

FEB - 9 2012

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# SENATE CONCURRENT RESOLUTION

DIRECTING THE ATTORNEY GENERAL OF THE STATE OF HAWAII TO  
INVESTIGATE CASES WHERE FRAUDULENT TRANSFERS AND  
ASSIGNMENTS OF MORTGAGE LOAN DOCUMENTS ARE ALLEGED.

1           WHEREAS, Hawaii has been experiencing a mortgage crisis  
2 since 2004; and  
3

4           WHEREAS, the mortgage crisis resulted from a number of  
5 problems in the housing market, including an increase in non-  
6 traditional mortgages such as risky subprime loans, inflated  
7 appraisals, systematic abandonment of underwriting practices by  
8 lenders, and unstable risk-management practices; and  
9

10          WHEREAS, foreclosures of people's homes have resulted in  
11 vacant homes, homelessness, and declining property values and  
12 neighborhoods; and  
13

14          WHEREAS, mortgage defaults led to a record number of  
15 foreclosures across the nation and in Hawaii; and  
16

17          WHEREAS, from 2006 through 2009, there were more than 6  
18 million foreclosures nationwide as compared to only 100,000  
19 foreclosures in 2005; and  
20

21          WHEREAS, the national rate for foreclosures has increased  
22 an additional 23 percent since 2008, with approximately 2.9  
23 million home mortgages in the United States in foreclosure in  
24 2010; and  
25

26          WHEREAS, according to the Year-End 2010 Foreclosure Market  
27 Report, there were a total of 3,825,637 foreclosure filings,  
28 including default notices, scheduled auctions, and bank  
29 repossessions; and  
30



1           WHEREAS, the rate of foreclosure for 2011 and 2012 was  
2 predicted to exceed the foreclosure rate of 2010, and the 2011  
3 foreclosure filings have overwhelmed the courts and lenders; and  
4

5           WHEREAS, the ongoing housing crisis and significant  
6 increase in mortgage delinquencies and foreclosures have  
7 exacerbated the current financial crisis; and  
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9           WHEREAS, according to the Federal Bureau of Investigation,  
10 mortgage fraud is a growing criminal threat that is hurting  
11 homeowners, businesses, and the national economy; and  
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13           WHEREAS, investigations by the Federal Bureau of  
14 Investigation and other law enforcement entities, including  
15 state attorney generals, have focused on fraud related to loan  
16 origination, mortgage loan securitization, and mortgage  
17 servicing; and  
18

19           WHEREAS, in the fall of 2010, nationwide reports exposed  
20 fraudulent foreclosure filings, which included the practice of  
21 signing mortgage documents without first verifying the contents,  
22 a practice often referred to as "robo-signing"; and  
23

24           WHEREAS, there are now alleged cases of fraudulent  
25 assignments of mortgage, affidavits of foreclosure, and  
26 transfers of title, including instances of fraudulent  
27 signatures; and  
28

29           WHEREAS, securities fraud lawsuits have been filed on  
30 behalf of the beneficiaries of state pension funds, including a  
31 class action lawsuit against Merrill Lynch, now owned by Bank of  
32 America, for providing misleading documents for \$16,500,000 in  
33 certificates; and  
34

35           WHEREAS, banks are required to register with recordation  
36 offices in each state and pay certain fees for each sale or  
37 resale of a mortgage; and  
38

39           WHEREAS, many banks utilized the Mortgage Electronic  
40 Registration Systems electronic mortgage registry, which  
41 permitted these financial institutions to repeatedly avoid  
42 paying local fees and taxes; and  
43



# S.C.R. NO. 39

1 WHEREAS, local communities lost local tax revenue through  
 2 banks' fraudulent behavior and local counties are now suing to  
 3 reclaim the significant amount of lost revenue; and

4  
 5 WHEREAS, it appears many loan transfers, assignments of  
 6 mortgage, and quitclaim deeds may have been fraudulent and their  
 7 filing statuses inaccurate due to illegal loan transfers and  
 8 lack of recordation at the state level; and

9  
 10 WHEREAS, fraudulent documents filed by lenders and the  
 11 failure to follow securities procedures have clouded property  
 12 title in Hawaii and damaged borrowers and subsequent purchasers;  
 13 and

14  
 15 WHEREAS, nonjudicial foreclosures do not allow homeowners  
 16 the opportunity to challenge these fraudulent loan documents;  
 17 now, therefore,

18  
 19 BE IT RESOLVED by the Senate of the Twenty-sixth  
 20 Legislature of the State of Hawaii, Regular Session of 2012, the  
 21 House of Representatives concurring, that the Attorney General  
 22 of the State of Hawaii is directed to investigate instances  
 23 where homeowners allege fraudulent mortgage documents,  
 24 assignments of mortgage, or title transfers, and to take action  
 25 so that any financial settlement reached with mortgage servicers  
 26 appropriately compensates for, and accurately reflects, the  
 27 extent of the negative impact on all the victims of the fraud,  
 28 including homeowners and the State; and

29  
 30 BE IT FURTHER RESOLVED that certified copies of this  
 31 Concurrent Resolution be transmitted to the Governor, Attorney  
 32 General, and Director of Commerce and Consumer Affairs.

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 34  
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OFFERED BY: \_\_\_\_\_

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