

Honolulu, Hawaii

Feb 14, 2008

RE: H.B. No. 2326  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Fourth State Legislature  
Regular Session of 2008  
State of Hawaii

Sir:

Your Committees on Consumer Protection & Commerce and  
Judiciary, to which was referred H.B. No. 2326 entitled:

"A BILL FOR AN ACT RELATING TO MORTGAGES,"

beg leave to report as follows:

The purpose of this bill is to protect homeowners who face property foreclosures by establishing protections for these homeowners when they sign a contract with a foreclosure consultant or agree to transfer title to their property in an arrangement that allows the homeowner to repossess the property following the completion of the foreclosure proceeding.

The Legal Aid Society of Hawaii testified in support of the intent of this bill. The Department of Commerce and Consumer Affairs submitted comments.

Homeowners who face property foreclosure are particularly vulnerable to scams offering to help them keep their properties. These scams include fees charged for supposedly negotiating with the homeowner's creditors, when, in fact, the "consultant" does little or no work and disappears with the homeowner's money. Other scams involve foreclosure reconveyance agreements in which investors convince the homeowner to transfer ownership of the property facing foreclosure under an agreement that would allow the homeowner to later attempt to buy back the property. In many cases, the homeowner finds it impossible to buy back the property, or becomes a tenant of the property and subsequently gets evicted.

HB2326 HD1 HSCR CPC-JUD HMS 2008-1972



Your Committees have amended this bill by replacing its entire contents with similar provisions that protect homeowners who face property foreclosures, liens, or encumbrances (distressed property) by, among other things:


- (1) Requiring contracts for distressed property consultation services or conveyances to be in writing with minimum disclosures and a homeowner's right of cancellation;
- (2) Establishing requirements for distressed property leases;
- (3) Prohibiting certain acts by distressed property consultants and purchasers;
- (4) Limiting the amount a distressed property purchaser can charge for a homeowner to repurchase the distressed property in a distressed property conveyance contract; and
- (5) Establishing a minimum amount of consideration to be paid to the homeowner in a distressed property conveyance contract.

Your Committees have also amended this bill by making technical, nonsubstantive changes for clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Consumer Protection & Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2326, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2326, H.D. 1, and be referred to the Committee on Finance.



Respectfully submitted on  
behalf of the members of the  
Committees on Consumer  
Protection & Commerce and  
Judiciary,



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TOMMY WATERS, Chair



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ROBERT N. HERKES, Chair



State of Hawaii  
House of Representatives  
The Twenty-fourth Legislature

HSCP 438

**Record of Votes of the Committee on Consumer Protection & Commerce**

<b>Bill/Resolution No.:</b> HB 2326	<b>Committee Referral:</b> CPC/JUD, FIN	<b>Date:</b> 02/07/08		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
<b>The recommendation is to:</b> <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
CPC Members	Ayes	Ayes (WR)	Nays	Excused
1. HERKES, Robert N. (C)	x			
2. McKELVEY, Angus L.K. (VC)	x			
3. EVANS, Cindy				x
4. GREEN, Josh, M.D.	x mm	x		
5. ITO, Ken				x
6. LUKE, Sylvia	x			
7. MORITA, Hermina M.	x			
8. SONSON, Alex M.				x
9. SOUKI, Joseph M.	x			
10. TSUJI, Clift	x			
11. YAMANE, Ryan I.	x			
12. YAMASHITA, Kyle T.	x			
13. MARUMOTO, Barbara C.	x			
14. THIELEN, Cynthia	x			
<b>TOTAL (14)</b>	10 mm	1	0	3
<b>The recommendation is:</b> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ committee acronym(s) _____ did not support recommendation.				
<b>Vice Chair's or designee's signature:</b> _____				
<b>Distribution:</b> Original (White) – Committee    Duplicate (Yellow) – Chief Clerk's Office				

