
A BILL FOR AN ACT

RELATING TO MORTGAGE FORECLOSURES.

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

1 SECTION 1. Chapter 667, Hawaii Revised Statutes, is
2 amended by adding two new sections to part I to be appropriately
3 designated and to read as follows:

4 "§667-A Right of redemption; redemption price. (a)

5 Within ninety days of a sale pursuant to section 667-5, the
6 mortgagor or borrower of the foreclosed property may redeem the
7 foreclosed property by paying the redemption price to the
8 successful bidder.

9 (b) If the successful bidder is the foreclosing mortgagee,
10 the redemption price shall be the total of the following
11 amounts:

12 (1) The entire unpaid balance of the moneys owed to the
13 mortgagee under the mortgage agreement, including all
14 interest accrued up to the date of redemption;

15 (2) The foreclosing mortgagee's attorney's fees and costs;

16 (3) All other fees and costs incurred by the foreclosing
17 mortgagee related to the default, public sale,
18 redemption, and maintenance of the foreclosed



1 property, including taxes and assessments, insurance,
2 document preparation and recordation fees, and upkeep,
3 up to the date of redemption; and

4 (4) All fees and costs, including recordation costs,
5 incurred in the redemption;

6 less any rents or profits from the foreclosed property paid to
7 the foreclosing mortgagee for the use or occupation of the
8 mortgaged property up to the date of redemption.

9 (c) If the successful bidder is a person other than the
10 foreclosing mortgagee, the redemption price shall be total of
11 the following amounts:

12 (1) The total amount of the successful bid paid to the
13 foreclosing mortgagee;

14 (2) All reasonable fees and costs incurred by the
15 successful bidder in obtaining legal title from the
16 foreclosing mortgagee and maintaining the foreclosed
17 property, including but not limited to financing
18 costs, including loan or mortgage application fees,
19 loan points, and mortgage interest payments, escrow,
20 and insurance, upkeep, taxes, and assessments, up to
21 the date of redemption; and



1 (3) All reasonable fees and costs incurred by the
2 successful bidder in the redemption, including but not
3 limited to legal, escrow, documentation, and
4 recordation costs,
5 less any rents or profits from the foreclosed property paid to
6 the successful bidder for the use or occupation of the
7 foreclosed property up to the date of redemption.

8 (d) Upon the timely payment of the redemption price, the
9 successful bidder shall execute necessary documentation
10 restoring the legal title to the foreclosed property to the
11 person exercising the right of redemption who shall record the
12 documentation within five business days of the date of
13 redemption.

14 **§667-B Public sale.** At any public sale pursuant to
15 section 667-5, the successful bidder at the public sale, as the
16 purchaser, shall make a nonrefundable downpayment to the
17 foreclosing mortgagee of not more than twenty-five per cent of
18 the highest successful bid price, with the balance due within
19 ninety days following the sale."

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



1 **"§667-5 Foreclosure under power of sale; notice; affidavit**
2 **after sale.** When a power of sale is contained in a mortgage,
3 the mortgagee, or the mortgagee's successor in interest, or any
4 person authorized by the power to act in the premises, [~~may,~~
5 upon a breach of the condition, may: give notice of the
6 mortgagee's, successor's, or person's intention to foreclose the
7 mortgage and of the sale of the mortgaged property, by
8 publication of the notice once in each of three successive weeks
9 (three publications), the last publication to be not less than
10 fourteen days before the day of sale, in a newspaper having a
11 general circulation in the county in which the mortgaged
12 property lies; and also give such notices and do all such acts
13 as are authorized or required by the power contained in the
14 mortgage. Copies of the notice shall be filed with the state
15 director of taxation and shall be posted on the premises not
16 less than twenty-one days before the day of sale.

17 Any sale, of which notice has been given as [~~aforsaid,~~
18 provided in this section, may be postponed from time to time by
19 public announcement made by the mortgagee or by some person
20 acting on the mortgagee's behalf. The mortgagee [~~shall~~], within
21 thirty days after selling the property in pursuance of the
22 power, shall file a copy of the notice of sale and the



1 mortgagee's affidavit, setting forth the mortgagee's acts in the
2 premises fully and particularly, in the bureau of conveyances.

3 The affidavit and copy of the notice shall be recorded and
4 indexed by the registrar, in the manner provided in chapter 501
5 or 502, as the case may be.





6 This section is inapplicable if the mortgagee is
7 foreclosing as to personal property only."

8 SECTION 3. This Act does not affect rights and duties that
9 matured, penalties that were incurred, and proceedings that were
10 begun, before its effective date.

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

13 SECTION 5. This Act shall take effect upon its approval.
14

INTRODUCED BY: Eric Cardwell



D. L. L.



Report Title:

Mortgage Foreclosures

Description:

Provides right of redemption to mortgagor and limits downpayment in event of foreclosure sale to not more than twenty-five per cent of successful bid in a foreclosure sale under power of sale.

