee on Consumer Protection & Commerce,

ANGUS L.K. MCKELVEY, Chair

State of Hawaii House of Representatives HSCR 387-)4 The Twenty-seventh Legislature

Record of Votes of the Committee on Consumer Protection and Commerce

Bill/Resolution No.: HB 2485	Committee Referral:		Date:	
HB 2485 CPC, JUD			<u>))/10/14</u>	
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. McKELVEY, Angus L.K. (C)				
2. KAWAKAMI, Derek S.K. (VC)				
3. BELATTI, Della Au				/
4. BROWER, Tom				
5. CACHOLA, Romy M.				/
6. CREAGAN, Richard				
7. EVANS, Cindy				
8. HAR, Sharon E.	/			
9. ITO, Ken				
10. LEE, Chris	1			
11. NAKASHIMA, Mark M.				
12. OSHIRO, Marcus R.				
13. TSUJI, Clift				
14. YAMANE, Ryan I.	1			
15. MCDERMOTT, Bob				
16. THIELEN, Cynthia	/			
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TOTAL (16)	. 13			3
The recommendation is: Adopted Not Adopted If joint referral,				
committee acronym(s)				
Vice Chair's or designee's signature:				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				