

STAND. COM. REP. NO. 678

Honolulu, Hawaii

March 5, 2009

RE: H.B. No. 233
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Sir:

Your Committees on Consumer Protection & Commerce and
Judiciary, to which was referred H.B. No. 233 entitled:

"A BILL FOR AN ACT RELATING TO THE MORTGAGE RESCUE FRAUD
PREVENTION ACT,"

beg leave to report as follows:

The purpose of this bill is to exempt licensed real estate
brokers and salespersons from the requirements of the Mortgage
Rescue Fraud Prevention Act (Act), Chapter 480E, Hawaii Revised
Statutes (HRS). This bill also prohibits these persons from
acquiring an ownership interest in any distressed residential
property currently listed with the broker or salesperson or within
a year after the listing agreement is terminated.

The Department of Commerce and Consumer Affairs and Hawaii
Association of REALTORS testified in support of this bill. The
Legal Aid Society of Hawaii, Office of Hawaiian Affairs, and
Mortgage Assistance & Mitigation Group opposed this measure.

The Act was intended to protect homeowners facing foreclosure
by requiring mortgage rescue contracts to include certain
disclosures, right-to-cancel provisions, and fee limitations.
However, the Act's requirements have discouraged real estate
brokers and salespersons from facilitating "short sales" - in
which a lender agrees to discount the mortgage loan balance
because of the mortgagor's financial hardship - that can prevent
home foreclosures. This bill attempts to correct this undesirable

HB233 HD1 HSCR CPC-JUD HMS 2009-2473



result by creating an exemption from the Act for licensed real estate brokers and salespersons, who are already regulated under Chapter 467, HRS, when acting in their respective capacities.


Upon further consideration, your Committees have amended this bill by also exempting certified public accountants, who are already regulated under Chapter 466, HRS, from the Act when acting in that capacity. Technical, nonsubstantive amendments were also made for clarity and style.

As affirmed by the records of votes of the members of your Committees on Consumer Protection & Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 233, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 233, H.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committees on Consumer
Protection & Commerce and
Judiciary,



JON WIKI KARAMATSU, Chair



ROBERT N. HERKES, Chair

