STAND. COM. REP. NO. **694** 

Honolulu, Hawaii

Meah 23, 2009

RE: S.B. No. 35 S.D. 1

Honorable Calvin K.Y. Say Speaker, House of Representatives Twenty-Fifth State Legislature Regular Session of 2009 State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred S.B. No. 35, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO MORTGAGES,"

begs leave to report as follows:

The purpose of this bill is to exempt:

- (1) Certified public accountants (CPAs) licensed and regulated under Chapter 466, Hawaii Revised Statutes (HRS);
- (2) Persons holding a permit to practice public accountancy in Hawaii; and
- (3) Out-of-state CPAs operating under a temporary permit issued by the Board of Accountancy pursuant to Chapter 466, HRS,

from the requirements of the Mortgage Rescue Fraud Prevention Act (Act), Chapter 480E, HRS.

The Department of Commerce and Consumer Affairs, Hawaii Society of Certified Public Accountants, and a concerned individual testified in support of this bill. The Legal Aid Society of Hawaii (Legal Aid) provided comments.

SB35 SD1 HSCR CPC HMS 2009-3076

The Act was intended to protect homeowners facing foreclosure by requiring mortgage rescue contracts to include certain disclosures, right-to-cancel provisions, and fee limitations. However, the Act's requirements have discouraged accountants from representing clients before tax authorities in cases involving distressed properties with tax liens. This bill attempts to correct this undesirable result by creating an exemption from the Act for persons engaged in the practice of public accountancy and subject to regulation by the Board of Public Accountancy.

Your Committee respectfully requests that the Committee on Judiciary consider Legal Aid's suggestion that the provisions of H.B. No. 202, H.D. 1, providing for notice to tenants of rental properties subject to foreclosure, and other amendments proposed by Legal Aid, be incorporated into this bill.

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. 35, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

ROBERT N. HERKES, Chair

## State of Hawaii House of Representatives The Twenty-fifth Legislature

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

Bill/Resolution No.: Sb 35 SD 1	Committee Referral:		Date: 3/14/09	
☐ The committee is reconsidering its previous decision on the measure.				
The recommendation is to:  Pass, unamended (as is)  Pass, with amendments (HD)  Hold  Pass short form bill with HD to recommit for future public hearing (recommit)				
CPC Members	Ayes	Ayes (WR)	Nays	Excused
1. HERKES, Robert N. (C)				
2. WAKAI, Glenn (VC)				
3. BELATTI, Della Au				<b></b>
4. CABANILLA, Rida			A SECOND STATE	
5. CARROLL, Mele				
6. ITO, Ken				
7. KARAMATSU, Jon Riki 8. LUKE, Sylvia				
9. McKELVEY, Angus L.K.				
10. MIZUNO, John M.				
11. MORITA, Hermina M.				
12. SOUKI, Joseph M.				
13. TSUJI, Clift	1			
14. MARUMOTO, Barbara C.				
15. THIELEN, Cynthia				
		-		
		1		
TOTAL (15)	12	6	6	$\sim$
The recommendation is:  Adopted Not Adopted did not support recommendation.				
Vice Chair's or designee's signature:				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				