

STAND. COM. REP. NO. **1225**-22

Honolulu, Hawaii  
, 2022

**MAR 22**

RE: S.B. No. 3082  
S.D. 1  
H.D. 1

Honorable Scott K. Saiki  
Speaker, House of Representatives  
Thirty-First State Legislature  
Regular Session of 2022  
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred S.B. No. 3082, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO MORTGAGE RESCUE FRAUD,"

begs leave to report as follows:

The purpose of this measure is to amend the Mortgage Rescue Fraud Prevention Act by:

- (1) Deleting certain exemptions to the definition of "distressed property consultant" in the State's Mortgage Rescue Fraud Prevention Act that are not in the federal Mortgage Assistance Relief Services Rule; and
- (2) Correcting a typographical error in the definition of "mortgage assistance relief service."

Your Committee received testimony in support of this measure from the Department of Commerce and Consumer Affairs. Your Committee received testimony in opposition to this measure from the Hawai'i Association of REALTORS and Hawaii Bankers Association.

Your Committee finds that, in 2008, the State enacted the Mortgage Rescue Fraud Prevention Act (MRFPA) to protect consumers from mortgage rescue scams. There was no federal counterpart to



the MRFPA until the enactment of the Federal Trade Commission's (FTC) Mortgage Assistance Relief Services Rule (MARS Rule) in December 2010. Both the MRFPA and MARS Rule are designed to protect consumers from abusive mortgage relief practices, but take distinctly different approaches to identify the persons from whom consumers should be protected. This measure takes the unique protection provisions of the MARS Rule and combines and reconciles those with the protection provisions already present and unique to the MRFPA.

Your Committee further finds that, on July 15, 2011, the FTC announced that it decided not to enforce most provisions of its MARS Rule against real estate professionals who are acting in their licensed capacity while assisting sellers to obtain a short sale for their residence. The FTC stated it would still enforce the MARS Rule against real estate professionals who make fraudulent misrepresentations during the course of obtaining a short sale for their clients. For consistency, your Committee believes that the existing exemption for real estate brokers and salespersons under the MRFPA should be retained. Your Committee notes, in its commitment to consumer protection, that the conferral of an exemption for certain classes of persons from enforcement is not equivalent to authorizing those classes of persons to commit prohibited actions.

Accordingly, your Committee has amended this measure by:

- (1) Reinstating the existing statutory exemption for real estate brokers and real estate salespersons when acting in their professional capacities in accordance with customary industry standards;
- (2) Changing the effective date to January 1, 2050, to encourage further discussion; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3082, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto



as S.B. No. 3082, S.D. 1, H.D. 1, and be referred to your  
Committee on Judiciary & Hawaiian Affairs.

Respectfully submitted on  
behalf of the members of the  
Committee on Consumer  
Protection & Commerce,



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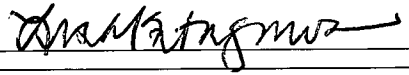
AARON LING JOHANSON, Chair



State of Hawaii  
House of Representatives  
The Thirty-first Legislature

HSCR1225-22

**Record of Votes of the Committee on Consumer Protection & Commerce**

Bill/Resolution No.: <b>SB 3082, SDi</b>	Committee Referral: <b>CPC, JHA</b>	Date: <b>3/17/22</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
CPC Members	Ayes	Ayes (WR)	Nays	Excused
1. JOHANSON, Aaron Ling (C)	✓			
2. KITAGAWA, Lisa (VC)	✓			
3. AQUINO, Henry J.C.	✓			
4. HAR, Sharon E.	✓			
5. HASHEM, Mark J.	✓			
6. KONG, Sam Satoru				✓
7. MIZUNO, John M.	✓			
8. MORIKAWA, Dee	✓			
9. ONISHI, Richard H.K.	✓			
10. TARNAS, David A.	✓			
11. MATSUMOTO, Lauren	✓			
<b>TOTAL (11)</b>	<b>10</b>	<b>0</b>	<b>0</b>	<b>1</b>
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <div style="text-align: center; font-size: small;">committee acronym(s)</div>				
Vice Chair's or designee's signature: <u></u>				
<b>Distribution:</b> Original (White) – Committee    Duplicate (Yellow) – Chief Clerk's Office    Duplicate (Pink) – HMSO				