

STAND. COM. REP. NO.

181

Honolulu, Hawaii

FEB 19 2009

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

Honorable Colleen Hanabusa  
President of the Senate  
Twenty-Fifth State Legislature  
Regular Session of 2009  
State of Hawaii

Madam:

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

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

begs leave to report as follows:

The purpose of this measure is to exempt licensed real estate brokers and salespersons acting within the scope of their licenses from the definition of distressed property consultant and prevent real estate brokers and salespersons from acquiring an ownership interest in distressed property within one year after terminating a listing agreement for the distressed property.

Your Committee received testimony in support of this measure from the Department of Commerce and Consumer Affairs, Office of Consumer Protection; Hawai'i Association of Realtors; and Realtors Association of Maui, Inc. Your Committee received testimony in opposition to this measure from Mortgage Assistance & Mitigation Group, Legal Aid Society of Hawai'i, and three private citizens. Copies of written testimony are available for review on the Legislature's website.

Under present law, a real estate licensee is prohibited from participating in short sale transactions that allow a homeowner at risk of foreclosure to negotiate a reduced payment price with a lender in order to avoid the long-term consequences of foreclosure. Since real estate licensees are professionally trained in lending and finance, they may have expertise in the

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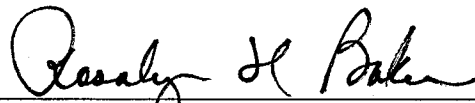
area that enables them to assist homeowners in short sale negotiations.

Your Committee recognizes that protecting homeowners who are in a financially vulnerable position is of paramount importance. Your Committee is also aware that the potential for conflicts of interest or abuse does exist when real estate licensees are involved in short sale negotiations. However, your Committee finds that existing civil and criminal penalties in Hawaii's real estate licensure and fraud-prevention statutes are adequate to protect consumers in real estate transactions, including short sales. This measure also adds additional protections to the current law by prohibiting a real estate licensee from acquiring an ownership interest in property for one year after the property is listed with the licensee for a short sale.

Your Committee has amended this measure by making one nonsubstantive technical change.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 34, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 34, S.D. 1, and be placed on the calendar for Third Reading.

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

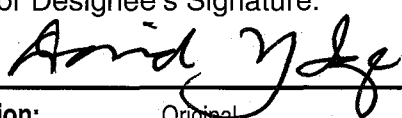


ROSALYN H. BAKER, Chair



The Senate  
Twenty-Fifth Legislature  
State of Hawaii

**Record of Votes**  
**Committee on Commerce and Consumer Protection**  
**CPN**

Bill / Resolution No.:* <b>SB 34</b>	Committee Referral: <b>CPN</b>	Date: <b>2/4/2009</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
IGE, David Y. (VC)	✓			
ESPERO, Will	✓			
GREEN, M.D., Josh	✓			
IHARA, Jr., Les				✓
SAKAMOTO, Norman				✓
HEMMINGS, Fred	✓			
<b>TOTAL</b>	<b>5</b>			<b>2</b>
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

\*Only one measure per Record of Votes