

STAND. COM. REP. NO. 120

Honolulu, Hawaii

FEB 10 2021

RE: S.B. No. 606
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 606 entitled:

"A BILL FOR AN ACT RELATING TO HOUSING,"

begs leave to report as follows:

The purpose and intent of this measure is to temporarily halt nonjudicial foreclosures by condominium associations until June 30, 2023.

Your Committee received testimony in support of this measure from one member of the Maui County Council; Imua Alliance; Hui 'Oia'io, Condo Owners Coalition of Hawaii; and six individuals. Your Committee received testimony in opposition to this measure from the Hawaii State Bar Association Collection Law Section and two individuals. Your Committee received comments on this measure from Associa and Palehua Townhouse Association.

Your Committee finds that a recent study found that Hawaii is experiencing the slowest unemployment rate recovery in the nation. Thousands of people who have not lost their jobs have still experienced a reduction in employment hours and earnings. Due to the economic burden this has placed on many residents and families in the State, this measure provides additional protection for unit owners by halting nonjudicial foreclosures by condominium associations.



Your Committee notes the concerns raised in testimony that this measure, as currently drafted, is too broadly applied to meet its intended purpose of ensuring that persons have adequate housing during uncertain times. Nonjudicial foreclosures are an important tool for associations to take control of unoccupied units so that they may be rented to generate income to pay the unit owner's delinquency. Additionally, associations have a strong incentive for tenants to remain in the property in order to collect rent to offset a delinquency and pay maintenance fees and assessments that continue to accrue. Therefore, tenants of a rental unit would not suffer if an association were able to foreclose and take possession from a defaulting landlord. By limiting the moratorium to only owner-occupied units, associations could continue to nonjudicially foreclose rental units and abandoned units to make more housing available and not further exacerbate the housing crisis.

Your Committee further notes that shortening the term of the moratorium contemplated by this measure to one year, rather than two years, would provide more flexibility and will allow for legislative review next year to evaluate the need for any extension of relief. Accordingly, amendments to this measure are necessary to address these concerns.

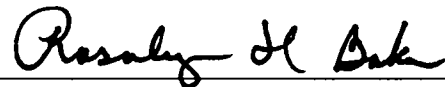
Your Committee has amended this measure by:

- (1) Specifying that, if a unit serves as a unit owner's primary residence and is occupied by the unit owner, an association shall not be permitted to initiate a nonjudicial foreclosure process or exercise a power of sale, pursuant to the terms of this measure;
- (2) Clarifying that nothing in this measure shall be construed to restrict an association from using nonjudicial foreclosure procedures to recover possession of a rental unit or an abandoned unit;
- (3) Inserting an effective date of July 1, 2021, and clarifying the measure shall repeal on June 30, 2022, rather than June 31, 2023; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.



As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 606, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 606, S.D. 1, and be referred to your Committee on Judiciary.

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

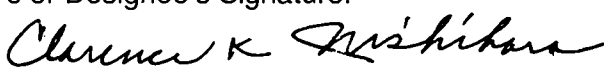


ROSALYN H. BAKER, Chair



The Senate
Thirty-First Legislature
State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:* SB606	Committee Referral: CPN, JDC	Date: 2-3-2021		
<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
BAKER, Rosalyn H. (C)	/			
CHANG, Stanley (VC)	/			
MISALUCHA, Bennette E.				/
NISHIHARA, Clarence K.	/			
RIVIERE, Gil	/			
SAN BUENAVENTURA, Joy A.	/			
FEVELLA, Kurt	/			
TOTAL	6	-	-	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