

**The Honorable Robert N. Herkes, Chair**  
**The Honorable Glenn Wakai, Vice Chair**  
**House Committee on Consumer Protection and Commerce**

## **LATE TESTIMONY**

**Hearing : Wednesday, February 4, 2009, 2:00 p.m.**  
**State Capitol, Conference Room 325**

### **IN OPPOSITION TO HB 1076**

#### **Chair and Members of the Committees:**

My name is Ryker Wada, representing the Legal Aid Society of Hawai'i ("LASH"). I am advocating for our clients who include the working poor, seniors, citizens with English as a second language, disabled and other low and moderate income families who are consumers. We are testifying in opposition to HB 1076 as it would weaken protections for consumers in the State of Hawaii.

I supervise a housing counseling program in the Consumer Unit at the Legal Aid Society of Hawaii. The Homeownership Counseling Project provides advice to individuals and families about homeownership issues. Specifically the project provides information on how to prepare yourself before purchasing a home and what to do if you are in danger of losing your home through foreclosure. In the past Fiscal Year we serviced more than 200 clients in our Project.

HB 1076 seeks to amend Act 137, the Mortgage Foreclosure Rescue Fraud Prevention Act, to, among other things, exempt real estate brokers and sales persons from the definition of distressed property consultants. Act 137 was designed to protect consumers from foreclosure rescue scams and fraudulent distressed property consultants who offer "help" to homeowners who are in arrears or foreclosure. This "help" usually comes in the form of scam artists who take a fee for negotiating with a distressed homeowners mortgage company. Instead the homeowners get little or nothing for their fee and the scam artist has disappeared with the homeowner's money. A more insidious form of the foreclosure rescue scam involves the scammer taking title to the homeowner's property with the homeowner staying in the property as a renter and attempting to buy it back over the next few years. The terms of these deals usually make it impossible for homeowners to buy back their property, allowing the scammer to walk off with all or most of a home's equity.

While LASH appreciates the challenges for real estate brokers and salespersons due to the enactment of Act 137, we do not believe a wholesale exemption of the industry is the appropriate avenue to make the process smoother while still protecting the rights of the consumer.

LASH anticipates a growing number of foreclosures in the coming years as the so-called exotic mortgage products mature and consumers are not able to keep up with their adjusted mortgage payments or find a suitable refinance. With the growing number of foreclosures, there will only be an increase in the number of foreclosure rescue scams and wronged consumers in the State of Hawaii.

The Legal Aid Society of Hawaii opposes HB 1076 and its efforts to exempt real estate brokers and salespersons from Act 137. We do not believe this is the appropriate means to protect the consumers in the State of Hawaii.

**Conclusion:**

We appreciate these committees' recognition of the need to protect consumers in the State of Hawaii. HB 1076 attempts to weaken protections for consumers. We oppose HB 1076 but are more than willing to work with the industry to find the most suitable way to ease the challenges of Act 137 while protecting the interests of the consumers in the State of Hawaii. Thank you for the opportunity to testify.