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# A BILL FOR AN ACT

RELATING TO DISTRESSED PROPERTY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1           SECTION 1. Chapter 480E, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§480E-       Registration. (a) Beginning on January 1,  
5 2011, no person shall act, represent, or hold oneself out in  
6 this State as a distressed property consultant or a distressed  
7 property purchaser unless the person registers with the business  
8 registration division of the department of commerce and consumer  
9 affairs prior to doing business in the State as a distressed  
10 property consultant or a distressed property purchaser,  
11 respectively.

12           (b) The department of commerce and consumer affairs shall  
13 adopt rules under chapter 91 to implement this section. The  
14 department may request, as part of the registration process,  
15 copies of any distressed property consultant contracts and  
16 distressed property conveyance contracts."



1 SECTION 2. Section 480E-2, Hawaii Revised Statutes, is  
2 amended by amending the definition of "distressed property  
3 consultant" to read as follows:

4 "Distressed property consultant" [means]:

5 (1) Means any person who performs or makes any  
6 solicitation, representation, or offer to perform any  
7 of the following relating to a distressed property:

8 ~~[(1)]~~ (A) Stop or postpone the foreclosure sale or loss of  
9 any distressed property due to the nonpayment of  
10 any loan that is secured by the distressed  
11 property;

12 ~~[(2)]~~ (B) Stop or postpone the charging of any lien or  
13 encumbrance against any distressed property or  
14 eliminate any lien or encumbrance charged against  
15 any distressed property for the nonpayment of any  
16 taxes, lease assessments, association fees, or  
17 maintenance fees;

18 ~~[(3)]~~ (C) Obtain any forbearance from any beneficiary or  
19 mortgagee, or relief with respect to a tax sale  
20 of the property;

21 ~~[(4)]~~ (D) Assist the owner to exercise any cure of default  
22 arising under Hawaii law;



1        ~~[(5)]~~ (E)    Obtain any extension of the period within which  
2                                the owner may reinstate the owner's rights with  
3                                respect to the property;

4        ~~[(6)]~~ (F)    Obtain any waiver of an acceleration clause  
5                                contained in any promissory note or contract  
6                                secured by a mortgage on a distressed property or  
7                                contained in the mortgage;

8        ~~[(7)]~~ (G)    Assist the owner in foreclosure, loan default, or  
9                                post-tax sale redemption period to obtain a loan  
10                                or advance of funds;

11       ~~[(8)]~~ (H)    Avoid or ameliorate the impairment of the owner's  
12                                credit resulting from the recording or filing of  
13                                a notice of default or the conduct of a  
14                                foreclosure sale or tax sale; or

15       ~~[(9)]~~ (I)    Save the owner's residence from foreclosure or  
16                                loss of home due to nonpayment of taxes~~[-]~~;

17        [~~"Distressed property consultant" shall~~]

18        (2)    Shall not include any of the following:

19       ~~[(1)]~~ (A)    A person or the person's authorized agent acting  
20                                under the express authority or written approval  
21                                of the federal Department of Housing and Urban  
22                                Development;



1        [~~2~~] (B) A person who holds or is owed an obligation  
2                    secured by a lien on any distressed property, or  
3                    a person acting under the express authorization  
4                    or written approval of such person, when the  
5                    person performs services in connection with the  
6                    obligation or lien, if the obligation or lien did  
7                    not arise as the result of or as part of a  
8                    proposed distressed property conveyance;

9        [~~3~~] (C) Banks, savings banks, savings and loan  
10                    associations, credit unions, trust companies,  
11                    depository and nondepository financial service  
12                    loan companies, and insurance companies  
13                    organized, chartered, or holding a certificate of  
14                    authority to do business under the laws of this  
15                    State or any other state, or under the laws of  
16                    the United States;

17        [~~4~~] (D) Licensed attorneys engaged in the practice of  
18                    law[+] in the State of Hawaii;

19        [~~5~~] (E) Certified public accountants licensed under  
20                    chapter 466, persons holding a permit to practice  
21                    public accountancy in the State of Hawaii, and  
22                    persons holding a valid certified public



1 accountant license issued under the laws of  
2 another state or territory who are lawfully  
3 practicing in the State of Hawaii with a  
4 temporary permit to practice pursuant to rules  
5 established by the board of public accountancy  
6 and who are subject to regulation by the board of  
7 public accountancy while engaged in the practice  
8 of public accountancy;

9 ~~[(6)]~~ (F) A federal Department of Housing and Urban  
10 Development approved mortgagee and any subsidiary  
11 or affiliate of these persons or entities, and  
12 any agent or employee of these persons or  
13 entities, while engaged in the business of these  
14 persons or entities;

15 ~~[(7)]~~ (G) A nonprofit organization that, pursuant to  
16 chapter 446, offers counseling or advice to an  
17 owner of a distressed property, if the nonprofit  
18 organization has no contract or agreement for  
19 services with lenders, distressed property  
20 purchasers, or any person who effects loans or  
21 distressed property purchases; or



1            [~~8~~] (H)   A person currently licensed as an active real  
2                            estate broker or real estate salesperson in  
3                            Hawaii pursuant to chapter 467, when acting in  
4                            the capacity of a real estate broker or real  
5                            estate salesperson in accordance with customary  
6                            industry standards."

7            SECTION 3.  This Act does not affect rights and duties that  
8 matured, penalties that were incurred, and proceedings that were  
9 begun before its effective date.

10           SECTION 4.  Statutory material to be repealed is bracketed  
11 and stricken.  New statutory material is underscored.

12           SECTION 5.  This Act shall take effect upon its approval.

13

INTRODUCED BY:

*[Signature]*

JAN 27 2010



**Report Title:**

Distressed Property; Registration

**Description:**

Requires distressed property consultants and distressed property purchasers to register with the department of commerce and consumer affairs prior to doing business in the State. Clarifies that attorneys licensed in the State are not distressed property consultants.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

