

STAND. COM. REP. NO.

266

Honolulu, Hawaii

FEB 16 2011

RE: S.B. No. 652

S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 652 entitled:

"A BILL FOR AN ACT RELATING TO MORTGAGE FORECLOSURES,"

begs leave to report as follows:

The purpose and intent of this measure is to implement the recommendations of the Mortgage Foreclosure Task Force to reform the residential mortgage foreclosure process.

Your Committee received testimony in support of this measure from the Office of Consumer Protection of the Department of Commerce and Consumer Affairs, the Mortgage Bankers Association of Hawaii, the Hawaii Financial Services Association, the Hawaii Bankers Association, FACE Maui, Catholic Charities Hawai'i, Hawaii Council of Associations of Apartment Owners, and Hawaii Credit Union League. Your Committee received testimony in support of the intent of this measure from Hawai'i Association of Realtors, and the ILWU Local 142. Your Committee received testimony in opposition to this measure from Kamole Beach Royal, Kehalani Gardens, the Hawaii chapter of Community Associations Institute, Laulima, LLC, and forty-three private individuals. Your Committee received comments on this measure from the Judiciary of the State of Hawaii, State Farm Insurance, Wailea Community Association, Kai Malu at Wailea, and one private citizen.

Your Committee finds that this measure is the product of the Mortgage Foreclosure Task Force convened pursuant to Act 162, Session Laws of Hawaii 2010. As such, this measure represents

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consensus among disparate interests including lenders, borrowers, homeowners' associations, and the regulatory agency. Your Committee finds that this measure is an important first step toward instituting important consumer protections in the nonjudicial power of sale foreclosure process. Your Committee notes that, pursuant to its authorizing legislation, the Mortgage Foreclosure Task Force will continue to meet through June 30, 2012, to develop further recommendations for reform of the residential mortgage foreclosure process. Finally, your Committee notes that the provisions of this measure are not intended to, nor do they, impact actions by a homeowners' association to collect on liens for unpaid fees from property owners within condominium and planned community associations.

Your Committee has amended this measure by:

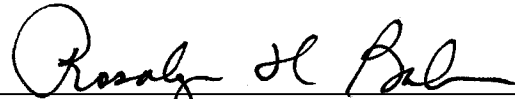
- (1) Clarifying that the provisions of this measure do not apply to actions by condominium or planned community associations to collect on liens for unpaid fees from property owners within the condominium project or planned community association;
- (2) Amending the minimum time of residency required to qualify as an owner-occupant for foreclosure purposes to conform with the definition of owner-occupant under the State's tax code;
- (3) Providing for a twenty-one day notice of foreclosure to insurers of the subject property;
- (4) Adding provisions to require that public sales of real property pursuant to a nonjudicial power of sale foreclosure shall be held at the state building in the county seat of the county in which the subject property is located; provided that for the City and County of Honolulu, the Department of Accounting and General Services shall designate the appropriate state building and shall provide for notification to the Judiciary and the general public of the designated state building;
- (5) Making conforming amendments to related statutory sections;
- (6) Making the measure effective upon its approval; and



- (7) 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. 652, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 652, S.D. 1, and be referred to the Committee on Ways and Means.

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

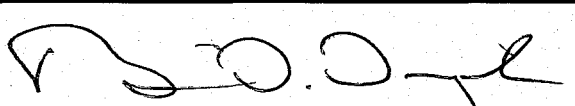


ROSALYN H. BAKER, Chair



The Senate
Twenty-Sixth Legislature
State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 652	CPN, WTEM	2/4/2011		
<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)	✓			
TANIGUCHI, Brian T. (VC)	✓			
GALUTERIA, Brickwood	✓			
GREEN, M.D., Josh	✓			
NISHIHARA, Clarence K.	✓			
SOLOMON, Malama	✓			
SLOM, Sam				✓
TOTAL	6	0	0	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