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# A BILL FOR AN ACT

RELATING TO LANDLORD-TENANT CODE.

**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 part to be appropriately designated and  
3 to read as follows:

4                           **"PART . FORECLOSURE OF DWELLING UNIT**

5           **§521-A Notice of foreclosure; foreclosure sale. (a)**

6 Before the commencement of a tenancy, the landlord or any person  
7 authorized to enter into a rental agreement on the landlord's  
8 behalf shall disclose to the tenant in writing if the dwelling  
9 unit being rented is the subject of a pending foreclosure action  
10 pursuant to chapter 667. If the dwelling unit is subject to a  
11 pending foreclosure action, the landlord or authorized person  
12 shall provide the tenant with a copy of:

- 13           (1) The decree of foreclosure pursuant to section 667-1;  
14           (2) Notice of foreclosure pursuant to section 667-5; or  
15           (3) Notice of default pursuant to section 667-22,  
16 together with a written notice substantially in the following  
17 form:



1            "As is set forth in the attached notice, this  
2            property is undergoing foreclosure    For more  
3            information on this action, you should contact the  
4            mortgagee, attorney of the mortgagee    or person  
5            responsible for issuing the attached notice

6            A sale at auction may or may not occur as a  
7            result of this foreclosure    Currently, the sale of  
8            this property has been set for                    (time, date,  
9            and place) or no date for sale of this property has  
10           been established    You will receive written notice of  
11           the sale at least thirty days before it takes place

12           If there is a sale of this property at auction,  
13           the following will occur

14           If you entered into your rental agreement before  
15                              (date the foreclosure action was  
16           initiated), your current rental agreement converts to  
17           a month-to-month tenancy upon the sale of the  
18           property

19           If you entered into your rental agreement after  
20                              (date the foreclosure action was initiated)  
21           and the agreement included a notice of the  
22           foreclosure, your rental agreement will become a



1 month-to-month rental agreement on the date a court  
2 approves the sale. The new owner may offer to honor  
3 your current rental agreement but is not required to  
4 do so. You may accept or reject any such offer.

5 If you entered into your rental agreement after  
6 (date the foreclosure action was initiated)  
7 and the agreement did not include a notice of the  
8 foreclosure, within fourteen days after purchasing the  
9 home, the new owner must give you a written offer to  
10 honor your current rental agreement. If you do not  
11 accept that offer, your rental agreement will become a  
12 month-to-month agreement.

13 Note: With a month-to-month rental agreement,  
14 either the tenant or the landlord may terminate the  
15 agreement by providing written notice of termination  
16 to the other at least thirty days prior to a date on  
17 which the rent payment normally is due. The rental  
18 agreement then terminates on that date."

19 (b) At least thirty days prior to a foreclosure sale, the  
20 landlord shall provide to the tenant a copy of the notice of  
21 foreclosure sale pursuant to part I of chapter 667 or public  
22 notice of public sale pursuant to section 667-27.



1           **§521-B Foreclosure sale.** (a) Except as provided in this  
2 section, any rental agreement for a residential property that is  
3 the subject of a foreclosure action shall convert to a month-to-  
4 month rental agreement upon the approval of a sale at auction by  
5 a court pursuant to part I of chapter 667 or the recordation of  
6 the affidavit and conveyance document pursuant to section 667-  
7 33.

8           (b) If a tenant entered into a rental agreement after  
9 foreclosure begins and the tenant was not provided the notice of  
10 a foreclosure action or notice of sale as required by section  
11 521-A, an owner who purchases the property at auction, within  
12 fourteen days after that purchase is concluded with the issuance  
13 of a court order pursuant to part I of chapter 667 or  
14 recordation of the affidavit and conveyance document pursuant to  
15 section 667-33, shall offer to honor the existing rental  
16 agreement. If the tenant does not accept that offer within  
17 fourteen days, the rental agreement shall convert to a month-to-  
18 month rental agreement.

19           **§521-C Remedies.** If a landlord or a successor in interest  
20 either fails to honor a rental agreement as required by section  
21 521-B; or fails to provide the written notices as required by



1 section 521-A, a tenant may recover, in addition to any other  
2 remedy under law:

3 (1) The greater of the actual damages or one month's rent  
4 plus the security deposit amount and reasonable  
5 attorney's fees; or

6 (2) Obtain injunctive relief to enforce the rental  
7 agreement,

8 or both."

9 SECTION 2. In codifying the new sections added by section  
10 1 of this Act, the revisor of statutes shall substitute  
11 appropriate section numbers for the letters used in designating  
12 the new sections in this Act.

13 SECTION 3. This Act does not affect rights and duties that  
14 matured, penalties that were incurred, and proceedings that were  
15 begun, before its effective date.

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

17

INTRODUCED BY:



Rida Cabovilla

J. Phil. Karametra



JAN 23 2009



**Report Title:**

Residential Landlord-tenant Code; Foreclosures

**Description:**

Requires landlord to give tenant prior notice of a foreclosure action and 30-day notice of foreclosure sale.

