

JAN 26 2009

A BILL FOR AN ACT

RELATING TO MORTGAGES.

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

1 SECTION 1. Section 480E-2, Hawaii Revised Statutes, is
2 amended by amending the definition of "distressed property
3 consultant" to read as follows:

4 "Distressed property consultant" means any person who
5 performs or makes any solicitation, representation, or offer to
6 perform any of the following relating to a distressed property:

7 (1) Stop or postpone the foreclosure sale or loss of any
8 distressed property due to the nonpayment of any loan
9 that is secured by the distressed property;

10 (2) Stop or postpone the charging of any lien or
11 encumbrance against any distressed property or
12 eliminate any lien or encumbrance charged against any
13 distressed property for the nonpayment of any taxes,
14 lease assessments, association fees, or maintenance
15 fees;



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



1 "Distressed property consultant" shall not include any of the
2 following:

3 (1) A person or the person's authorized agent acting under
4 the express authority or written approval of the
5 federal Department of Housing and Urban Development;

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

13 (3) Banks, savings banks, savings and loan associations,
14 credit unions, trust companies, depository and
15 nondepository financial service loan companies, and
16 insurance companies organized, chartered, or holding a
17 certificate of authority to do business under the laws
18 of this State or any other state, or under the laws of
19 the United States;

20 (4) Licensed attorneys engaged in the practice of law;

21 (5) A federal Department of Housing and Urban Development
22 approved mortgagee and any subsidiary or affiliate of



1 these persons or entities, and any agent or employee
2 of these persons or entities, while engaged in the
3 business of these persons or entities; [~~or~~]

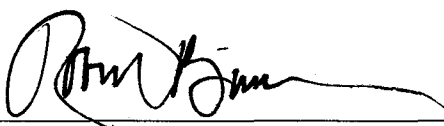
4 (6) A nonprofit organization that, pursuant to chapter
5 446, offers counseling or advice to an owner of a
6 distressed property, if the nonprofit organization has
7 no contract or agreement for services with lenders,
8 distressed property purchasers, or any person who
9 effects loans or distressed property purchases[-]; or

10 (7) Licensed real estate brokers and salespersons as
11 defined in section 467-1."

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

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

15

INTRODUCED BY:  _____

Report Title:

Mortgages; Mortgage Rescue Fraud Prevention Act; Distressed
Property Consultant; Brokers; Salespersons

Description:

Excludes real estate brokers and real estate salespersons from
the definition of "distressed property consultant".

