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TO THE SENATE COMMITTEE ON COMMERCE,
CONSUMER PROTECTION, AND AFFORDABLE HOUSING

TWENTY-FOURTH STATE LEGISLATURE
REGULAR SESSION OF 2008

Tuesday, February 12, 2008
9:00 a.m.

**TESTIMONY ON SENATE BILL NO. 3026 – RELATING TO THE PREVENTION OF
MORTGAGE RESCUE FRAUD.**

TO THE HONORABLE RUSSELL S. KOKUBUN, CHAIR, AND MEMBERS OF THE
COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify regarding Senate Bill No. 3026, Relating to the Prevention of Mortgage Rescue Fraud. The Department is in strong support of this Administration bill. My name is Stephen Levins, and I am the Executive Director of the Department's Office of Consumer Protection.

Senate Bill No. 3026 proposes to add a new chapter to title 26 of the Hawaii Revised Statutes, designed to protect Hawaii consumers from persons who prey on

homeowners facing property foreclosures, liens, or encumbrances. These so-called mortgage rescuers offer phantom help to homeowners, taking a fee of a few thousand dollars for supposedly negotiating with the homeowners' secured creditors. After collecting the money, many do little or no work and essentially abandon the homeowners. In the most insidious cases, the consultant will persuade families to deed their house to investors for a year. The homeowners supposedly can use that time to clear up their credit and refinance the property, then take back title free and clear. In many cases the homeowners wind up becoming tenants and then being evicted. The Mortgage Rescue Fraud Prevention Act addresses both forms of trickery by requiring the consultants to provide homeowners with a written contract spelling out their services and by giving the homeowners the right to cancel at any time before the services are actually performed.

The bill limits the amount a mortgage rescuer can make if the homeowner is successful in buying back the home to one hundred twenty-five per cent of the amount paid by the rescuer to purchase the property and requires that the mortgage rescuer provide the homeowner with at least eighty-two per cent of the value of their home if the home owner is eventually unable to buy back the home from the mortgage rescuer. These percentages are consistent with similar

Testimony on Senate Bill No. 3026
February 12, 2008
Page 3 of 3

provisions already enacted into law in other jurisdictions, including Illinois and Minnesota.

During the past year, several complaints have been filed with the Office of Consumer Protection from people who sought help from mortgage rescuers. Instead of receiving help, several found that they were being forced out of their home. This bill, which is modeled after laws in Minnesota and Illinois, will help homeowners in distress by providing them with important consumer protections.

Thank you for this opportunity to testify on Senate Bill No. 3026. I will be happy to answer any questions that the members of the Committee may have.



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February 11, 2008

The Honorable Russell Kokubun, Chair
Senate Committee on Commerce, Consumer Protection,
and Affordable Housing
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: S.B. 3026 Relating to the Prevention of Mortgage Rescue Fraud
Hearing Date: Tuesday, February 12, 2008 @ 9:00 p.m., Room 229

Dear Chairs Herkes, Waters and members of the House Committee on Consumer Protection
& Commerce and Judiciary,

On behalf of our 10,000 members in Hawaii, the Hawaii Association of REALTORS®
(HAR) supports S.B. 3026.

The intent of the measure is admirable as it seeks to protect homeowners from unscrupulous foreclosure consultants. It establishes the necessary penalties for this heinous crime. Our only concern is whether the five day rescission period is adequate. Most homeowners who are considering a business relationship with a foreclosure consultant are usually in dire straits. HRS 508D-5 allows for a fifteen day rescission period upon delivery of disclosure documents to the buyer. We would respectfully suggest a similar period for S.B. 3026.

Mahalo for the opportunity to testify.

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**The Honorable Russell S. Kokubun, Chair
The Honorable David Y. Ige, Vice Chair
Senate Committee on Commerce, Consumer Protection and Affordable Housing**

**Hearing : Tuesday, February 12, 2008, 9:00 a.m.
State Capitol, Conference Room 229**

IN SUPPORT OF SB 3026

Chair and Members of the Committees:

My name is Ryker Wada, representing the Legal Aid Society of Hawai'i ("LASH"). I am advocating for our clients who include the working poor, seniors, citizens with English as a second language, disabled and other low and moderate income families who are consumers. We are testifying in support of SB 3026 as it would strengthen protections for consumers in the State of Hawaii.

I supervise a housing counseling program in the Consumer Unit at the Legal Aid Society of Hawaii. The Homeownership Counseling Project provides advice to individuals and families about homeownership issues. Specifically the project provides information on how to prepare yourself before purchasing a home and what to do if you are in danger of losing your home through foreclosure. In the past Fiscal Year we serviced more than 200 clients in our Project.

SB3026 seeks to create a new chapter in the Hawaii Revised Statutes to protect consumers from foreclosure rescue scams and fraudulent distressed property consultants who offer "help" to homeowners who are in arrears or foreclosure. This "help" usually comes in the form of scam artists who take a fee for negotiating with a distressed homeowners mortgage company. Instead the homeowners get little or nothing for their fee and the scam artist has disappeared with the homeowner's money. A more insidious form of the foreclosure rescue scam involves the scammer taking title to the homeowner's property with the homeowner staying in the property as a renter and attempting to buy it back over the next few years. The

terms of these deals usually make it impossible for homeowners to buy back their property, allowing the scammer to walk off with all or most of a homes equity.

LASH anticipates a growing number of foreclosures in the coming years as the so-called exotic mortgage products mature and consumers are not able to keep up with their adjusted mortgage payments or find a suitable refinance. With the growing number of foreclosures, there will only be an increase in the number of foreclosure rescue scams and wronged consumers in the State of Hawaii.

The Legal Aid Society of Hawaii strongly supports SB 3026, and its efforts to protect the consumers in the State of Hawaii by creating a new chapter to protect homeowners from foreclosure rescue scams.

Conclusion:

We appreciate these committees' recognition of the need to protect consumers in the State of Hawaii. SB 3026 attempts to strengthen protections for consumers. We strongly support SB 3026. Thank you for the opportunity to testify.



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February 11, 2008

The Honorable Russell S. Kokubun, Chair
Senate Committee on Commerce, Consumer
Protection & Affordable Housing
State Capitol, Room 229
Honolulu, HI 96813

Chair Kokubun and members of the Committee:

S.B. No. 3026, Relating to the Prevention of Mortgage Rescue Fraud

My name is Mike Leach, Legislative & Regulatory Manager for the Hawaii Credit Union League (HCUL). I am testifying on behalf of HCUL as the local trade association for Hawaii's 93 federally and state-chartered credit unions to support the general intent of S.B. No. 3026.

While our state and residents may not experience the full adverse effects of problems with subprime mortgages in other jurisdictions, there are people in Hawaii who need help. Hawaii's credit unions exist to help our members, some of whom may be vulnerable to subprime lending abuse. We are positioned to be part of the solution for deserving members, regardless of how they became victims of subprime lending problems predicted by some experts to grow in severity over the coming year. It is hoped that state legislation to help Hawaii residents in this area will compliment legislation of national application being considered by Congress.

Thank you for the opportunity to ask for your favorable consideration of this measure.

Sincerely,

Michael Leach
Legislative & Regulatory Manager

cc: Dennis K. Tanimoto, President