

**GOV. MSG. NO. 690**

EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

May 26, 2009

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fifth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on May 26, 2009, the following bill was signed into law:

SB35 SD1 HD1 CD1

A BILL FOR AN ACT  
RELATING TO MORTGAGES.  
**ACT 073 (09)**

Sincerely,



LINDA LINGLE

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# A BILL FOR AN ACT

RELATING TO MORTGAGES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. The purpose of this Act is to exempt certified  
2 public accountants, who are already regulated by and subject to  
3 the rules adopted by the board of public accountancy, from the  
4 provisions of the Mortgage Rescue Fraud Prevention Act.

5 SECTION 2. Section 480E-2, Hawaii Revised Statutes, is  
6 amended by amending the definition of "distressed property  
7 consultant" to read as follows:

8 "Distressed property consultant" means any person who  
9 performs or makes any solicitation, representation, or offer to  
10 perform any of the following relating to a distressed property:

11 (1) Stop or postpone the foreclosure sale or loss of any  
12 distressed property due to the nonpayment of any loan  
13 that is secured by the distressed property;

14 (2) Stop or postpone the charging of any lien or  
15 encumbrance against any distressed property or  
16 eliminate any lien or encumbrance charged against any  
17 distressed property for the nonpayment of any taxes,



- 1 lease assessments, association fees, or maintenance  
2 fees;
- 3 (3) Obtain any forbearance from any beneficiary or  
4 mortgagee, or relief with respect to a tax sale of the  
5 property;
- 6 (4) Assist the owner to exercise any cure of default  
7 arising under Hawaii law;
- 8 (5) Obtain any extension of the period within which the  
9 owner may reinstate the owner's rights with respect to  
10 the property;
- 11 (6) Obtain any waiver of an acceleration clause contained  
12 in any promissory note or contract secured by a  
13 mortgage on a distressed property or contained in the  
14 mortgage;
- 15 (7) Assist the owner in foreclosure, loan default, or  
16 post-tax sale redemption period to obtain a loan or  
17 advance of funds;
- 18 (8) Avoid or ameliorate the impairment of the owner's  
19 credit resulting from the recording or filing of a  
20 notice of default or the conduct of a foreclosure sale  
21 or tax sale; or



1 (9) Save the owner's residence from foreclosure or loss of  
2 home due to nonpayment of taxes.

3 "Distressed property consultant" shall not include any of  
4 the following:

5 (1) A person or the person's authorized agent acting under  
6 the express authority or written approval of the  
7 federal Department of Housing and Urban Development;

8 (2) A person who holds or is owed an obligation secured by  
9 a lien on any distressed property, or a person acting  
10 under the express authorization or written approval of  
11 such person, when the person performs services in  
12 connection with the obligation or lien, if the  
13 obligation or lien did not arise as the result of or  
14 as part of a proposed distressed property conveyance;

15 (3) Banks, savings banks, savings and loan associations,  
16 credit unions, trust companies, depository and  
17 nondepository financial service loan companies, and  
18 insurance companies organized, chartered, or holding a  
19 certificate of authority to do business under the laws  
20 of this State or any other state, or under the laws of  
21 the United States;

22 (4) Licensed attorneys engaged in the practice of law;



1        (5) Certified public accountants licensed under chapter  
2        466, persons holding a permit to practice public  
3        accountancy in the State of Hawaii, and persons  
4        holding a valid certified public accountant license  
5        issued under the laws of another state or territory  
6        who are lawfully practicing in the State of Hawaii  
7        with a temporary permit to practice pursuant to rules  
8        established by the board of public accountancy and who  
9        are subject to regulation by the board of public  
10       accountancy while engaged in the practice of public  
11       accountancy;

12       ~~[(5)]~~ (6) A federal Department of Housing and Urban  
13       Development approved mortgagee and any subsidiary or  
14       affiliate of these persons or entities, and any agent  
15       or employee of these persons or entities, while  
16       engaged in the business of these persons or entities;  
17       or

18       ~~[(6)]~~ (7) A nonprofit organization that, pursuant to  
19       chapter 446, offers counseling or advice to an owner  
20       of a distressed property, if the nonprofit  
21       organization has no contract or agreement for services  
22       with lenders, distressed property purchasers, or any

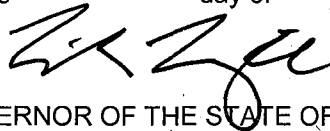


1 person who effects loans or distressed property  
2 purchases."

3 SECTION 3. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 4. This Act shall take effect upon its approval.

APPROVED this 26 day of MAY, 2009



GOVERNOR OF THE STATE OF HAWAII