

FEB - 9 2012

SENATE 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
31 WHEREAS, the rate of foreclosure for 2011 and 2012 was
32 predicted to exceed the foreclosure rate of 2010, and the 2011
33 foreclosure filings have overwhelmed the courts and lenders; and
34



1 WHEREAS, the ongoing housing crisis and significant
2 increase in mortgage delinquencies and foreclosures have
3 exacerbated the current financial crisis; and
4

5 WHEREAS, according to the Federal Bureau of Investigation,
6 mortgage fraud is a growing criminal threat that is hurting
7 homeowners, businesses, and the national economy; and
8

9 WHEREAS, investigations by the Federal Bureau of
10 Investigation and other law enforcement entities, including
11 state attorney generals, have focused on fraud related to loan
12 origination, mortgage loan securitization, and mortgage
13 servicing; and
14

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

20 WHEREAS, there are now alleged cases of fraudulent
21 assignments of mortgage, affidavits of foreclosure, and
22 transfers of title, including instances of fraudulent
23 signatures; and
24

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

31 WHEREAS, banks are required to register with recordation
32 offices in each state and pay certain fees for each sale or
33 resale of a mortgage; and
34

35 WHEREAS, many banks utilized the Mortgage Electronic
36 Registration Systems electronic mortgage registry, which
37 permitted these financial institutions to repeatedly avoid
38 paying local fees and taxes; and
39

40 WHEREAS, local communities lost local tax revenue through
41 banks' fraudulent behavior and local counties are now suing to
42 reclaim the significant amount of lost revenue; and
43



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

5
6 WHEREAS, fraudulent documents filed by lenders and the
7 failure to follow securities procedures have clouded property
8 title in Hawaii and damaged borrowers and subsequent purchasers;
9 and

10
11 WHEREAS, nonjudicial foreclosures do not allow homeowners
12 the opportunity to challenge these fraudulent loan documents;
13 now, therefore,

14
15 BE IT RESOLVED by the Senate of the Twenty-sixth
16 Legislature of the State of Hawaii, Regular Session of 2012,
17 that the Attorney General of the State of Hawaii is directed to
18 investigate instances where homeowners allege fraudulent
19 mortgage documents, assignments of mortgage, or title transfers,
20 and to take action so that any financial settlement reached with
21 mortgage servicers appropriately compensates for, and accurately
22 reflects, the extent of the negative impact on all the victims
23 of the fraud, including homeowners and the State; and

24
25 BE IT FURTHER RESOLVED that certified copies of this
26 Resolution be transmitted to the Governor, Attorney General, and
27 Director of Commerce and Consumer Affairs.

28
29
30 OFFERED BY:

		
		
		
		
		

