

HB 2275

Measure Title: RELATING TO MORTGAGE RESCUE FRAUD.

Report Title: Mortgage Rescue Fraud Prevention; Distressed Property Consultant; Attorney Exception

Description: Clarifies definition of "distressed property consultant" and specifies that attorneys must be licensed by, and engaged in the practice of law in, the State of Hawaii in order to fall within the class of exceptions to the definition of "distressed property consultant".

Companion: SB2825

Package: Governor

Current Referral: CPN, JDL

Introducer(s): SOUKI (Introduced by request of another party)



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PRESENTATION OF THE
OFFICE OF CONSUMER PROTECTION

TO THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2014

TUESDAY, MARCH 11, 2014
9:30 A.M.

TESTIMONY IN SUPPORT ON HOUSE BILL NO. 2275
RELATING TO MORTGAGE RESCUE FRAUD.

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND TO THE HONORABLE BRIAN T. TANIGUCHI, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("DCCA"), Office of Consumer Protection ("OCP") appreciates the opportunity to appear today and testify in strong support of this administration measure. H.B. No. 2275, Relating to Mortgage Rescue Fraud. My name is Bruce B. Kim and I am the Executive Director of OCP.

H.B. No. 2275 amends Hawaii's mortgage rescue law, Chapter 480E, Hawaii Revised Statutes, Mortgage Rescue Fraud Prevention Act, by (1) clarifying that only Hawaii-licensed attorneys are eligible for an exemption under the Act; and (2) defining "distressed property consultant" to include persons or entities that attempt to provide,

arrange for others to provide, or assist others in providing mortgage rescue services.

The amendments will greatly assist the Office of Consumer Protection in enforcing the mortgage rescue fraud law against all persons involved in the mortgage rescue scheme. The amendment to the attorney exemption makes clear that only attorneys licensed in Hawaii engaged in the practice of law are exempt from the application of the statute. This amendment will align Chapter 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 where the consumer's dwelling is located . . ." 16 CFR Part 322, § 322.7(a)(2).

The change to the language of the attorney exemption will assure 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 Disciplinary Counsel.

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



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Testimony to the Senate Committee on Commerce & Consumer Protection
March 11, 2014

Testimony in support of HB 2275, Relating to Mortgage Rescue Fraud

To: The Honorable Rosalyn Baker, Chair
The Honorable Brian Taniguchi, Vice-Chair
Members of the Committee on Commerce & Consumer Protection

My name is Stefanie Sakamoto, and I am testifying on behalf of the Hawaii Credit Union League, the local trade association for 75 Hawaii credit unions, representing approximately 804,000 credit union members across the state.

We are in support of HB 2275, Relating to Mortgage Rescue Fraud. This bill expands the definition of "distressed property consultant", and clarifies the exemption section. We have had several credit unions report instances where their members have been victims of these types of fraudulent schemes. Further clarity to this law would serve consumers. We appreciate the efforts of the legislature regarding this important issue.

Thank you for the opportunity to testify.