

STAND. COM. REP. NO.

3009

Honolulu, Hawaii

MAR 19 2008

RE: H.B. No. 2326
H.D. 2
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Madam:

Your Committee on Commerce, Consumer Protection, and
Affordable Housing, to which was referred H.B. No. 2326, H.D. 2,
entitled:

"A BILL FOR AN ACT RELATING TO MORTGAGES,"

begs leave to report as follows:

The purpose of this measure is to protect Hawaii consumers
from property consultants who prey on homeowners facing
foreclosure by requiring these consultants to provide homeowners
with a written contract spelling out services and with the right
to cancel at any time before the services are actually performed.

Specifically, this measure establishes a new chapter under
title 26, Hawaii Revised Statutes, to set forth the Mortgage
Rescue Fraud Act to:

- (1) Require mortgage rescuers to provide homeowners with a
written contract that spells out the services the
mortgage rescuer is expected to provide and allow the
homeowner the right to cancel the contract at any time
before the services are rendered; and
- (2) Limit the amount that the mortgage rescuer can make if
the homeowner is successful in buying back the home to
one hundred twenty-five per cent of the total debt on
the home paid by the mortgage rescuer, and require that
the mortgage rescuer provide the homeowner with at least



eighty-two per cent of the value of their home if the homeowner is eventually unable to buy back the home from the mortgage rescuer.

Testimony in support of this measure was submitted by the Department of Commerce and Consumer Affairs, the Hawaii Association of Realtors, and the Legal Aid Society of Hawai'i.

Scammers called "mortgage rescuers" seek to take advantage of desperate homeowners trying to save their property from foreclosure by offering phantom help to homeowners, and taking a fee of a few thousand dollars for supposedly negotiating with the homeowners' creditors. After collecting the money, many mortgage rescuers do little or no work and essentially abandon the homeowners. In the most insidious cases, the mortgage rescuer will persuade families to deed their home to investors for a year to supposedly allow families time to clear up their credit and refinance the property, and then take back title free and clear. In many cases, the homeowners wind up becoming tenants and then being evicted from their own home. Your Committee finds that this measure addresses both forms of trickery by forcing the mortgage rescuers to provide homeowners with a written contract that spells out the services the mortgage rescuer is expected to provide and allowing the homeowner the right to cancel the contract at any time before the services are rendered.

Your Committee has amended this measure by:

- (1) Changing from five to fifteen days the period of rescission or cancellation, on the recommendation of the Hawaii Association of Realtors, to be consistent with section 508D-5, Hawaii Revised Statutes, relating to delivery of disclosure statements to the buyer;
- (2) Changing the period in which the distressed property purchaser may record the distressed property conveyance if the contract has not been cancelled, from ten to twenty days after execution; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee believes that this measure, as amended, fulfills the intent of this measure, which is to protect Hawaii



consumers from property consultants who prey on homeowners facing foreclosure.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Affordable Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2326, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2326, H.D. 2, S.D. 1, and be referred to the Committee on Judiciary and Labor.

Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Affordable
Housing,



RUSSELL S. KOKUBUN, Chair



