
A BILL FOR AN ACT

RELATING TO NOTICE.

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

1 SECTION 1. The legislature finds that providing adequate
2 legal notice of the foreclosure of a mortgaged property is
3 problematic in smaller counties. Although the law requires
4 notice in a newspaper of general circulation, not all residents
5 of smaller counties subscribe to statewide-circulated
6 newspapers.

7 The purpose of this Act is to require that in counties
8 having a population of two hundred thousand or less, the notice
9 of foreclosure of a mortgaged property is to be published in a
10 newspaper that:

- 11 (1) Is published in the county; and
12 (2) Has the largest general circulation in the county
13 where the mortgaged property is located.

14 SECTION 2. Section 667-5, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§667-5 Foreclosure under power of sale; notice; affidavit**
17 **after sale.** When a power of sale is contained in a mortgage,
18 the mortgagee, [øæ] the mortgagee's successor in interest, or



1 any person authorized by the power to act in the premises, may,
2 upon a breach of the condition, give notice in the county where
3 the mortgaged property is located, of the mortgagee's,
4 successor's, or person's intention to foreclose the mortgage and
5 of the sale of the mortgaged property [~~by publication of the~~
6 ~~notice~~].

7 (b) For counties with a population of two hundred thousand
8 or greater, the notice shall be published once in each of three
9 successive weeks (three publications), the last publication to
10 be not less than fourteen days before the day of sale, in a
11 newspaper having a general circulation in the county [~~in which~~
12 where the mortgaged property [~~lies, and~~] is located. The
13 authorized person shall also give [~~such~~] notices and do [~~all~~
14 ~~such~~] other acts as are authorized or required by the power
15 contained in the mortgage. Copies of the notice shall be filed
16 with the state director of taxation and shall be posted on the
17 premises not less than twenty-one days before the day of sale.

18 (c) For counties with a population of less than two
19 hundred thousand, the notice shall be published once in each of
20 three successive weeks (three publications), of which the last
21 publication shall be not less than fourteen days before the day



1 of sale. At least two of the notices shall be published in a
2 newspaper that:

3 (1) Is published in the county; and

4 (2) Has the largest general circulation in the county
5 where the mortgaged property is located.

6 The authorized person shall also give notices and do other acts
7 as are authorized or required by the power contained in the
8 mortgage. Copies of the notice shall be filed with the state
9 director of taxation and shall be posted on the premises not
10 less than twenty-one days before the day of sale.

11 (d) Any sale, of which notice has been given [~~as~~
12 ~~aforesaid,~~] pursuant to this section, may be postponed from time
13 to time by public announcement made by the mortgagee or by some
14 person acting on the mortgagee's behalf. The mortgagee [~~shall~~],
15 within thirty days after selling the property in pursuance of
16 the power, shall file a copy of the notice of sale and the
17 mortgagee's affidavit, setting forth the mortgagee's acts in the
18 premises fully and particularly, in the bureau of conveyances.

19 (e) The affidavit and copy of the notice shall be recorded
20 and indexed by the registrar, in the manner provided in chapter
21 501 or 502, as the case may be.



1 (f) This section is inapplicable if the mortgagee is
2 foreclosing as to personal property only."

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.



Report Title:
Property Foreclosure Notice; Counties

HB 1796
HD1

Description:

Requires that in counties with a population of less than 200,000, the public notice of foreclosure on a mortgaged property located in the county shall be published at least three times, two of which must be in a newspaper published in and having the largest circulation in the county (HB1796 HD1).

