

Honolulu, Hawaii

APR 27 2017

RE: S.B. No. 1227
H.D. 2
C.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sirs:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 1227, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO FORECLOSURES,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to extend the repeal date, from 2017 until 2022, for the affirmation requirement and form that is filed by an attorney on behalf of a mortgagee who is seeking to foreclose on a residential property under a judicial foreclosure action.

Your Committee on Conference finds that, during the height of the foreclosure crisis, numerous distressed homeowners reported to government authorities, including the Office of Consumer Protection and the Hawaii Department of the Attorney General, that their financial institutions were initiating foreclosure actions without a sufficient basis. Among the more egregious claims were reports that financial institutions were engaging in robo-signing, in which banks



supported foreclosure actions through the use of false affidavits signed by bank employees. In response, the Legislature enacted Act 182, Session Laws of Hawaii 2012, which, among other things, requires a foreclosing party's attorney to affirm that the attorney has personally reviewed the documents and records associated with a foreclosure action, confirm the factual accuracy of the complaint allegations, and state that the attorney does not believe there are any false statements of fact or law and that the plaintiff has legal standing to bring the foreclosure action.

Your Committee on Conference further finds that although the frequency of robo-signing appears to have recently diminished, making permanent certain statutory safeguards, such as the attorney affirmation, will help deter such conduct from reoccurring in Hawaii.

Your Committee on Conference has amended this measure by:

- (1) Making permanent the affirmation requirement and form that is filed by an attorney on behalf of a mortgagee who is seeking to foreclose on a residential property under a judicial foreclosure action, rather than extending the repeal date for the attorney's affirmation requirement from 2017 to 2022;
- (2) Repealing the affirmation requirement of an attorney who files a complaint in a mortgage foreclosure action that would have taken effect on July 1, 2017;
- (3) Changing its effective date to June 30, 2017; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 1227, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1227, H.D. 2, C.D. 1.



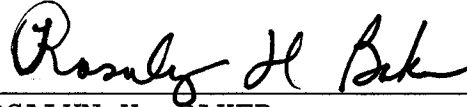
Respectfully submitted on behalf
of the managers:

ON THE PART OF THE HOUSE

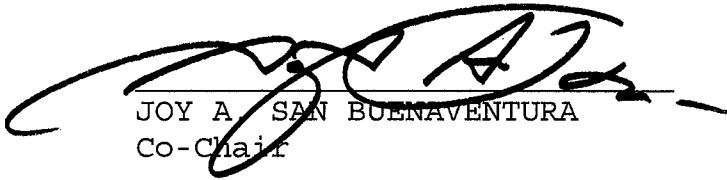
ON THE PART OF THE SENATE



ROY M. TAKUMI
Co-Chair



ROSALYN H. BAKER
Chair



JOY A. SAN BUENAVENTURA
Co-Chair



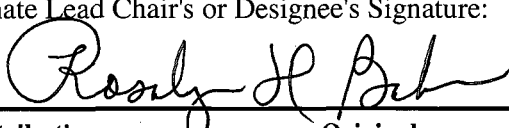
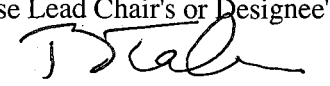
GILBERT S.C. KEITH-AGARAN
Co-Chair



Hawaii State Legislature

CCR 8

**Record of Votes of a
Conference Committee**

Bill / Concurrent Resolution No.: SB 1227, HD 2					Date/Time: 4-24-17 3:27 P				
<input checked="" type="checkbox"/> The recommendation of the House and Senate managers is to pass with amendments (CD).									
<input type="checkbox"/> The Committee is reconsidering its previous decision.									
<input type="checkbox"/> The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure					<input type="checkbox"/> The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.				
Senate Managers	A	WR	N	E	House Managers	A	WR	N	E
BAKER, Rosalyn H., Chr.	✓				TAKUMI, Roy M., Co-Chr.	✓			
KEITH-AGARAN, Gilbert S.C., Co-Chr.	✓				SAN BUENAVENTURA, Joy A., Co-Chr.	✓			
RUDERMAN, Russell E.	✓				WARD, Gene	✓			
TOTAL	3	-	-	-	TOTAL	3	-	-	-
A = Aye		WR = Aye with Reservations			N = Nay		E = Excused		
Senate Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted					House Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Senate Lead Chair's or Designee's Signature: 					House Lead Chair's or Designee's Signature: 				
Distribution: Original		Yellow		Pink		Goldenrod			
File with Conference Committee Report		House Clerk's Office		Senate Clerk's Office		Drafting Agency			