

STAND. COM. REP. NO. 1094

Honolulu, Hawaii

March 23, 2009

RE: S.B. No. 35
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. 35, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO MORTGAGES,"

begs leave to report as follows:

The purpose of this bill is to exempt:

- (1) Certified public accountants (CPAs) licensed and regulated under Chapter 466, Hawaii Revised Statutes (HRS);
- (2) Persons holding a permit to practice public accountancy in Hawaii; and
- (3) Out-of-state CPAs operating under a temporary permit issued by the Board of Accountancy pursuant to Chapter 466, HRS,

from the requirements of the Mortgage Rescue Fraud Prevention Act (Act), Chapter 480E, HRS.

The Department of Commerce and Consumer Affairs, Hawaii Society of Certified Public Accountants, and a concerned individual testified in support of this bill. The Legal Aid Society of Hawaii (Legal Aid) provided comments.

SB35 SD1 HSCR CPC HMS 2009-3076



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 accountants from representing clients before tax authorities in cases involving distressed properties with tax liens. This bill attempts to correct this undesirable result by creating an exemption from the Act for persons engaged in the practice of public accountancy and subject to regulation by the Board of Public Accountancy.

Your Committee respectfully requests that the Committee on Judiciary consider Legal Aid's suggestion that the provisions of H.B. No. 202, H.D. 1, providing for notice to tenants of rental properties subject to foreclosure, and other amendments proposed by Legal Aid, be incorporated into this bill.

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. 35, 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



