

STAND. COM. REP. NO.

843

Honolulu, Hawaii

MAR 03 2017

RE: S.B. No. 1227

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

Sir:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 1227 entitled:

"A BILL FOR AN ACT RELATING TO FORECLOSURES,"

begs leave to report as follows:

The purpose and intent of this measure is to make 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.

Your Committee received testimony in support of this measure
from the Office of Consumer Protection of the Department of
Commerce and Consumer Affairs.

Your Committee finds that, during the height of the
foreclosure crisis, numerous distressed homeowners reported to
government authorities, including the Office of Consumer
Protection and 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 further finds that although the frequency of robo-signing appears to have recently diminished, statutory safeguards such as the attorney affirmation will help deter such conduct from reoccurring in Hawaii. Accordingly, this measure makes permanent the attorney affirmation requirement and form that must be filed by an attorney on behalf of a mortgagee who is seeking to foreclose on a residential property in a judicial foreclosure action.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1227 and recommends that it pass Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,



GILBERT S.C. KEITH-AGARAN, Chair



