



DAVID Y. IGE  
GOVERNOR  
  
SHAN S. TSUTSUI  
LT. GOVERNOR

**STATE OF HAWAII**  
**OFFICE OF THE DIRECTOR**  
**DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**  
335 MERCHANT STREET, ROOM 310  
P.O. Box 541  
HONOLULU, HAWAII 96809  
Phone Number: 586-2850  
Fax Number: 586-2856  
[www.hawaii.gov/dcca](http://www.hawaii.gov/dcca)

CATHERINE P. AWAKUNI COLÓN  
DIRECTOR  
  
JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

**PRESENTATION OF THE  
OFFICE OF CONSUMER PROTECTION**

**TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR**

**THE TWENTY-NINTH LEGISLATURE  
Regular Session of 2017**

**Monday, February 27, 2017  
10:00 a.m.**

**WRITTEN TESTIMONY**

**TESTIMONY ON SENATE BILL NO. 1227, RELATING TO FORECLOSURES.**

**TO THE HONORABLE GILBERT S.C. KEITH-AGARAN, CHAIR,  
AND TO THE HONORABLE KARL RHOADS, VICE CHAIR,  
AND MEMBERS OF THE COMMITTEE:**

The Department of Commerce and Consumer Affairs, Office of Consumer Protection (“OCP”) supports Senate Bill No. 1227, Relating to Foreclosures. My name is Stephen Levins and I am the Executive Director of the OCP.

Senate Bill No. 1227 makes permanent the affirmation requirement and form that is filed by an attorney on behalf of a mortgagee who is seeking to foreclosure on a residential property under a judicial foreclosure action.

The OCP supports this measure because it believes that it is in the interest of consumer protection. During the height of the foreclosure crisis numerous distressed homeowners reported to government authorities, including the OCP and the Hawaii Attorney General, that the financial institutions were initiating foreclosure actions without a sufficient basis. Amongst the most egregious claims was that some financial institutions were engaging in “robo-signing”, a process in which the banks in support of their foreclosures used false affidavits signed by their employees. Astonishingly, this meant that despite their claims, many of the banks had no valid evidence to support their assertion that the homeowner was in default or that the bank owned the loan. Employees from some of the nation’s largest financial institutions testified that they had signed thousands of false affidavits a month, in which they falsely claimed under oath that they had reviewed the documents and records in support of the foreclosure. In response, the Hawaii legislature enacted Act 182 in 2012, which required a foreclosing party’s attorney to file an “attorney affirmation statement” to help ensure that this kind of conduct would no longer occur in Hawaii. Among other things, the Act mandated that the foreclosing party’s attorney swear that they had communicated with a representative of the foreclosing party who had informed them that they had personally reviewed the documents and records for factual accuracy and confirmed the factual accuracy of the allegations set forth in the foreclosure complaints. Significantly, it also required the attorney to state that they did not believe that there were any false statements of fact or law and that the plaintiff had legal standing to bring the foreclosure action.

In view of the importance of the attorney affirmation, the OCP does not believe that there is any reason to eliminate it at this time. Although the frequency of robo-signing has appeared to have recently diminished, statutory safeguards, such as, the attorney affirmation, will help deter it from reoccurring in Hawaii. Consequently, the OCP is in strong support of this measure.

Thank you for the opportunity to offer comments in support of Senate Bill No. 1227. I would be happy to answer any questions members of the Committee may have.