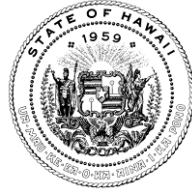


HB2275



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PRESENTATION OF THE
OFFICE OF CONSUMER PROTECTION

TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR

THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2014

TUESDAY, MARCH 25, 2014
10:00 A.M.

WRITTEN TESTIMONY
IN SUPPORT OF HOUSE BILL NO. 2275, RELATING TO
MORTGAGE RESCUE FRAUD.

TO THE HONORABLE CLAYTON HEE, CHAIR,
AND TO THE HONORABLE MAILE S.L. SHIMABUKURO, 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. 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, 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.

The Senate companion bill, S.B. 2825, passed out of the Senate Commerce and Consumer Protection Committee unamended on February 3, 2014, but did not cross-over to the House.

Testimony on House Bill No. 2275
March 25, 2014
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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.