

STAND. COM. REP. NO.

435

Honolulu, Hawaii

FEB 20 2009

RE: S.B. No. 35  
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. 35 entitled:

"A BILL FOR AN ACT RELATING TO MORTGAGES,"

begs leave to report as follows:

The purpose of this measure is to exempt certified public accountants, who are already subject to regulation by the Board of Public Accountancy, from the definition of distressed property consultant under the Mortgage Rescue Fraud Prevention Act.

A distressed property consultant assists homeowners at risk of foreclosure to negotiate with their lender in order to serve the best interest of the homeowner in the foreclosure process. Under current law, a public accountant or certified public accountant is prevented from performing routine accounting services to assist with financial matters that may arise relating to the foreclosure process.

Your Committee received testimony in support of this measure from the Department of Commerce and Consumer Affairs, Office of Consumer Protection; Hawaii Society of Public Accountants; Hawaii Association of Public Accountants; and one private citizen. Your Committee received testimony with comments from the Legal Aid Society of Hawaii.

Your Committee finds that, although protection of financially vulnerable homeowners is critical, public accountants and certified public accountants are already subject to regulation by the Board of Public Accountancy, which supplies adequate

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protection to consumers of public accounting services through existing licensing standards and disciplinary procedures.

Your Committee adopted the recommendation of the representative of the Hawaii Association of Public Accountants to amend section two of this measure. Your Committee has added language to clarify that the exemption from the definition of "distressed property consultant" applies:

- (1) To both public accountants and certified public accountants licensed and regulated pursuant to chapter 466, Hawaii Revised Statutes; and
- (2) To out-of-state public accountants and certified public accountants operating legally under a temporary permit issued by the board of accountancy pursuant to chapter 466, Hawaii Revised Statutes.

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. 35, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 35, 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



