
A BILL FOR AN ACT

RELATING TO FORECLOSURE.

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

1 SECTION 1. The legislature finds that homeowners who lose
2 their home through the non-judicial foreclosure process are
3 disadvantaged because the sales price of the property is not
4 supervised by the court.

5 The purpose of this Act is to allow homeowners who
6 successfully challenge a sales price through non-judicial
7 foreclosure procedures to have a court supervised sale.

8 SECTION 2. Section 667-35, Hawaii Revised Statutes, is
9 amended to read as follows:

10 " [†] §667-35 [†] Appeal to circuit court. (a) The
11 borrower, the mortgagor, and any creditor having a recorded lien
12 on the mortgaged property before the recordation of the notice
13 of default under section 667-23, shall have the right to file an
14 appeal in the circuit court where the mortgaged property is
15 located to contest the presumptions set forth in section 667-34,
16 and the statements contained in the affidavit required by
17 section 667-32. No appeal shall be filed later than thirty days
18 after the recordation of the affidavit. Failure to timely



1 appeal shall result in the statements in the affidavit and the
2 presumptions set forth in section 667-34 becoming conclusive in
3 accordance with the terms of that section.

4 (b) If an appeal by the borrower or mortgagor is granted
5 by the circuit court as a result of a determination by the court
6 that the sales price for the mortgaged property is unreasonable,
7 the foreclosure shall be conducted pursuant to section 667-1."

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 Statutory material to be repealed is bracketed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.
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Report Title:

Non-Judicial Foreclosure; Appeals

Description:

Allows a homeowner to force a court supervised foreclosure if a non-judicial foreclosure is successfully appealed due to an unfair sales price.

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