

Honolulu, Hawaii
, 2026

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RE: H.B. No. 2612
H.D. 1

Honorable Nadine K. Nakamura
Speaker, House of Representatives
Thirty-Third State Legislature
Regular Session of 2026
State of Hawaii

Madame:

Your Committee on Consumer Protection & Commerce, to which was referred H.B. No. 2612 entitled:

"A BILL FOR AN ACT RELATING TO MORTGAGES,"

begs leave to report as follows:

The purpose of this measure is to clarify that a mortgage does not exist independent of the debt it secures and shall not be independently enforceable from the debt.

Your Committee received testimony in support of this measure from the Law Office of Bianaca Isaki, A Law Corporation and numerous individuals. Your Committee received testimony in opposition to this measure from the Collection Law Section of the Hawaii State Bar Association; Mortgage Bankers Association of Hawaii; Hawaii Credit Union League; and Hawaii Financial Services Association. Your Committee received comments on this measure from the Hawaii Bankers Association.

Your Committee finds that the Hawaii Supreme Court held in The Bank of New York Mellon v. White, 573 P.3d 629, 156 Haw. 246 (2025), that the statute of limitations for a foreclosure action is twenty years. This decision determined that the remedies for enforcing an underlying note and foreclosing a mortgage are individually governed by different statutes of limitations, where



the period of limitation for debt recovery actions is six years compared with the twenty years for foreclosures held by the Court.

Your Committee further finds that White creates a new enforcement pathway that circumvents the statute of limitations for the debt itself by permitting mortgages to foreclose years after the underlying note becomes time-barred. By severing the obligations, this undermines debtor protections and incentivizes creditor inaction. If the foreclosure remedy is extended to twenty years independently of the debt, mortgagees who took no action during the contract limitations period can now revive enforcement against homeowners even in cases involving long-resolved financial hardship. The effect will be to resurrect a significant backlog of aged mortgages, destabilizing communities still recovering from the last foreclosure wave. This measure overrides White by clarifying that the mortgage does not exist independent of the debt it secures and cannot be enforced independently of the debt.

Your Committee has amended this measure by:

- (1) Changing the effective date to July 1, 3000, to encourage further discussion; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

Your Committee notes that there is a factual question as to whether a mortgage, before the decision in Bowler v. Christiana Trust, a Division of Wilmington Savings Fund Society, FSB, 2018 WL 4659562 (Haw. App. 2018), could be foreclosed after the six-year statutes of limitation had run on the underlying note. Your Committee respectfully requests your Committee on Judiciary & Hawaiian Affairs, should it deliberate on this measure, to best determine the answer to this query.

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. 2612, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2612, H.D. 1, and be referred to your Committee on Judiciary & Hawaiian Affairs.



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



SCOT Z. MATAYOSHI, Chair



