

STAND. COM. REP. NO. 1093

Honolulu, Hawaii

March 23, 2009

RE: S.B. No. 34
S.D. 1

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

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred S.B. No. 34, S.D. 1, entitled:

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

begs 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, Hawaii Association of REALTORS, and several concerned individuals testified in support of this bill. The Office of Hawaiian Affairs and Legal Aid Society of Hawaii opposed this measure. The Hawaii Association of Mortgage Brokers and a concerned individual provided comments.

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

SB34 SD1 HSCR CPC HMS 2009-3075



because of the mortgagor's financial hardship - that can prevent home foreclosures. This bill attempts to correct this undesirable 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.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 34, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Consumer
Protection & Commerce,



ROBERT N. HERKES, Chair



