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TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR

TWENTY-FOURTH STATE LEGISLATURE
REGULAR SESSION OF 2008

Monday, February 25, 2008
10:00 a.m.

**COMMENTS ON SENATE BILL NO. 3026, SD1 – RELATING TO THE
PREVENTION OF MORTGAGE RESCUE FRAUD.**

**TO THE HONORABLE BRIAN T. TANIGUCHI, CHAIR, AND MEMBERS OF THE
COMMITTEE:**

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to provide these comments on Senate Bill No. 3026, HD1, 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, HD1 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

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percentages are consistent with similar 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 your consideration and for providing me with the opportunity to provide these comments on Senate Bill No. 3026, SD1.



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February 23, 2008

The Honorable Brian T. Taniguchi, Chair
Senate Committee on Judiciary and Labor
State Capitol, Room 016
Honolulu, Hawaii 96813

RE: S.B. 3026, SD1 Relating to the Prevention of Mortgage Rescue Fraud
Hearing Date: Monday, February 25, 2008 @ 10:00 a.m., Room 016

On behalf of our 10,000 members in Hawaii, the Hawaii Association of REALTORS® (HAR) supports S.B. 3026, SD1.

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. As directed by the Senate Committee on Commerce, Consumer Protection, and Affordable Housing and noted in the Senate Standing Committee Report No. 2374, we have discussed this amendment with Stephen Levins, Office of Consumer Protection, and have come to agreement to change the rescission period to fifteen days.

Mahalo for the opportunity to testify.