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# A BILL FOR AN ACT

RELATING TO FORECLOSURES.

**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 required; tenant's remedy.

5           (a) When any property that contains at least one dwelling unit  
6 occupied by a tenant becomes subject to foreclosure proceedings,  
7 the landlord shall notify the tenant, by way of registered or  
8 certified mail, of the pending foreclosure within three days of  
9 the date that foreclosure proceedings have begun. Upon receipt  
10 of notice of foreclosure, a tenant may terminate the rental  
11 agreement at any time.

12           (b) Once foreclosure proceedings have begun, a landlord  
13 shall not terminate the rental agreement or bring a summary  
14 proceeding for possession of the dwelling within fewer than  
15 days after providing the notice required under subsection (a).

16           (c) Once foreclosure proceedings have begun, a landlord  
17 who has not provided the notice required by subsection (a) shall



1 be liable for the removal or exclusion of the tenant from the  
2 premises overnight regardless of whether the tenant is removed  
3 or excluded by the landlord or by another party to the  
4 foreclosure proceedings.

5 (d) If a landlord violates this section, a tenant who is  
6 subject to termination of the rental agreement, a summary  
7 proceeding for possession of the dwelling unit, or removal or  
8 exclusion from the premises overnight shall be entitled to  
9 recover possession or to terminate the rental agreement. In  
10 either case, the tenant shall recover an amount equal to two  
11 months rent or free occupancy for two months, and the cost of  
12 suit, including any reasonable attorney's fees. If the rental  
13 agreement is terminated, the landlord shall comply with section  
14 521-44(c). A court may also order any injunctive or other  
15 equitable relief it deems proper."

16 SECTION 2. Section 667-5.5, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 **"§667-5.5 Foreclosure notice.** (a) Notwithstanding any  
19 law or agreement to the contrary, any person who forecloses on a  
20 property within a planned community, a condominium apartment or  
21 unit, or an apartment in a cooperative housing project shall  
22 notify, by way of registered or certified mail, the board of



1 directors of the planned community association, the association  
2 of owners of the condominium project, or the cooperative housing  
3 project in which the property to be foreclosed is located, of  
4 the foreclosure at the time foreclosure proceedings are begun.  
5 The notice, at a minimum, shall identify the property,  
6 condominium apartment or unit, or cooperative apartment [~~which~~]  
7 that is the subject of the foreclosure and identify the name or  
8 names of the person or persons bringing foreclosure proceedings.  
9 This [~~section~~] subsection shall not apply when the planned  
10 community association, condominium association of owners, or  
11 cooperative housing corporation is a party in a foreclosure  
12 action. This [~~section~~] subsection shall not affect civil  
13 proceedings against parties other than the planned community  
14 association, association of owners, or cooperative housing  
15 corporation.

16 (b) Any person who forecloses on a property that is  
17 occupied as a dwelling unit by a tenant shall notify the tenant,  
18 by way of registered or certified mail, of the foreclosure at  
19 least three days prior to initiating an action for ejectment or  
20 summary possession. The notice shall be written in plain  
21 language and, at minimum, shall identify the property that is  
22 the subject of the foreclosure and identify the name or names of



1 the persons bringing foreclosure proceedings. The notice to be  
2 provided by this section shall not be waived by any agreement to  
3 the contrary or by provision of notice by a landlord under  
4 section 521- .

5 For the purposes of this section:

6 "Dwelling unit" means a structure, or part of a structure,  
7 which is used as a home, residence, or sleeping place by one  
8 person or by two or more persons maintaining a common household,  
9 to the exclusion of all others.

10 "Tenant" means any person who occupies a dwelling unit for  
11 dwelling purposes under a rental agreement."

12 SECTION 3. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 4. This Act shall take effect on July 1, 2009.

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INTRODUCED BY:

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S.B. NO. 1068

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**Report Title:**

Mortgage Foreclosure; Real Estate; Rental Housing

**Description:**

Requires foreclosing lender to give notice to tenants of rental housing units facing foreclosure before tenant may be served with an eviction notice. Requires landlords to give notice of pending foreclosure to tenants of dwelling units. Provides remedies.

