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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 forty-five days  
14       from the date the notice is delivered to the tenant or  
15       subtenant, pursuant to subsection (b), before the tenant or  
16       subtenant may be removed from the property; provided that if a  
17       rental agreement requires a longer period for providing a notice  
18       to vacate, the longer period shall apply.

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

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

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

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

19       **"§666- Foreclosure; notice to vacate. (a)**  
20       Notwithstanding any statutory provision to the contrary, a  
21       tenant or subtenant in possession of a rental housing unit at  
22       the time the property is sold in foreclosure shall be given

1 written notice to vacate the property within forty-five days  
2 from the date the notice is delivered to the tenant or  
3 subtenant, pursuant to subsection (b), before the tenant or  
4 subtenant may be removed from the property; provided that if a  
5 rental agreement requires a longer period for providing a notice  
6 to vacate, the longer period shall apply.

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

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

10 (2) If the tenant is absent from the tenant's place of  
11 residence, and from the tenant's usual place of  
12 business, by leaving a copy with some person of  
13 suitable age and discretion at either place, and  
14 sending a copy through the mail addressed to the  
15 tenant at the tenant's place of residence; or

16 (3) If the tenant's place of residence and business cannot  
17 be ascertained, or a person of suitable age or  
18 discretion there cannot be found, then by affixing a  
19 copy in a conspicuous place on the property, and also  
20 delivering a copy to a person there residing, if the  
21 person can be found; and also sending a copy through  
22 the mail addressed to the tenant at the place where

1           the property is situated. Service upon a subtenant  
2           may be made in the same manner."

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

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

1 the planned community association, association of owners, or  
2 cooperative housing corporation.

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

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

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

22 SECTION 5. New statutory material is underscored.

**1** SECTION 6. This Act shall take effect upon its approval.

**Report Title:**

Mortgage Foreclosures; Landlord and Tenant; Notice

**Description:**

Requires that tenants of rental property be given forty-five days written notice, or the contractually agreed period for notice to vacate, whichever is longer, prior to the rental property being sold in foreclosure. Requires that tenants of rental property be notified when foreclosure proceedings have begun on the rental property. (SD1)