

JAN 23 2009

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# A BILL FOR AN ACT

RELATING TO REAL PROPERTY.

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

1           SECTION 1. Chapter 521, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§521- Foreclosure notice. (a) Notwithstanding any law  
5 or agreement to the contrary, any person who forecloses on any  
6 rental housing property shall notify, by way of certified or  
7 registered mail, any tenants or subtenants in possession of the  
8 rental housing property. The notice shall include the following  
9 language:

10           "Foreclosure process has begun on this property, which may  
11 affect your right to continue to live in this property.

12           During a public sale, this property may be sold at  
13 foreclosure. If you are renting this property, the new  
14 property owner may either give you a new lease or rental  
15 agreement or provide you with a 60-day eviction notice.

16           However, other laws may prohibit an eviction in this  
17 circumstance or provide you with a longer notice before  
18 eviction. You may wish to contact a lawyer or your local



1        legal aid or housing counseling agency to discuss any  
2        rights you may have."

3        For the purposes of this section, "rental housing property"  
4        means any structure or any part thereof which is rented or  
5        offered for rent for residential occupancy in this State."

6                SECTION 2. Chapter 521, Hawaii Revised Statutes, is  
7        amended by adding a new section to be appropriately designated  
8        and to read as follows:

9                "§521- Foreclosure; notice to vacate. (a)

10        Notwithstanding any statutory provision to the contrary, a  
11        tenant or subtenant in possession of a rental housing unit at  
12        the time the property is sold in foreclosure shall be given  
13        written notice to vacate the property within sixty days from the  
14        date the notice is delivered to the tenant or subtenant,  
15        pursuant to subsection (b), before the tenant or subtenant may  
16        be removed from the property.

17                (b) The notice required in subsection (a) may be delivered  
18        by any of the following manners:

19                (1) By delivering a copy to the tenant personally;

20                (2) If he or she is absent from his or her place of  
21        residence, and from his or her usual place of  
22        business, by leaving a copy with some person of



1           suitable age and discretion at either place, and  
2           sending a copy through the mail addressed to the  
3           tenant at the tenant's place of residence; or

4           (3) If the tenant's place of residence and business cannot  
5           be ascertained, or a person of suitable age or  
6           discretion there cannot be found, then by affixing a  
7           copy in a conspicuous place on the property, and also  
8           delivering a copy to a person there residing, if the  
9           person can be found; and also sending a copy through  
10           the mail addressed to the tenant at the place where  
11           the property is situated. Service upon a subtenant  
12           may be made in the same manner."

13           SECTION 3. Chapter 666, Hawaii Revised Statutes, is  
14           amended by adding a new section to be appropriately designated  
15           and to read as follows:

16           "§666- Foreclosure; notice to vacate. (a)

17           Notwithstanding any statutory provision to the contrary, a  
18           tenant or subtenant in possession of a rental housing unit at  
19           the time the property is sold in foreclosure shall be given  
20           written notice to vacate the property within sixty days from the  
21           date the notice is delivered to the tenant or subtenant,



1 pursuant to subsection (b), before the tenant or subtenant may  
2 be removed from the property.

3 (b) The notice required in subsection (a) may be delivered  
4 by any of the following manners:

5 (1) By delivering a copy to the tenant personally;

6 (2) If he or she is absent from his or her place of  
7 residence, and from his or her usual place of  
8 business, by leaving a copy with some person of  
9 suitable age and discretion at either place, and  
10 sending a copy through the mail addressed to the  
11 tenant at the tenant's place of residence; or

12 (3) If the tenant's place of residence and business cannot  
13 be ascertained, or a person of suitable age or  
14 discretion there cannot be found, then by affixing a  
15 copy in a conspicuous place on the property, and also  
16 delivering a copy to a person there residing, if the  
17 person can be found; and also sending a copy through  
18 the mail addressed to the tenant at the place where  
19 the property is situated. Service upon a subtenant  
20 may be made in the same manner."

21 SECTION 4. Section 667-5.5, Hawaii Revised Statutes, is  
22 amended to read as follows:



1           "§667-5.5 Foreclosure notice. (a) Notwithstanding any  
2 law or agreement to the contrary, any person who forecloses on a  
3 property within a planned community, a condominium apartment or  
4 unit, or an apartment in a cooperative housing project shall  
5 notify, by way of registered or certified mail, the board of  
6 directors of the planned community association, the association  
7 of owners of the condominium project, or the cooperative housing  
8 project in which the property to be foreclosed is located, of  
9 the foreclosure at the time foreclosure proceedings are begun.  
10 The notice, at a minimum, shall identify the property,  
11 condominium apartment or unit, or cooperative apartment which is  
12 the subject of the foreclosure and identify the name or names of  
13 the person or persons bringing foreclosure proceedings. This  
14 section shall not apply when the planned community association,  
15 condominium association of owners, or cooperative housing  
16 corporation is a party in a foreclosure action. This section  
17 shall not affect civil proceedings against parties other than  
18 the planned community association, association of owners, or  
19 cooperative housing corporation.

20           (b) Notwithstanding any law or agreement to the contrary,  
21 any person who forecloses on any rental housing property shall  
22 notify, by way of certified or registered mail, any tenants or



1 subtenants in possession of the rental housing property. The  
2 notice shall include the following language:

3 "Foreclosure process has begun on this property, which may  
4 affect your right to continue to live in this property.  
5 During a public sale, this property may be sold at  
6 foreclosure. If you are renting this property, the new  
7 property owner may either give you a new lease or rental  
8 agreement or provide you with a 60-day eviction notice.  
9 However, other laws may prohibit an eviction in this  
10 circumstance or provide you with a longer notice before  
11 eviction. You may wish to contact a lawyer or your local  
12 legal aid or housing counseling agency to discuss any  
13 rights you may have."

14 For the purposes of this section, "rental housing property"  
15 means any structure or any part thereof which is rented or  
16 offered for rent for residential occupancy in this State."

17 SECTION 5. New statutory material is underscored.

18 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY:

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**Report Title:**

Mortgage Foreclosures; Landlord and Tenant; Notice

**Description:**

Requires that tenants of rental property be given sixty days written notice to vacate when the rental property is sold in foreclosure. Requires that tenants of rental property be notified when foreclosure proceedings have begun on the rental property.

