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# A BILL FOR AN ACT

RELATING TO THE MORTGAGE RESCUE FRAUD PREVENTION ACT.

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

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

4           "§480E-A Mortgage rescue fraud prevention special fund.

5           (a) There is established in the state treasury a special fund  
6 to be known as the mortgage rescue fraud prevention special fund  
7 and to be administered by the department of commerce and  
8 consumer affairs. All fines collected under sections 480E-B and  
9 480E-11 shall be deposited in the fund. Interest earned from  
10 the balance of the fund shall become a part of the fund.

11           (b) Moneys in the special fund shall be used to enforce  
12 this chapter, educate the public on the requirements and  
13 prohibitions of this chapter, and inform consumers about  
14 fraudulent activities that may be committed against homeowners  
15 who face property foreclosures, liens, or encumbrances.

16           §480E-B Criminal penalties. Any person who violates  
17 section 480E-10 is guilty of a class C felony and, in addition  
18 to any other penalties, shall be fined \$10,000."



1 SECTION 2. Section 26-9, Hawaii Revised Statutes, is  
2 amended by amending subsection (o) to read as follows:

3 "(o) Every person licensed under any chapter within the  
4 jurisdiction of the department of commerce and consumer affairs  
5 and every person licensed subject to chapter 485A or registered  
6 under chapter 467B shall pay upon issuance of a license, permit,  
7 certificate, or registration a fee and a subsequent annual fee  
8 to be determined by the director and adjusted from time to time  
9 to ensure that the proceeds, together with all other fines,  
10 income, and penalties collected under this section, do not  
11 surpass the annual operating costs of conducting compliance  
12 resolution activities required under this section. The fees may  
13 be collected biennially or pursuant to rules adopted under  
14 chapter 91, and shall be deposited into the special fund  
15 established under this subsection. Every filing pursuant to  
16 chapter 514E or section 485A-202(a)(26) shall be assessed, upon  
17 initial filing and at each renewal period in which a renewal is  
18 required, a fee that shall be prescribed by rules adopted under  
19 chapter 91, and that shall be deposited into the special fund  
20 established under this subsection. Any unpaid fee shall be paid  
21 by the licensed person, upon application for renewal,  
22 restoration, reactivation, or reinstatement of a license, and by



1 the person responsible for the renewal, restoration,  
2 reactivation, or reinstatement of a license, upon the  
3 application for renewal, restoration, reactivation, or  
4 reinstatement of the license. If the fees are not paid, the  
5 director may deny renewal, restoration, reactivation, or  
6 reinstatement of the license. The director may establish,  
7 increase, decrease, or repeal the fees when necessary pursuant  
8 to rules adopted under chapter 91. The director may also  
9 increase or decrease the fees pursuant to section 92-28.

10       There is created in the state treasury a special fund to be  
11 known as the compliance resolution fund to be expended by the  
12 director's designated representatives as provided by this  
13 subsection. Notwithstanding any law to the contrary, all  
14 revenues, fees, and fines collected by the department shall be  
15 deposited into the compliance resolution fund. Unencumbered  
16 balances existing on June 30, 1999, in the cable television fund  
17 under chapter 440G, the division of consumer advocacy fund under  
18 chapter 269, the financial institution examiners' revolving  
19 fund, section 412:2-109, the special handling fund, section  
20 414-13, and unencumbered balances existing on June 30, 2002, in  
21 the insurance regulation fund, section 431:2-215, shall be  
22 deposited into the compliance resolution fund. This provision



1 shall not apply to the drivers education fund underwriters fee,  
2 sections 431:10C-115 and 431:10G-107, insurance premium taxes  
3 and revenues, revenues of the workers' compensation special  
4 compensation fund, section 386-151, the captive insurance  
5 administrative fund, section 431:19-101.8, the insurance  
6 commissioner's education and training fund, section 431:2-214,  
7 the medical malpractice patients' compensation fund as  
8 administered under section 5 of Act 232, Session Laws of Hawaii  
9 1984, and fees collected for deposit in the office of consumer  
10 protection restitution fund, section 487-14, the real estate  
11 appraisers fund, section 466K-1, the real estate recovery fund,  
12 section 467-16, the real estate education fund, section 467-19,  
13 the contractors recovery fund, section 444-26, the contractors  
14 education fund, section 444-29, the condominium education trust  
15 fund, section 514B-71, [and] the mortgage foreclosure dispute  
16 resolution special fund, section 667-86[-], and the mortgage  
17 rescue fraud prevention special fund, section 480E-A. Any law  
18 to the contrary notwithstanding, the director may use the moneys  
19 in the fund to employ, without regard to chapter 76, hearings  
20 officers and attorneys. All other employees may be employed in  
21 accordance with chapter 76. Any law to the contrary  
22 notwithstanding, the moneys in the fund shall be used to fund



1 the operations of the department. The moneys in the fund may be  
2 used to train personnel as the director deems necessary and for  
3 any other activity related to compliance resolution.

4 As used in this subsection, unless otherwise required by  
5 the context, "compliance resolution" means a determination of  
6 whether:

- 7 (1) Any licensee or applicant under any chapter subject to  
8 the jurisdiction of the department of commerce and  
9 consumer affairs has complied with that chapter;
- 10 (2) Any person subject to chapter 485A has complied with  
11 that chapter;
- 12 (3) Any person submitting any filing required by chapter  
13 514E or section 485A-202(a)(26) has complied with  
14 chapter 514E or section 485A-202(a)(26);
- 15 (4) Any person has complied with the prohibitions against  
16 unfair and deceptive acts or practices in trade or  
17 commerce; or
- 18 (5) Any person subject to chapter 467B has complied with  
19 that chapter;

20 and includes work involved in or supporting the above functions,  
21 licensing, or registration of individuals or companies regulated  
22 by the department, consumer protection, and other activities of



1 the department.

2 The director shall prepare and submit an annual report to  
3 the governor and the legislature on the use of the compliance  
4 resolution fund. The report shall describe expenditures made  
5 from the fund including non-payroll operating expenses."

6 SECTION 3. Section 480E-11, Hawaii Revised Statutes, is  
7 amended by amending its title to read as follows:

8 "[+]§480E-11[+]—~~Violation,~~] Unfair or deceptive act or  
9 practice; penalties."

10 SECTION 4. In codifying the new sections added by section  
11 1 of this Act, the revisor of statutes shall substitute  
12 appropriate section numbers for the letters used in designating  
13 the new sections in this Act.

14 SECTION 5. This Act does not affect rights and duties that  
15 matured, penalties that were incurred, and proceedings that were  
16 begun before its effective date.

17 SECTION 6. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

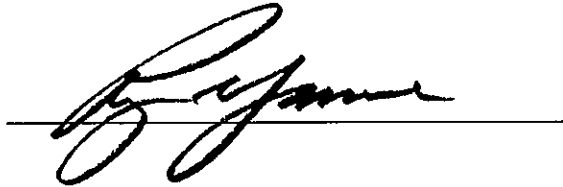
19 SECTION 7. This Act shall take effect on July 1, 2012;  
20 provided that the amendments made to section 26-9(o), Hawaii  
21 Revised Statutes, by section 2 of this Act shall not be repealed  
22 when section 26-9(o), Hawaii Revised Statutes, is reenacted on



# H.B. NO. 2375

1 September 30, 2014, pursuant to section 45(5) of Act 48, Session  
2 Laws of Hawaii 2011.  
3

INTRODUCED BY:



JAN 23 2012



# H.B. NO. 2375

**Report Title:**

Property Foreclosures, Liens, and Encumbrances; Mortgage Rescue Fraud; Distressed Property

**Description:**

Establishes criminal penalties and a mandatory fine for certain violations of the mortgage rescue fraud prevention act.

Establishes a special fund to enforce the mortgage rescue fraud prevention act and for related public educational activities.

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

