

JAN 22 2010

S.B. NO. 2472

A BILL FOR AN ACT

RELATING TO MORTGAGE FORECLOSURES.

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

1 SECTION 1. Section 667-22, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§667-22 Notice of default; contents; distribution. (a)

4 When the mortgagor or the borrower has breached the mortgage
5 agreement, and when the foreclosing mortgagee intends to conduct
6 a power of sale foreclosure under this part, the foreclosing
7 mortgagee shall prepare a written notice of default addressed to
8 the mortgagor, the borrower, and any guarantor. The notice of
9 default shall state:

- 10 (1) The name and address of the current mortgagee;
- 11 (2) The name and last known address of the mortgagor, the
12 borrower, and any guarantor;
- 13 (3) The address or a description of the location of the
14 mortgaged property, and the tax map key number of the
15 mortgaged property;



- 1 (4) The description of the default, and if the default is
2 a monetary default, an itemization of the delinquent
3 amount shall be given;
- 4 (5) The action that must be taken to cure the default,
5 including the amount to cure the default, together
6 with the estimated amount of the foreclosing
7 mortgagee's attorney's fees and costs, and all other
8 fees and costs estimated to be incurred by the
9 foreclosing mortgagee related to the default by the
10 deadline date;
- 11 (6) The date by which the default must be cured, which
12 deadline date shall be at least sixty days after the
13 date of the notice of default;
- 14 (7) That if the default is not cured by the deadline date
15 stated in the notice of default, the entire unpaid
16 balance of the moneys owed to the mortgagee under the
17 mortgage agreement will be due, that the mortgagee
18 intends to conduct a power of sale foreclosure to sell
19 the mortgaged property at a public sale without any
20 court action and without going to court, and that the
21 mortgagee or any other person may acquire the
22 mortgaged property at the public sale; and



1 (8) The name, address, including electronic address, and
2 telephone number of the attorney who is representing
3 the foreclosing mortgagee; provided that the attorney
4 shall be licensed to practice law in the State and
5 physically located in the State.

6 (b) The notice of default shall also contain wording
7 substantially similar to the following in all capital letters:

8 "IF THE DEFAULT ON THE LOAN CONTINUES AFTER THE
9 DEADLINE DATE IN THIS NOTICE, THE MORTGAGED PROPERTY
10 MAY BE FORECLOSED AND SOLD WITHOUT ANY COURT ACTION
11 AND WITHOUT GOING TO COURT.

12 YOU MAY HAVE CERTAIN LEGAL RIGHTS OR DEFENSES.
13 FOR ADVICE, YOU SHOULD CONSULT WITH AN ATTORNEY
14 LICENSED IN THIS STATE.

15 AFTER THE DEADLINE DATE IN THIS NOTICE, TWO
16 PUBLIC SHOWINGS (OPEN HOUSES) OF THE PROPERTY BY THE
17 LENDER WILL BE HELD, BUT ONLY IF ALL MORTGAGORS
18 (OWNERS) OF THE PROPERTY SO AGREE. TO SHOW THAT ALL
19 OWNERS AGREE TO ALLOW TWO OPEN HOUSES BY THE LENDER,
20 ALL OWNERS MUST SIGN A LETTER SHOWING THEY AGREE. ALL
21 OWNERS MUST SEND THE SIGNED LETTER TO THIS OFFICE AT
22 THE ADDRESS GIVEN IN THIS NOTICE.



1 THIS OFFICE MUST ACTUALLY RECEIVE THE SIGNED
2 LETTER BY THE DEADLINE DATE IN THIS NOTICE. THE
3 SIGNED LETTER MUST BE SENT TO THIS OFFICE BY CERTIFIED
4 MAIL, REGISTERED MAIL, OR EXPRESS MAIL, POSTAGE
5 PREPAID AND RETURN RECEIPT REQUESTED.

6 IF THE SIGNED LETTER IS NOT RECEIVED BY THIS
7 OFFICE BY THE DEADLINE DATE, THE PROPERTY WILL THEN BE
8 SOLD WITHOUT ANY OPEN HOUSES BEING HELD.

9 EVEN IF THIS OFFICE RECEIVES THE SIGNED LETTER TO
10 ALLOW THE LENDER TO HOLD TWO OPEN HOUSES OF THE
11 PROPERTY, IF ALL OWNERS LATER DO NOT COOPERATE TO
12 ALLOW THE OPEN HOUSES, THE PROPERTY WILL BE SOLD
13 WITHOUT ANY OPEN HOUSES BEING HELD.

14 ALL FUTURE NOTICES AND CORRESPONDENCE WILL BE
15 MAILED TO YOU AT THE ADDRESS AT WHICH YOU RECEIVED
16 THIS NOTICE UNLESS YOU SEND WRITTEN INSTRUCTIONS TO
17 THIS OFFICE INFORMING THIS OFFICE OF A DIFFERENT
18 ADDRESS. THE WRITTEN INSTRUCTIONS MUST BE SENT TO
19 THIS OFFICE BY CERTIFIED MAIL, REGISTERED MAIL, OR
20 EXPRESS MAIL, POSTAGE PREPAID AND RETURN RECEIPT
21 REQUESTED. "



Shianne Chun Oakland
David V. Jay
Bunuel. Kohl



Report Title:

Non-Judicial Mortgage Foreclosures

Description:

Requires the mortgagee in a non-judicial mortgage foreclosure action to attach a copy of the original, signed mortgage agreement and any amendments thereto to the notice of default.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

