



What the bills do

HB 2018: Repeals a provision that automatically makes all violations of the mortgage foreclosure law a deceptive act.

HB 2019: Prohibits the use of deficiency judgements to recover the remaining balance on mortgage loans in an auction or short sale.

HB 2738: Encourages the use of the mortgage foreclosure dispute-resolution process for non-judicial foreclosures by shortening the time period for completing the process.

Critics say foreclosure measures don't work

BY DUANE SHIMOGAWA
PACIFIC BUSINESS NEWS

Some lender groups in Hawaii say none of the current bills in the Legislature will fix the broken housing foreclosure process, which they say has not been helped by last year's passage of Act 48.

One of the major changes that Act 48 caused was the creation of a mandatory dispute-resolution program to be used prior to starting non-judicial foreclosures.

"It [Act 48] has made it difficult for lenders to use the non-judicial foreclosure process," Gary Fujitani, executive director of the Hawaii Bankers Association, told PBN.

At least a dozen bills in the state Legislature address foreclosure issues.

For example, House Bill 2018, introduced by state Rep. Robert Herkes, D-North Kona-Puna, basically repeals the provision that automatically makes all violations of the mortgage foreclosure law an unfair or deceptive act or practice. The bill passed a reading in the House last Thursday, but there are no scheduled hearings on it.

Fujitani said the bills dealing with foreclosures don't really fix the problems.

"It may be a 70 percent fix at most," he said. "We believe there's a place for the non-judicial process, which is speedier and cheaper."

He said Act 48 has, at least up to now, not made a difference in the willingness of banks to lend or having the money to lend.

"I don't think we can truly say there's been an impact as far as making loans to borrowers," Fujitani said. "It may have impacted some banks, but again, every bank is different in its lending."

Marvin Dang, a foreclosure attorney and lobbyist for the Hawaii Financial

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Real estate agents say Act 48 has affected business

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Services Association, said his group does not support any of the current bills that deal with foreclosures. Instead, he'll push for changes to some of the bills.

"We want to make sure, just like any of the other lender groups, that when there's a law or legislation, the solutions to problems are not going to have unintended consequences," he told PBN. "[We hope] solutions for these problems aren't going to be overly broad to have negative impacts on existing and future customers."

'Prior to Act 48, only 10 percent of all foreclosures were judicial and now it's 100 percent. We need to change this.'

Marvin Dang
Foreclosure attorney and lobbyist for the Hawaii Financial Services Association

Dang said Act 48's impacts on lenders range from getting less at a foreclosure sale, absorbing the cost of a longer, drawn-out process, to paying for advertisements and a foreclosure commissioner, which costs up to \$3,500 on Oahu.

"Prior to Act 48, only 10 percent of all foreclosures were judicial and now it's 100 percent," he said. "We need to change this."

Act 48 also is hurting real estate firms, its critics say.

Coldwell Banker Pacific Properties agent Lucien Breault has been on both sides of the foreclosure process, representing both buyers and sellers. He's on Coldwell Banker's Real Estate Owned or REO team, which handles properties that go back to the mortgage company after an unsuccessful foreclosure auction.

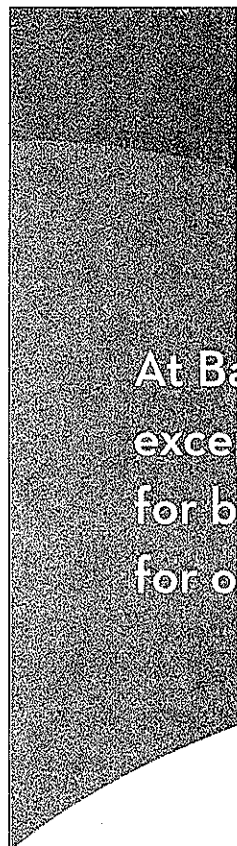
Before Act 48, which became law last year, Breault handled between 12 and 14 cases at any one time. Now he's down to about five and said that Act 48 has stifled the market.

"It's only a temporary stay of execution," he told PBN. "It keeps them in their home for about a year more [during the process]."

Michelle Saito, REO director at Coldwell Banker Pacific Properties, said business has fallen by about 80 percent.

"Our business has really taken a hit, as we are not getting the assignments like we were, although we still have the inventory," she said.

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