

JAN 25 2006

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 the legal notice of
2 foreclosed mortgaged property is not without its problems,
3 especially 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 notices for
8 foreclosed mortgaged property to be made in a newspaper
9 published in the county (with a population of two hundred
10 thousand or less) where the foreclosed property is located.
11 This Act also allows the notice to be published in a newspaper
12 of general circulation.

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

15 "**§667-5 Foreclosure under power of sale; notice; affidavit**
16 **after sale.** When a power of sale is contained in a mortgage,
17 the mortgagee, [~~or~~] the mortgagee's successor in interest, or
18 any person authorized by the power to act in the premises,



1 ~~[may]~~ upon a breach of the condition, may give notice of the
2 mortgagee's, successor's, or person's intention to foreclose the
3 mortgage and of the sale of the mortgaged property~~[, by~~
4 ~~publication of the notice]~~. The notice shall be published once
5 in each of three successive weeks (three publications), the last
6 publication to be not less than fourteen days before the day of
7 sale, in a newspaper published in the county in which the
8 mortgaged property lies; provided that the notice may also be
9 published in a newspaper having a general circulation in the
10 ~~[county in which the mortgaged property lies; and]~~ State. For
11 the purposes of this section, "county" means a jurisdiction with
12 a population of less than 200,000 people. The authorized person
13 shall also give such notices and do all such acts as are
14 authorized or required by the power contained in the mortgage.
15 Copies of the notice shall be filed with the state director of
16 taxation and shall be posted on the premises not less than
17 twenty-one days before the day of sale.

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



1 power, shall file a copy of the notice of sale and the
2 mortgagee's affidavit, setting forth the mortgagee's acts in the
3 premises fully and particularly, in the bureau of conveyances.

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

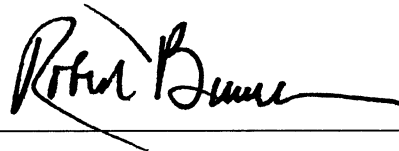
7 This section is inapplicable if the mortgagee is
8 foreclosing as to personal property only."

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

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

12

INTRODUCED BY:





Report Title:

Property Foreclosure Notice; Counties

SB. NO. 3133

Description:

Requires a notice of foreclosure to be made in a newspaper published in the county (population of 200,000 or less) where the foreclosed property is located. The notice may also be made in a newspaper of general circulation.

