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# A BILL FOR AN ACT

RELATING TO PUBLIC ACCOUNTANTS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The purpose of this Act is to exclude public  
2 accountants from the scope of the Mortgage Rescue Fraud  
3 Prevention Act, Session Laws of Hawaii 2008.

4           SECTION 2. Section 480E-2, Hawaii Revised Statutes, is  
5 amended by amending the definition of "distressed property  
6 consultant" to read as follows:

7           "Distressed property consultant" [~~means~~]:

8           (1) Means any person who performs or makes any  
9 solicitation, representation, or offer to perform any  
10 of the following relating to a distressed property:

11           [~~(1)~~] (A) Stop or postpone the foreclosure sale or loss of  
12 any distressed property due to the nonpayment of  
13 any loan that is secured by the distressed  
14 property;

15           [~~(2)~~] (B) Stop or postpone the charging of any lien or  
16 encumbrance against any distressed property or  
17 eliminate any lien or encumbrance charged against  
18 any distressed property for the nonpayment of any



- 1 taxes, lease assessments, association fees, or  
2 maintenance fees;
- 3 ~~[(3)]~~ (C) Obtain any forbearance from any beneficiary or  
4 mortgagee, or relief with respect to a tax sale  
5 of the property;
- 6 ~~[(4)]~~ (D) Assist the owner to exercise any cure of default  
7 arising under Hawaii law;
- 8 ~~[(5)]~~ (E) Obtain any extension of the period within which  
9 the owner may reinstate the owner's rights with  
10 respect to the property;
- 11 ~~[(6)]~~ (F) Obtain any waiver of an acceleration clause  
12 contained in any promissory note or contract  
13 secured by a mortgage on a distressed property or  
14 contained in the mortgage;
- 15 ~~[(7)]~~ (G) Assist the owner in foreclosure, loan default, or  
16 post-tax sale redemption period to obtain a loan  
17 or advance of funds;
- 18 ~~[(8)]~~ (H) Avoid or ameliorate the impairment of the owner's  
19 credit resulting from the recording or filing of  
20 a notice of default or the conduct of a  
21 foreclosure sale or tax sale; or



1       ~~[(+9)]~~ (I) Save the owner's residence from foreclosure or  
2                                   loss of home due to nonpayment of taxes.

3       ~~["Distressed property consultant" shall]~~

4       (2) Shall not include any of the following:

5       ~~[(+1)]~~ (A) A person or the person's authorized agent acting  
6                                   under the express authority or written approval  
7                                   of the federal Department of Housing and Urban  
8                                   Development;

9       ~~[(+2)]~~ (B) A person who holds or is owed an obligation  
10                                   secured by a lien on any distressed property, or  
11                                   a person acting under the express authorization  
12                                   or written approval of such person, when the  
13                                   person performs services in connection with the  
14                                   obligation or lien, if the obligation or lien did  
15                                   not arise as the result of or as part of a  
16                                   proposed distressed property conveyance;

17       ~~[(+3)]~~ (C) Banks, savings banks, savings and loan  
18                                   associations, credit unions, trust companies,  
19                                   depository and nondepository financial service  
20                                   loan companies, and insurance companies  
21                                   organized, chartered, or holding a certificate of  
22                                   authority to do business under the laws of this



1 State or any other state, or under the laws of  
2 the United States;

3 ~~[(4)]~~ (D) Licensed attorneys engaged in the practice of  
4 law;

5 ~~[(5)]~~ (E) A federal Department of Housing and Urban  
6 Development approved mortgagee and any subsidiary  
7 or affiliate of these persons or entities, and  
8 any agent or employee of these persons or  
9 entities, while engaged in the business of these  
10 persons or entities; ~~[or~~

11 ~~[(6)]~~ (F) A nonprofit organization that, pursuant to  
12 chapter 446, offers counseling or advice to an  
13 owner of a distressed property, if the nonprofit  
14 organization has no contract or agreement for  
15 services with lenders, distressed property  
16 purchasers, or any person who effects loans or  
17 distressed property purchases ~~[-]~~; or

18 (G) Persons with a license or permit to practice  
19 public accountancy or certified public  
20 accountancy under chapter 466 when acting as a  
21 public accountant or certified public  
22 accountant."



1           SECTION 2. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3           SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: *Jan W. Boy*

JAN 26 2009



**Report Title:**

Public Accountancy; Mortgage Rescue Fraud

**Description:**

Excludes public accountants as distressed property consultants.

