

Testimony of Hawaii Society
of Certified Public Accountants

LATE TESTIMONY

900 Fort Street Mall, Suite 850
Honolulu HI 96813

phone 537-9475 fax 537-3520

Before the House Committees on
Consumer Protection & Commerce
and
Judiciary

Monday, February 2, 2009
2:00 pm
Conference Room 325

Re: HB 943
Public Accountants/Mortgage Rescue Fraud Prevention Act

Chairs Herkes and Karamatsu, Vice Chairs Wakai and Ito, and Committee members:

Thank you for the opportunity to testify in support of House Bill 943. We believe this Bill is needed to clarify the intent of the Mortgage Rescue Fraud Prevention Act passed last year. Basically, this Bill would exempt CPAs, who are already regulated by the State Board of Accountancy, from the provisions of the Mortgage Rescue Fraud Prevention Act.

The Mortgage Rescue Fraud Prevention Act was intended to protect the public from so-called "consultants" who promised to help property owners avoid foreclosure, obtain the release of liens, and/or restructure debt, but who often promised much more than they could deliver. Before the Mortgage Fraud Prevention Act was passed, anyone could call himself or herself a consultant, and some unethical and/or incompetent consultants were preying upon desperate homeowners. Thus, the Act was passed in the 2008 legislative session.

The problem is that the Act defines the term "distressed property consultant" in a way that could include many CPAs. For example, a CPA assisting a taxpayer in trying to get an IRS lien released would be within the definition. A CPA advising a client about refinancing of debt could be within the definition. CPAs often perform these types of tax and financial planning services. Unlike other consultants, however, CPAs are already subject to licensing and regulation, and potentially subject to disciplinary action, by the State Board of Accountancy.

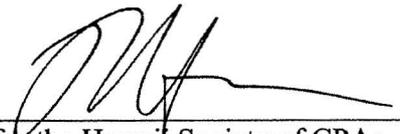
It is therefore unnecessary, and potentially creates conflicting interpretations of the law, to include CPAs within the definition "distressed property consultants" under the Mortgage Fraud Prevention Act.

We do not believe that the Legislature ever actually intended to include licensed CPAs, practicing under the laws and rule that govern CPAs, to be covered by the Mortgage Fraud Prevention Act. We think that this question simply did not come to the attention of the Legislature last year.

We urge you to pass HB 943 and eliminate the potential confusion, allowing CPAs to be regulated by the State Board of Accountancy, under the laws and rules that exist for that purpose.

Thank you for your attention to this matter.

Respectfully submitted,



for the Hawaii Society of CPAs
900 Fort Street Mall, Suite 850
Honolulu HI 96813

phone 537-9475 fax 537-3520