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**PRESENTATION OF
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
OFFICE OF CONSUMER PROTECTION**

TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

**TWENTY-FIFTH STATE LEGISLATURE
REGULAR SESSION OF 2009**

**Monday, February 2, 2009
2:00 p.m.**

TESTIMONY ON HOUSE BILL NO. 943 – RELATING TO PUBLIC ACCOUNTANTS.

**TO THE HONORABLE ROBERT N. HERKES, CHAIR, AND MEMBERS OF THE
COMMITTEE:**

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify in support of House Bill No. 943, Relating to Public Accountants. My name is Stephen Levins, and I am the Executive Director of the Department's Office of Consumer Protection ("OCP").

This bill seeks to correct an unintended consequence of the Mortgage Rescue Fraud Prevention Act ("Act"), Chapter 481E, HRS. The Act, which became law on July 1, 2008, was designed to protect Hawaii consumers from scammers who prey on homeowners facing foreclosure, by requiring that mortgage rescue contracts contain

Testimony on H.B. No. 943
February 2, 2009
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clear disclosures, right to cancel provisions, and fee limitations. Soon after the Act became law, it became apparent that the Act's fee limitations were creating a disincentive for certified public accountants from representing clients before tax authorities whose distressed properties were being subject to tax liens.

This bill seeks to correct this undesirable result by specifically excluding licensed accountants who are engaged in the act of public accountancy or certified public accountancy under chapter 466 from the Act's definition of "distressed property consultant".

Thank you for this opportunity to testify on House Bill No. 943. I will be happy to answer any questions that the members of the Committee may have.



HAWAII ASSOCIATION OF PUBLIC ACCOUNTANTS

Organized August 7, 1943
P.O. BOX 61043
HONOLULU, HAWAII 96839



Before the Committee on Consumer Protection & Commerce And Committee on Judiciary

Monday, February 2, 2009 at 2:00 p.m.
Conference Room 325

Re: **Support for HB943** Relating to Public Accountants

Testimony of **Gregg M. Taketa**

Chair Herkes, Chair Karamatsu, Vice Chair Wakai, Vice Chair Ito and committee members:

I respectfully ask that you vote YES on HB943.

I am a CPA and the State President of the Hawaii Association of Public Accountants (HAPA). I am also a member of the Hawaii Society of Certified Public Accountants (HSCPA) and the American Institute of Certified Public Accountants (AICPA). I support HB943 to exclude public accountants from the scope of the Mortgage Rescue Fraud Prevention Act for the following reasons:

- Subjecting public accountants to the Mortgage Rescue Fraud Prevention Act is unnecessary because public accountants are already regulated by the Hawaii State Board of Public Accountancy. Consumers are able to file complaints directly with the Board.
- The Mortgage Rescue Fraud Prevention Act places undue burdens on Hawaii's Public Accountants in their day-to-day practice of public accounting. For example, the Act requires a distressed property consultant contract be prepared and signed by all parties involved in a distressed property consulting engagement. The AICPA professional standards address the need to obtain an understanding of the terms and objectives of services provided by certified public accountants. The Hawaii State Board of Public Accountancy requires that all licensed certified public accountants and public accountants abide by the AICPA professional standards.

I urge the two committees to support HB943 for these reasons. Thank you for this opportunity to testify.

Respectfully submitted,

Gregg M. Taketa, CPA
State President
Hawaii Association of Public Accountants

Brian M. Iwata, CPA
101 Aupuni St., #139
Hilo, HI 96720

February 1, 2009

The Honorable Representative Robert N. Herkes, Chair
The Honorable Representative Glenn Wakai, Vice Chair
The Honorable Representative Jon Riki Karamatsu, Chair
The Honorable Representative Ken Ito, Vice Chair
Committees on Consumer Protection & Commerce and Judiciary
Hawaii State Capitol, Conference Room 325
415 South Beretania Street
Honolulu, HI 96813

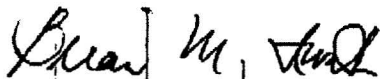
Re: **In Support for HB 943**
Relating to Public Accountants

Chairs Herkes & Karamatsu, Vice-chairs Wakai & Ito, and committee members:

Certified Public Accountants (CPAs) are not "distressed property consultants" and should be excluded from the provisions of the Mortgage Rescue Fraud Prevention Act.

CPAs are already regulated by the Hawaii Board of Public Accountancy should not have to be regulated by another set of rules.

Respectfully submitted,



Brian M. Iwata, CPA

NIWAO
&
ROBERTS

Certified Public Accountants, A Professional Corporation

**Before the Committee on Consumer Protection & Commerce
and the**

Committee on Judiciary

**Monday, February 2, 2009 at 2:00 p.m.
Conference Room 325**

**Re: Support for HB943
Relating to Public Accountancy**

Testimony of Marilyn M. Niwao, J.D., CPA

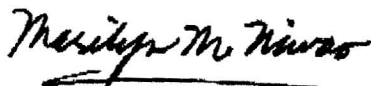
Chair Herkes, Chair Karamatsu, Vice Chair Wakai, Vice Chair Ito and committee members:

I am a CPA and attorney. Born and raised in Hilo, I practice public accounting as a principal of Niwao & Roberts, CPAs, a P.C., a CPA firm on Maui. I am a past state president, current board member and legislative committee co-chairperson for the Hawaii Association of Public Accountants (HAPA), an association that represents local public accounting practitioners (primarily CPA firm owners and staff) throughout the State of Hawaii. I am the National Society of Accountants Governor of District XI, serving on the national governing board of this organization. I am also a member and past director of the HSCPA and a member of the AICPA.

Our firm supports HB943 which excludes certified public accountants (CPAs) and public accountants (PAs) from the scope of Hawaii's Mortgage Rescue Fraud Prevention Act. CPAs should not be considered "distressed property consultants" because, like attorneys (who are already excluded from the definition of distressed property consultants), CPAs are regulated and licensed professionals who are subject to strict ethical responsibilities to their clients.

Thank you for this opportunity to testify.

Respectfully submitted,



Marilyn M. Niwao, J.D., CPA
Principal

TESTIMONY OF
GARY MIYASHIRO, CPA
Committee on Consumer Protection & Commerce
Committee on Judiciary
Monday, February 2, 2009
2:00 PM Conference Room 312

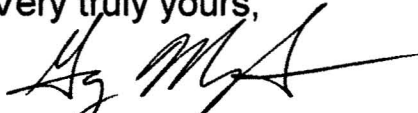
Re: **In support to HB No 943**

Chairs Herkes and Karamatsu and Committee Members:

This measure is merely a technical correction and I am in support of this measure.

Thank you for the opportunity to voice my concerns on this matter

Very truly yours,



Gary Miyashiro