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Reply to:

KARYN A. DOI, CHAIR

222 Merchant Street

Honolulu, Hawaii 96813

Telephone: (808) 538-1921

Fax: (808) 523-9585

E-Mail: karyn@leu-okuda.com

February 4, 2026

**Re: H.B. 1775 (Relating To Foreclosures)
Hearing: February 5, 2026, 2:00 p.m.
Testimony in Opposition**

Dear Representative Scot Z. Matayoshi, Chair, Representative Tina Nakada Grandinetti, Vice Chair, and Committee Members:

This testimony is submitted on behalf of the Collection Law Section (“CLS”) of the Hawaii State Bar Association.¹

The CLS **opposes** H.B 1775.

H.B. 1775 largely ignores the current practice for the sale of foreclosed properties. Judicial foreclosure cases are split into two parts: (1) the foreclosure judgment and (2) the subsequent foreclosure sale. As a result of a typical foreclosure judgment, a commissioner is appointed by the Court to sell the property. The commissioner is tasked with conducting open houses of the property and an auction once the commissioner has conducted the requisite open houses and published notice of the sale pursuant to Section 667-20 of the Hawaii Revised Statutes (“HRS”) unless otherwise ordered by the Court. At the auction, the commissioner solicits bids and takes a 10% down payment from the highest bidder. Upon completion of the auction, the commissioner files a report identifying the highest bidder and the foreclosing mortgagee is

¹ *The comments and recommendations submitted reflect the viewpoint of the Collection Law Section of the Hawaii State Bar Association only. This viewpoint has not been reviewed or approved by the HSBA Board of Directors.*

required to file a motion to confirm the sale. At the hearing on the motion to confirm the sale, any interested party can appear and re-open the bidding if that party is willing to bid 5% higher than the winning bid at the auction conducted by the commissioner. Once a final bid has been submitted, the foreclosing mortgagee asks the Court to confirm the sale. The Court is tasked with determining whether the winning bid is fair and reasonable and must reject the bid if it is so grossly inadequate so as to shock the conscience. HawaiiUSA Federal Credit Union v. Monalim, 147 Haw. 33, 38 (2020). Once the sale has been confirmed by the Court, an order confirming the sale is entered by the Court. The order confirming sale is subsequently recorded by the foreclosing mortgagee and the Court-appointed commissioner conveys the property to the highest bidder. As part of the foreclosure sale, if there are excess proceeds after the foreclosing mortgagee has been paid, those proceeds are deposited with the Court. At that point, typically pursuant to a motion, the excess proceeds are distributed according to the priority of liens pursuant to HRS § 667-3 and, after all lienors have been paid, any excess proceeds are paid to the owner of the property pursuant to HRS § 667-10.

H.B. 1775 circumvents the foregoing and removes judicial oversight from the foreclosure sale process. First, H.B. 1775 allows for not only a bid, but a “[n]onbinding written notice of intent to place a subsequent bid.” As a result, a bidder does not even have to actually “bid.” That party simply must demonstrate its willingness to bid. Second, a party is allowed to submit a bid, or notice of its intent to bid, to the mortgagee and not the Court-appointed commissioner. This will undoubtedly cause confusion as it is not the mortgagee’s responsibility to monitor the bidding process and ultimately conduct the auction. The mortgagee is then placed in the position of forwarding any bid or notice of intent to bid to the commissioner and act as a pseudo-commissioner. Third, H.B. 1775 states that if an eligible bidder “submits a subsequent bid that is equal to or exceeds the amount of the latest and highest bid of the successful bidder, the eligible bidder shall be the final successful bidder.” This almost completely eliminates the confirmation process. Declaring the eligible bidder the “final successful bidder” prevents the Court from making any determination as to whether the bid was fair and reasonable or so grossly inadequate as to shock the conscience as required by applicable law. It also prevents interested bidders from being able to appear at the hearing on the foreclosing mortgagee’s motion to confirm and being able to bid 5% higher than the highest bid. Fourth, H.B. 1775 requires that the eligible bidder make the down payment to the foreclosing mortgagee instead of to the commissioner. Again, H.B. 1775 makes the foreclosing mortgagee the pseudo-commissioner. Courts will likely frown on having the foreclosing mortgagee this involved in the foreclosure sale process when previously a neutral, detached third-party commissioner was responsible for these tasks.

Representative Scot Z. Matayoshi, Chair;
Representative Tina Nakada Grandinetti, Vice Chair;
and Committee Members, Committee on Consumer Protection & Commerce
February 4, 2026
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It is understandable that the goal of H.B. 1775 is to get more tenants and those who wish to buy a property in foreclosure as their primary residence involved in the foreclosure auction process. However, there is nothing preventing that from happening now. Currently, as stated above, the Court-appointed commissioner conducts open houses and publishes notice of the auction. Any tenant will surely be aware that the property in which the tenant resides is going to auction. Similarly, those who wish to buy a property in foreclosure to be used as their primary residence can monitor foreclosure notices that are published. These parties can appear at the auction and bid or can appear at the hearing on the foreclosing mortgagee's motion to confirm the sale and re-open the bidding. If H.B. 1775 becomes law, the auction process will be essentially gutted. No interested party is going to bother showing up to the auction to bid when that party knows that an eligible bidder can simply submit a bid for one cent more immediately thereafter and no party is going to show up at the hearing on the motion to confirm the sale to re-open the bidding.

The current judicial foreclosure auction and confirmation process is open and available to all. Any party can appear at the auction and bid or can appear at the hearing on the foreclosing mortgagee's motion to confirm the sale and re-open the bidding. This includes tenants and those who wish to buy a property in foreclosure as their primary residence. In a judicial foreclosure, judicial oversight is essential to ensure that the auction process is fair and that the commissioner obtains the best bid under the circumstances. Allowing an eligible bidder to be "the final successful bidder" strips the Court of its ability to oversee the process and forcing the foreclosing mortgagee to act as its own commissioner ultimately threatens the neutrality of the foreclosure process. Ultimately, getting the highest and best bid should be paramount, regardless of whether that bidder is an "eligible bidder," but this measure would create serious uncertainty and instability in the judicial foreclosure process.

For the reasons stated above, this measure should be deferred. Thank you for considering this testimony.

Sincerely,

/s/ Charles Prather

Charles Prather
Paul A. Ireland Kofinow
The Collection Law Section



Testimony to the House Committee on Consumer Protection and Commerce
Thursday, February 5, 2026, 2:00 PM
Conference Room 329

LATE

To: The Honorable Scot Matayoshi, Chair
The Honorable Tina Nakada Grandinetti, Vice-Chair
Members of the Committee

My name is Stefanie Sakamoto, and I am testifying on behalf of the Hawaii Credit Union League (HCUL), the local trade association for 45 Hawaii credit unions, representing over 879,000 credit union members across the state.

HCUL offers the following comments regarding HB 1775, Relating to Foreclosures.

We have concerns that HB 1775 may unintentionally lengthen and complicate judicial foreclosure proceedings, which could create broader negative impacts on mortgage lending in Hawaii. This bill provides that a judicial foreclosure sale would not be considered final until: 15 days after the public sale, unless a subsequent bid or notice of intent to bid is submitted, or 45 days after the public sale. This creates a prolonged period of uncertainty after the auction has already taken place, which could create uncertainty that could, in turn, discourage participation at foreclosure auctions - potentially lowering sale prices and increasing losses. Credit unions and other mortgage lenders are already held to strict deadlines and procedural requirements in Hawaii's judicial foreclosure process.

Thank you for the opportunity to provide comments on this important issue.



Mortgage Bankers Association of Hawaii
P.O. Box 4129, Honolulu, Hawaii 96812

LATE

February 4, 2026

The Honorable Scot Z. Matayoshi, Chair
The Honorable Tina Nakada Grandinetti, Vice Chair
Members of the House Committee on Consumer Protection & Commerce

Hearing Date: February 5, 2026
Hearing Time: 2:00 pm
Hearing Place: Hawaii State Capitol, Conference Room 329

Re: HB 1775 Relating to Foreclosures

I am Victor Brock, representing the Mortgage Bankers Association of Hawaii (“MBAH”). The MBAH is a voluntary organization of individuals involved in the real estate lending industry in Hawaii. Our membership consists of employees of banks, savings institutions, mortgage bankers, mortgage brokers, financial institutions, and companies whose business depends upon the ongoing health of the financial services industry of Hawaii. The members of the MBAH originate and service, or support the origination and servicing, of the vast majority of residential and commercial real estate mortgage loans in Hawaii. When, and if, the MBAH testifies on legislation or rules, it is related only to mortgage lending and servicing.

The MBAH strongly opposes HB 1775.

HB 1775 specifies that a judicial foreclosure sale is not final until the earliest of either fifteen days after the public sale, unless an eligible bidder submits a subsequent bid or written notice of intent to submit a subsequent bid, or forty-five days after the public sale.

The Bill would override the current judicial foreclosure sale process where a foreclosure sale becomes final when a Circuit Court judge enters an order confirming the sale of the mortgaged property to the highest bidder. The bill does so by taking language from current Chapter 667, Part II, Section 667-36.5 applicable to non-judicial “power of sale” foreclosures and inserts it into Part IA of Chapter 667.

The MBAH strongly opposes HB 1775. The current judicial foreclosure process provides certainty to lenders, potential purchasers, borrowers, and foreclosure commissioners appointed by the Circuit Court to sell properties being foreclosed on, since a foreclosure sale is not final until a Circuit Court judge enters an order confirming the sale to the successful bidder. HB 1775 would, under certain circumstances, deem a sale final 15 days after the public auction, with no further action by the foreclosure

commissioner, foreclosing lender, or the Circuit Court. HB 1775 will, in essence, turn a judicial foreclosure into a non-judicial foreclosure.

The bill also allows a subsequent bidder to submit a bid "...equal to or in excess to the amount of the highest bid of the successful bidder." Currently, a subsequent bidder may only reopen the bidding by offering not less than 5% more than the highest bid of the successful bidder. Under the bill there is a possibility that a property will be sold for a lower price than currently allowed under the judicial foreclosure process, thereby harming borrowers.

The bill also requires the eligible bidder in a subsequent bid meet the following criteria: be an eligible tenant buyer; a prospective owner-occupant; a nonprofit corporation whose primary activity is the development and preservation of affordable housing; a community land trust; or a state or county government department or agency. If a subsequent bidder does not meet the above criteria, they are not allowed to submit a subsequent bid thereby discriminating against other potential subsequent bidders who may bring a higher price and thereby bringing additional harm to borrowers.

Thank you for the opportunity to present this testimony.

Victor Brock
Mortgage Bankers Association of Hawaii

LATE



LATE

DATE: February 4, 2026

TO: Representative Scot Matayoshi
Chair, Committee on Consumer Protection & Commerce

Representative Tina Grandinetti
Vice Chair, Committee on Consumer Protection & Commerce

FROM: Tiffany Yajima / Mihoko Ito

RE: **H.B. 1775 – Relating to Foreclosure**
Hearing Date: Thursday, February 5, 2026 at 2:00 p.m.
Conference Room: 329

Dear Chair Matayoshi, Vice Chair Grandinetti, and Members of the Committee:

We submit this testimony on behalf of the Hawaii Bankers Association (HBA). HBA represents seven Hawai'i banks and one bank from the continent with branches in Hawai'i.

The banking industry respectfully submits **comments** with concerns regarding HB 1775. While we appreciate the bill's intent to expand homeownership opportunities, the measure significantly extends and complicates the foreclosure process by delaying sale finality and creating a post-sale bidding period. These changes introduce uncertainty into the system and may discourage competitive bidding, potentially reducing sale proceeds and harming both borrowers and lienholders.

This bill creates new compliance requirements for lenders and servicers, including tracking notices, managing extended timelines, and verifying bidder eligibility based largely on self-certification. Mortgagees are not well-positioned to validate occupancy status or future intent, which may increase disputes, litigation risk, and title uncertainty. These delays and added costs can increase costs and ultimately affect the availability and cost of credit for Hawai'i consumers. Clear and predictable foreclosure timelines are essential to maintaining stability and mitigating risk in Hawai'i's lending market.

HBA also has other concerns with the bill in its current form including that: 1) the term "public sale" is ambiguous and could apply to various points in a foreclosure transaction, 2) the bill does not have clear procedures for a bidder's notice of intent to be delivered to the mortgagee and 3) there is no way for the mortgagee

to guarantee a prospective owner occupant's eligibility and prevent property flipping.

Finally, the committee should consider that homeowners in foreclosure are typically in distress, and an efficient process helps them avoid interest and the other costs of foreclosure from continuing to accrue. By lengthening the foreclosure process, this bill shifts an economic balance from Hawaii homeowners to provide an advantage to "eligible bidders."

We welcome the opportunity to further discuss this proposal and appreciate the opportunity to submit testimony on this measure.

LATE

Cindy Freitas

makainanqi@gmail.com

TESTIMONY IN STRONG OPPOSITION

HB 1775 (2026) – Relating to Foreclosures

He Mele komo a he mele aloha no na kupuna o ke au i hala Aloha mai kakou.

Aloha,

My name is Cindy Freitas and I'm a Native Hawaiian descended of the native inhabitants of Hawai'i prior to 1778 and born and raised in Hawai'i.

I am also a practitioner who still practice the cultural traditional customary practices that was instill in me by my grandparents at a young age from mauka (MOUNTAIN TO SEA) to makai in many areas.

I submit this testimony in **STRONG OPPOSITION** to **HB 1775**.

While HB 1775 is framed as a reform to improve foreclosure sale outcomes, it **fails to include basic due-process protections, homeowner safeguards, and judicial oversight**, and instead introduces new risks of manipulation, delay, and inequity in court-supervised foreclosure proceedings.

The most serious problems with this bill are **what it leaves out**.

1. No Protection or Benefit for the Homeowner

HB 1775 does **not require that any increased sale proceeds benefit the foreclosed homeowner**, nor does it provide notice, participation rights, or surplus protections for families losing their homes.

The bill intervenes in foreclosure sales but **does nothing for the homeowner**, while creating new opportunities for third-party speculation.

2. No Due-Process Safeguards for Existing Bidders

The bill allows post-auction intent notices from “eligible bidders” but **provides no notice or response rights** to the original high bidder and no procedural fairness standards.

This destabilizes judicial sales and undermines confidence in court-supervised auctions.

3. No Safeguards Against Bid Manipulation

HB 1775 does not prohibit:

- Strategic or speculative intent notices
- Serial filings to delay finality
- Collusion or market manipulation

Without penalties or guardrails, the bill invites abuse of the foreclosure process.

4. No Meaningful Judicial Oversight

Despite foreclosure being a judicial proceeding, HB 1775 **does not require court approval or findings** that post-sale bids are bona fide, fair, or non-collusive.

This removes the court from a critical stage where oversight is most needed.

5. No Proof of Financial Capacity for “Eligible Bidders”

The bill relies on **self-certifying affidavits** without requiring proof of funds, escrow, or pre-qualification.

This allows undercapitalized or straw bidders to disrupt sales with little accountability.

6. No Protection for Occupants During Extended Delays

By delaying sale finality, HB 1775 increases uncertainty for occupants former owners and tenants alike yet **provides no housing stability, possession, or occupancy protections** during the extended period.

7. No Integration With Existing Confirmation-of-Sale Law

The bill does not explain how its new process interacts with:

- Motions to confirm sale
- Objections to sale
- Existing equitable standards

This invites confusion, inconsistent rulings, and unnecessary litigation.

8. No Remedy if the Subsequent Bidder Defaults

HB 1775 does not adequately address:

- What happens if a subsequent bidder fails to close
- How losses, delays, or costs are allocated
- Whether the original bidder is protected

A non-refundable downpayment does not cure market harm or lost opportunity.

9. No Constitutional Analysis or Findings

The bill includes **no due-process, equal-protection, or impairment-of-rights analysis**, despite altering vested rights and the finality of judicial sales.

This omission exposes the statute to constitutional challenge.

10. No Sunset, Data Collection, or Review

HB 1775 permanently changes foreclosure procedures **without a sunset clause, pilot program, or reporting requirement** to show whether it actually helps homeowners or communities.

Conclusion: STRONG OPPOSE

HB 1775:

- Delays foreclosure finality
- Invites bid manipulation
- Undermines judicial oversight
- Provides **no meaningful protection for homeowners**

These omissions are not minor drafting issues they are **structural due-process failures**.

For these reasons, I respectfully urge you to **STRONGLY OPPOSE HB 1775**.

Mahalo for the opportunity to testify.

Mahalo

Cindy Freitas

HB-1775

Submitted on: 2/4/2026 11:22:48 AM

Testimony for CPC on 2/5/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Justin Hughey	Individual	Support	Written Testimony Only

Comments:

To: Committee on Housing

From: Justin Hughey

Date: February 4, 2026

Re: Support for HB 1775 – Relating to Foreclosure Properties and Community Land Trusts

Chair, Vice-Chair, and Members of the Committee,

My name is Justin Hughey and I am a 49-year-old Special Education Teacher who lives in Wailuku on Maui. **I am writing in strong support of HB 1775 and I am speaking as an individual.**

The Looming Economic Crisis

We are currently facing a precarious economic moment in Hawaii. Recent and projected cuts in federal funding to the islands threaten the stability of our local economy. There is a very real fear that if the "big beautiful bill" will crash the economy, triggering a foreclosure crisis similar to what we saw in 2008. We cannot afford to let our housing stock be snatched up by out-of-state speculators and hedge funds. We must ensure that if a foreclosure crisis occurs, these homes are bought by hard-working local families and kept in local hands.

Personal Testimony: The Community Land Trust Model Works

I moved here to take my first teaching job at King Kamehameha III Elementary in 2006. The cost of living was so high that I went into debt very quickly and had to work nights waiting tables as a second job in order to rent a one-bedroom apartment and live paycheck to paycheck. I never gave up the dream of home ownership and started looking into very few options for affordable housing. I joined a seminar and learned about a new Community Land Trust called Na Hale O Maui.

In 2010 there were a lot of foreclosed homes because of the current recession. John Anderson, then the current Executive Director expressed that this was a way to transform foreclosed homes into permanent affordable housing in perpetuity. I immediately started the paperwork to get on the pre-approved buyers list. Somehow my efforts and good fortune sprung myself to the top of the list and I was able to purchase their first home. The house is located at 37 Poniu Circle. It is a 3 bed, 2.5 bath, 1,521 square, two-car garage just walking distance to downtown Wailuku.

The house was built in 1988 but went into foreclosure. I was told the bank wanted to sell it for \$475,000 but ended up selling it to Na Hale O Maui for \$375,000. Na Hale O Maui then sold the home to me for \$270,000. The non-profit owns the land on a 99-year lease at forty dollars a month with an option for another 99 years. I can sell the house to my kids if I wish. I own the house, Na Hale O Maui owns the land. The house today if it was on the market is listed on the internet for \$961,000 dollars. I can't just sell the house and keep the profit. I collect shared equity and whenever I sell it, it has to go to either my kids or a list of reapproved Na Hale O Maui buyers who will be able to purchase it at a truly affordable rate. The concept is that every home they purchase will be affordable in perpetuity.

My mortgage is \$1,361.00. You can't find a one-bedroom apartment, anywhere, at this rate. My wife, whom I met after I bought the house, is a teacher as well. We each pay about \$600 a month for housing. We both wanted to have children and if it wasn't for this truly affordable home, we would have moved to the mainland. We now have a six-year-old boy named Jasper and a four-year-old boy named Oskar. All the rooms are finally taken up. We are all so grateful. It was like winning a lottery ticket.

Why HB 1775 is Necessary

Governor Green suspended many state statutes in his emergency proclamation to produce so-called affordable housing. I am not seeing a lot of truly affordable housing being produced. With the high cost of the land and materials, I have not seen a better way of producing truly affordable housing than through community land trusts that are able to purchase foreclosures and turn them into truly affordable housing.

We need courageous as well as creative leadership, now more than ever. Making it easier for community land trusts to purchase foreclosed homes is a great start. We can make sure the local homes stay in local hands by:

1. Prohibiting foreclosure properties from being bundled together, which prevents institutional investors from outbidding individuals.
2. Giving tenants, community organizations, and the city or state the first opportunity to purchase. This gives locals a fighting chance at making sure the local homes serve local people. There are so many more hard-working families like mine that deserve a chance at truly affordable housing.
3. **This bill updates HB467 to include judicial foreclosures. The majority of foreclosures in Hawai'i are judicial this amended language encompasses both judicial and non-judicial foreclosures.**

Thank you for hearing this bill and for the opportunity to testify.

Respectfully,
Justin Hughey Special Education Teacher, Kahului Elementary

HB-1775

Submitted on: 2/4/2026 3:31:01 PM

Testimony for CPC on 2/5/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Anne Anderson	Individual	Oppose	Written Testimony Only

Comments:

I oppose H.B. No. 1775. The new subsection 667- (b) appears to conflict with the new subsection (c) because subsection (b) allows an eligible bidder who makes a bid "equal" to the amount of the latest and highest bid of the successful bidder the final successful bidder while subsection (c) states that the "successful bidder" is the "highest bidder." Additionally, in judicial foreclosure actions, the judge should determine who qualifies as the final successful bidder. Respectfully submitted. Anne Anderson