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DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
OFFICE OF CONSUMER PROTECTION

TO THE HOUSE COMMITTEES ON CONSUMER PROTECTION & COMMERCE  
AND JUDICIARY

TWENTY-FOURTH STATE LEGISLATURE  
REGULAR SESSION OF 2008

Thursday, March 13, 2008  
2:00 p.m.

**TESTIMONY ON SENATE BILL NO. 3026, SD2 – RELATING TO THE PREVENTION  
OF MORTGAGE RESCUE FRAUD.**

TO THE HONORABLE ROBERT N. HERKES AND TOMMY WATERS, CHAIRS, AND  
MEMBERS OF THE COMMITTEES:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to provide these comments on Senate Bill No. 3026, SD2, 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, SD2, 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 provisions already enacted into law in other jurisdictions, including Illinois and Minnesota.

Testimony on Senate Bill No. 3026, SD2  
March 13, 2008  
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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 will help homeowners in distress by providing them with important consumer protections.

Thank you for this opportunity to testify on Senate Bill No. 3026, SD2. I will be happy to answer any questions that the members of the Committees may have.

**The Honorable Robert N. Herkes, Chair**  
**The Honorable Angus L.K. McKelvey, Vice Chair**  
**House Committee on Consumer Protection and Commerce**

**The Honorable Tommy Waters, Chair**  
**The Honorable Blake K. Oshiro, Vice Chair**  
**House Committee on Judiciary**

**Hearing : Thursday, March 13, 2008, 2:00 p.m.**  
**State Capitol, Conference Room 325**

**IN SUPPORT OF SB 3026 SD2**

**Chairs 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 SB3026 SD2 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 SD2 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 SD2, 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 SD2 attempts to strengthen protections for consumers. We strongly support SB 3026 SD2. Thank you for the opportunity to testify.



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March 13, 2008

Representative Robert N. Herkes  
Chair, House Committee on Consumer Protection & Commerce  
Hawaii State Capitol, Room 320

Representative Tommy Waters  
Chair, House Committee on Judiciary  
Hawaii State Capitol, Room 302

**RE: S.B. 3026, SD2 Relating to the Prevention of Mortgage Rescue Fraud  
Hearing Date: Thursday, March 13, 2008 @ 2:00 p.m., Room 325**

On behalf of our 10,000 members in Hawaii, the Hawaii Association of REALTORS® (HAR) supports S.B. 3026, SD2.

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 and contains an adequate rescission period for these types of matters.

Mahalo for the opportunity to testify.

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March 13, 2008

Rep. Robert N. Herkes, Chair  
and members of the House Committee on Consumer Protection & Commerce  
Rep. Tommy Waters, Chair  
and members of the House Committee on Judiciary  
Hawaii State Capitol  
Honolulu, Hawaii 96813

Re: **Senate Bill 3026, Senate Draft 2 (Prevention of Mortgage Rescue Fraud)**  
**Hearing Date/Time: Thursday, March 13, 2008, 2:00 P.M.**

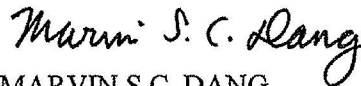
I am the attorney for the **Hawaii Financial Services Association ("HFSA")**. The HFSA is the trade association for Hawaii's financial services loan companies.

The purposes of this Bill are to require mortgage foreclosure rescuers to provide specific information and disclosures to distressed property owners, impose specific prohibitions on mortgage foreclosure rescuers, and to require a rescission period of fifteen days..

The HFSA **supports** this Bill.

The HFSA believes that this Bill is needed to protect consumers who may be delinquent on their mortgage loans from scammers purporting to be mortgage foreclosure rescuers.

Thank you for considering this testimony.



MARVIN S.C. DANG

Attorney for the Hawaii Financial Services Association

(MSCD/hfsa)