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PRESENTATION OF THE  
OFFICE OF CONSUMER PROTECTION

TO THE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

THE TWENTY-SEVENTH  
REGULAR SESSION OF 2014

FEBRUARY 5, 2014  
2:10 PM

TESTIMONY IN SUPPORT OF H.B. 2275, RELATING TO MORTGAGE RESCUE  
FRAUD.

TO THE HONORABLE ANGUS L. K. McKELVEY, CHAIR,  
AND TO THE HONORABLE DEREK S. K. KAWAKAMI, VICE CHAIR,  
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs, Office of Consumer Protection ("OCP") appreciates the opportunity to appear today and testify in strong support of this administration measure, H. B. 2275, Relating to Mortgage Rescue Fraud. My name is Bruce B. Kim and I am the Executive Director of OCP.

H. B. 2275 amends Hawaii's mortgage rescue law by (1) narrowing an attorney exemption in the chapter to only Hawaii licensed attorneys; and (2) defining "distressed property consultant" to include persons or entities that attempt to provide, arrange for others to provide, or assists others to provide mortgage rescue services.

The changes pertaining to the definition of “distressed property consultant” under § 480E-2 of the Hawaii Revised Statutes (“HRS”) are intended to make clear that persons or entities who offers services to distressed property owners ostensibly as agents of another person or entity are acting as “distressed property consultants” under that section. This will greatly assist the Office of Consumer Protection in enforcing the law against all persons who were involved in the mortgage rescue scheme. The requested change to the section exempting attorneys engaged in the practice of law from the provisions of the Act makes clear that only attorneys licensed to practice law in the State of Hawaii are exempt. This revision will align Chap. 480E’s attorney exemption with the Federal Trade Commission’s Mortgage Assistance Relief Services (“MARS”) rule, 16 CFR Part 322, which was adopted on December 1, 2010. The MARS rule provides that “an attorney is exempt from this part, . . . , if the attorney: . . . (2) is licensed to practice law in the state in which the consumer for whom the attorney is providing mortgage assistance relief services resides or in the state which the consumer’s dwelling is located; . . .” 16 CFR Part 322 § 322.7(a)(2).

This change will ensure that all attorneys performing distressed property consulting in Hawaii are subject to the Hawaii Rules of Professional Conduct and fall within the jurisdiction of Hawaii’s Office of the Disciplinary Counsel.

Thank you for the opportunity to submit testimony in strong support of H. B. 2275. I would be happy to answer any questions members of the committee may have.

## kawakami3-Benigno

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, January 31, 2014 3:24 PM  
**To:** CPCtestimony  
**Cc:** epei@hawaiiiba.org  
**Subject:** Submitted testimony for HB2275 on Feb 5, 2014 14:10PM

### HB2275

Submitted on: 1/31/2014

Testimony for CPC on Feb 5, 2014 14:10PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Edward Pei	Hawaii Bankers Association	Support	No

Comments: My name is Edward Pei and I am the Executive Director of the Hawaii Bankers Association, a trade association representing eleven FDIC insured depository institutions operating in the State of Hawaii. We support the intent of HB2275 and any efforts to protect homeowners of distressed properties from any tye of mortgage rescue fraud. Please let us know if we can answer any questions or provide further information.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**kawakami3-Benigno**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 04, 2014 9:36 AM  
**To:** CPCtestimony  
**Cc:** mendezj@hawaii.edu  
**Subject:** \*Submitted testimony for HB2275 on Feb 5, 2014 14:10PM\*

**HB2275**

Submitted on: 2/4/2014

Testimony for CPC on Feb 5, 2014 14:10PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Javier Mendez-Alvarez	Individual	Support	No

Comments:

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