STAND. COM. REP. NO. 678

Honolulu, Hawaii Moreh 5, 2009

RE: H.B. No. 233 H.D. 1

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

Sir:

Your Committees on Consumer Protection & Commerce and Judiciary, to which was referred H.B. No. 233 entitled:

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

beg leave to report as follows:

The purpose of this bill is to exempt licensed real estate brokers and salespersons from the requirements of the Mortgage Rescue Fraud Prevention Act (Act), Chapter 480E, Hawaii Revised Statutes (HRS). This bill also prohibits these persons from acquiring an ownership interest in any distressed residential property currently listed with the broker or salesperson or within a year after the listing agreement is terminated.

The Department of Commerce and Consumer Affairs and Hawaii Association of REALTORS testified in support of this bill. The Legal Aid Society of Hawaii, Office of Hawaiian Affairs, and Mortgage Assistance & Mitigation Group opposed this measure.

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 real estate brokers and salespersons from facilitating "short sales" - in which a lender agrees to discount the mortgage loan balance because of the mortgagor's financial hardship - that can prevent home foreclosures. This bill attempts to correct this undesirable



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result by creating an exemption from the Act for licensed real estate brokers and salespersons, who are already regulated under Chapter 467, HRS, when acting in their respective capacities.

Upon further consideration, your Committees have amended this bill by also exempting certified public accountants, who are already regulated under Chapter 466, HRS, from the Act when acting in that capacity. Technical, nonsubstantive amendments were also made for clarity and style.

As affirmed by the records of votes of the members of your Committees on Consumer Protection & Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 233, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 233, H.D. 1, and be placed on the calendar for Third Reading.

> Respectfully submitted on behalf of the members of the Committees on Consumer Protection & Commerce and Judiciary,

KARAMATSU. Chair

ROBERT N. HERKES, Chair



State of Hawaii House of Representatives The Twenty-fifth Legislature

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Record of Votes of the Committee on Consumer Protection & Commerce

Bill/Resolution No.: HB ス33	Committee Referral:			Date: 2/23/09		
□ The committee is reconsidering its pre	/ evious decision o	on the measure.		,		
	s, unamended (as s short form bill		ss, with amendments mmit for future publi			
CPC Members		Ayes	Ayes (WR)	Nays	Excused	
1. HERKES, Robert N. (C)		$\overline{}$				
2. WAKAI, Glenn (VC)		\checkmark			/	
3. BELATTI, Della Au		/				
4. CABANILLA, Rida		\checkmark			WAY S	
5. CARROLL, Mele		/			VQ.	
6. ITO, Ken		\checkmark			1 A	
7. KARAMATSU, Jon Riki		1			()	
8. LUKE, Sylvia		\checkmark				
9. McKELVEY, Angus L.K.		/	•		\checkmark	
10. MIZUNO, John M.		\checkmark				
11. MORITA, Hermina M.					\sim	
12. SOUKI, Joseph M.						
13. TSUJI, Clift	6.	Vr				
14. MARUMOTO, Barbara C.		//				
15. THIELEN, Cynthia						
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The recommendation is: Ad If joint	t referral,	Not Adopt	did not suppo	vort recommendation.		
Vice Chair's or designee's signature:		ŶΧ		-1-10-10-10-10-10-10-10-10-10-10-10-10-1		
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Record of Votes of the Committee on Judiciary

Bill/Resolution No.:	Committee Referral:	Date	Date: 2-23-09					
HB 233	CPCIJUD	2						
□ The committee is reconsidering its prev	vious decision on the measure.							
The recommendation is to: Image: Pass, unamended (as is) Image: Pass, with amendments (HD) Image: Hold Image: Pass short form bill with HD to recommit for future public hearing (recommit)								
JUD Members	Ayes	Ayes (WR)	Nays	Excused				
1. KARAMATSU, Jon Riki (C)	1							
2. ITO, Ken (VC)	1							
3. BELATTI, Della Au				~				
4. CABANILLA, Rida	/							
5. CARROLL, Mele				~				
6. HERKES, Robert N.	1							
7. LUKE, Sylvia								
8. McKELVEY, Angus L.K.				1				
9. MIZUNO, John M.								
10. MORITA, Hermina M.								
11. OSHIRO, Blake K.	1							
12. SOUKI, Joseph M.	/							
13. TSUJI, Clift	· ·							
14. WAKAI, Glenn	1							
15. MARUMOTO, Barbara C.		ning and a second s						
16. THIELEN, Cynthia	1							
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TOTAL (16)	12	φ	φ	4				
The recommendation is: Add If joint	opted D Not Adop referral, committee acronyn	did not suppo	rt recommendation.					
Vice Chair's or designee's signature:	Hoge Kan							
Distribution: Original (White) – Commi	ttee Duplicate (Yellow)	- Chief Clerk's Office	Duplicate (Pi	nk) – HMSO				