
A BILL FOR AN ACT

RELATING TO MORTGAGE FORECLOSURES.

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

1 SECTION 1. Chapter 454M, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§454M- Unlicensed foreclosure actions voided. Any
5 action taken in connection with a mortgage foreclosure under
6 chapter 667 by a person who engages in the business of mortgage
7 servicing without a license as provided in this chapter shall be
8 void for purposes of chapter 667."

9 SECTION 2. Chapter 667, Hawaii Revised Statutes, is
10 amended by adding a new part to be appropriately designated and
11 to read as follows:

12 "PART . MANDATORY FORECLOSURE DISPUTE RESOLUTION

13 §667-A Definitions. As used in this part:

14 "Association" has the same meaning as in sections 514B-3
15 and 421J-2.

16 "Dispute resolution" means a facilitated negotiation
17 between a mortgagor and mortgagee for the purpose of reaching an
18 agreement for mortgage loan modification or other agreement in



1 an attempt to avoid foreclosure or to mitigate damages if
2 foreclosure is unavoidable.

3 "Neutral" means the person assigned to facilitate the
4 dispute resolution process required by this part.

5 §667-B Dispute resolution required before foreclosure.

6 (a) Before a circuit court may order a judgment of foreclosure
7 pursuant to section 667-1 or before a public sale may be
8 conducted pursuant to section 667-25 for a residential property
9 that is occupied by the mortgagor as a primary residence, the
10 foreclosing mortgagee shall, at the election of the mortgagor,
11 participate in dispute resolution pursuant to this part to
12 attempt to reach a negotiated agreement to avoid foreclosure or
13 to mitigate damages if foreclosure is unavoidable.

14 (b) Dispute resolution required by this part shall be
15 conducted through the center for alternative dispute resolution
16 established by section 613-2.

17 (c) This part shall not apply to judicial or nonjudicial
18 foreclosures of association liens that arise under a declaration
19 filed pursuant to chapter 514A or 514B or to a mortgagor who has
20 previously participated in dispute resolution under this part
21 for the same property on the same mortgage loan.



1 §667-C Notice of dispute resolution required. (a) Notice
2 of a foreclosure action in circuit court pursuant to section
3 667-1 or notice of default and intention to foreclose served
4 pursuant to section 667-22(e) shall include notice that the
5 foreclosing mortgagee is required, at the election of the
6 mortgagor, to participate in dispute resolution pursuant to this
7 part for the purpose of attempting to avoid foreclosure.

8 (b) The notice required by subsection (a) shall include:

- 9 (1) The name and contact information of a person or entity
10 with the authority to negotiate a loan modification on
11 behalf of the mortgagee;
- 12 (2) Contact information for at least one local housing
13 counseling agency approved by the United States
14 Department of Housing and Urban Development;
- 15 (3) A form for the mortgagor to use to elect or to waive
16 dispute resolution pursuant to this part that shall
17 contain the mailing address of the center for
18 alternative dispute resolution and instructions for
19 the return of the form to the center for alternative
20 dispute resolution;



1 (4) A description of the information that the mortgagor is
2 required to provide to the center for alternative
3 dispute resolution;

4 (5) A certification under penalty of perjury that the
5 mortgagor electing dispute resolution is an owner-
6 occupant of the subject property, including supporting
7 documentation; and

8 (6) Contact information for an accredited consumer credit
9 counseling agency in the State.

10 §667-D Election of dispute resolution; stay of foreclosure
11 proceedings. (a) No later than thirty days after receipt of
12 notice of dispute resolution under section 667-C, a mortgagor
13 shall contact the center for alternative dispute resolution to
14 indicate whether or not the mortgagor elects to pursue dispute
15 resolution pursuant to this part.

16 (b) Upon receipt of notice that a mortgagor has elected to
17 pursue dispute resolution, the mortgagor's right to convert to a
18 judicial foreclosure under section 667-M shall terminate.

19 (c) Upon receipt of notice that a mortgagor has elected to
20 pursue dispute resolution, the center for alternative dispute
21 resolution shall process the notice, assign the matter to a
22 neutral, and schedule the dispute resolution no later than



1 seventy-five days after receipt of the mortgagor's election to
2 pursue dispute resolution according to rules adopted by the
3 supreme court. All foreclosure proceedings shall be stayed
4 effective upon receipt by the center for alternative dispute
5 resolution of the notice of election to pursue dispute
6 resolution pending the outcome of the dispute resolution
7 process.

8 (d) If a mortgagor elects to waive dispute resolution or
9 fails to give notice within the time specified to the center for
10 alternative dispute resolution of the mortgagor's election to
11 pursue dispute resolution, the center for alternative dispute
12 resolution shall notify the court, the bureau of conveyances, or
13 the land court, as appropriate, and the foreclosure process
14 shall proceed as provided by law.

15 **§667-E Dispute resolution process; requirements.** (a)
16 Parties to a dispute resolution process conducted pursuant to
17 this part shall consist of the mortgagor or the mortgagor's
18 representative and the mortgagee or the mortgagee's
19 representative; provided that any representative of the
20 mortgagee who participates in the dispute resolution shall be
21 authorized to negotiate a loan modification on behalf of the
22 mortgagee or shall have direct access by telephone or other



1 immediately available communications medium at all times during
2 the dispute resolution process to a person who is so authorized.
3 All parties may be represented by counsel in the dispute
4 resolution process; provided that the mortgagor may be
5 represented by a housing counselor who is certified by the
6 United States Department of Housing and Urban Development.

7 (b) Thirty days prior to participating in a scheduled
8 dispute resolution process pursuant to this part, the mortgagor
9 shall have consulted with a certified housing counselor with a
10 local housing counseling agency approved by the United States
11 Department of Housing and Urban Development.

12 (c) Prior to a dispute resolution process scheduled
13 pursuant to this part, the mortgagor and the mortgagee shall
14 provide the center for alternative dispute resolution with any
15 information that the center for alternative dispute resolution
16 may request. Information required by this subsection shall
17 include financial and employment information to be provided by
18 the mortgagor and loan information, including:

19 (1) The original mortgage agreement, and any subsequent
20 mortgage agreements and assignments;



1 (2) The promissory note, signed by both the mortgagor and
2 the mortgagee, and any endorsements and allonges on
3 the note; and

4 (3) Any other documents that amended or altered the terms
5 of the original mortgage agreement that were signed by
6 the mortgagor and the mortgagee or any successors or
7 assigns of the mortgagor or the mortgagee.

8 (d) A dispute resolution pursuant to this part shall take
9 place at a community mediation center or other site specified by
10 the center for alternative dispute resolution and shall consist
11 of one meeting of up to four hours in duration between the
12 parties and the neutral during which the parties shall present
13 the dispute and attempt to conclude the dispute resolution
14 process. The neutral may extend the time allowed for the
15 dispute resolution at the discretion of the neutral.

16 (e) If the mortgagee fails to attend the dispute
17 resolution, fails to comply with the requirements of this part
18 or the rules of the supreme court adopted pursuant to this part,
19 or participates through a representative that does not meet the
20 requirements of subsection (a), the neutral shall notify the
21 court, the bureau of conveyances, or the land court, as
22 appropriate. After receipt of notice pursuant to this



1 subsection, the court shall not issue a judgment of foreclosure
2 and neither the land court nor the bureau of conveyances shall
3 record a notice of sale or other conveyance document for the
4 subject property; provided that in the case of a judicial
5 foreclosure, the court may order a loan modification according
6 to terms determined proper by the court.

7 (f) If the mortgagor fails to attend the dispute
8 resolution or fails to comply with the requirements of this part
9 or the rules of the supreme court adopted pursuant to this part,
10 the neutral shall notify the court, the bureau of conveyances,
11 or the land court, as appropriate, that the requirements of this
12 part have been met and the foreclosure process shall proceed as
13 provided by law.

14 (g) If, despite the participation by both parties in the
15 dispute resolution process and compliance with the requirements
16 of this part and the rules of the supreme court adopted pursuant
17 to this part, the parties are not able to come to an agreement,
18 the neutral shall notify the court, the bureau of conveyances,
19 or the land court, as appropriate, that the requirements of this
20 part have been met. Upon receipt of notice pursuant to this
21 subsection, the foreclosure process shall proceed as provided by
22 law.



1 (h) If the parties to a dispute resolution come to an
2 agreement to resolve the matters at issue in the dispute
3 resolution before the dispute resolution scheduled pursuant to
4 this section, the parties shall notify the neutral of the
5 resolution no later than two business days before the scheduled
6 dispute resolution. No fees shall be refunded if the parties
7 come to an agreement prior to or outside of a dispute resolution
8 conducted pursuant to this part.

9 (i) The dispute resolution process shall conclude within
10 sixty days from the first scheduled meeting between the parties
11 to the dispute resolution and the neutral.

12 §667-F Outcome of dispute resolution. (a) When the
13 parties to dispute resolution have complied with the
14 requirements of this part and the rules of the supreme court
15 adopted pursuant to this part and have reached an agreement, the
16 agreement shall be memorialized in a resolution document that
17 shall be filed with the circuit court, the land court, or the
18 bureau of conveyances, as appropriate. The resolution document
19 shall be a contract between the parties and shall be enforceable
20 in a private contract action in a court of appropriate
21 jurisdiction in the event of breach by either party. If the
22 resolution document allows for foreclosure or other transfer of



1 the subject property, the court shall order foreclosure and the
2 land court or bureau of conveyances shall record a notice of
3 sale or other conveyance document upon presentation by the
4 mortgagee, as appropriate.

5 (b) The parties to a dispute resolution may enter into a
6 temporary modification agreement as an outcome of a dispute
7 resolution conducted pursuant to this part; provided that any
8 temporary modification agreements shall include an expiration
9 date, which shall be a date certain upon which the parties shall
10 have complied with their respective obligations under the
11 agreement. A temporary modification agreement shall be a
12 private contract memorialized, filed, and enforceable according
13 to subsection (a).

14 **§667-G Confidentiality.** Personal financial information
15 and other sensitive personal information disclosed in the course
16 of mortgage foreclosure dispute resolution pursuant to this part
17 shall be confidential and shall not be subject to public
18 disclosure.

19 **§667-H Neutral qualifications.** The supreme court shall
20 adopt rules for qualifications and training of neutrals for
21 mortgage foreclosure dispute resolution pursuant to this part;
22 provided that neutrals shall possess sufficient knowledge in the



1 areas of law, real estate, or finance and shall receive
2 sufficient training to be able to effectuate the purposes of
3 this part.

4 §667-I Fee. The center for alternative dispute resolution
5 may charge a fee not to exceed \$400 for dispute resolution
6 services provided pursuant to this part. Any fee for dispute
7 resolution services shall be divided equally between the
8 mortgagee and the mortgagor. All fees collected pursuant to
9 this section shall be deposited into the mortgage foreclosure
10 dispute resolution special fund established by section 667-L.

11 §667-J Applicability. This part shall apply to
12 foreclosures, whether by action or by power of sale, of
13 residential real property that is occupied by the mortgagor as a
14 primary residence; provided that this part shall not apply to
15 actions by an association to foreclose on a lien for amounts
16 owed to the association.

17 §667-K Rules. The supreme court may adopt rules for the
18 administration of this part, including rules to:

- 19 (1) Ensure that dispute resolution occurs in an orderly
20 and timely manner;
- 21 (2) Require each party to provide any information that the
22 facilitator deems necessary;



- 1 (3) Protect the dispute resolution process from abuse and
2 ensure that each party complies with this part and the
3 rules adopted by the supreme court pursuant to this
4 part;
- 5 (4) Establish qualifications and training requirements for
6 neutrals; and
- 7 (5) Protect from disclosure personal financial information
8 and other sensitive personal information obtained in
9 the course of foreclosure dispute resolution from
10 disclosure.

11 §667-L Mortgage foreclosure dispute resolution special
12 fund. (a) There is established outside of the state treasury a
13 special fund to be known as the mortgage foreclosure dispute
14 resolution special fund to be administered by the supreme court
15 to implement the mandatory dispute resolution in foreclosure
16 proceedings required by this part. The fund shall consist of
17 contributions from the sources identified in subsections (c) and
18 (d). Interest earned from the balance of the fund shall become
19 a part of the fund. The supreme court shall adopt rules
20 regarding the distribution of moneys from the fund.



1 (b) The supreme court may allow expenditure of moneys from
2 the fund directly by the center for alternative dispute
3 resolution.

4 (c) All persons who bring an action in the circuit court
5 for foreclosure pursuant to section 667-1, who record an
6 affidavit in the land court pursuant to section 501-118, or who
7 record a conveyance document in the bureau of conveyances for a
8 property subject to a nonjudicial power of sale foreclosure
9 shall pay a fee of \$ for deposit into the mortgage
10 foreclosure dispute resolution special fund.

11 (d) Fees for mortgage foreclosure dispute resolution
12 charged pursuant to section 667-I shall be deposited into the
13 mortgage foreclosure dispute resolution special fund."

14 SECTION 3. Chapter 667, Hawaii Revised Statutes, is
15 amended by adding eight new sections to part II to be
16 appropriately designated and to read as follows:

17 "§667-M Conversion; residential property; conditions. (a)

18 An owner-occupant of a residential property that is being
19 foreclosed nonjudicially under this part may convert the action
20 to a judicial foreclosure under the following conditions:

21 (1) A complaint conforming to section 667-N shall be filed
22 with the circuit court in the circuit where the



1 residential property is located, stating that the
2 owner-occupant of the property elects to convert the
3 nonjudicial foreclosure to a judicial foreclosure
4 proceeding;

5 (2) The complaint described in paragraph (1) shall be
6 filed with the circuit court no later than twenty days
7 after the notice of default and intention to foreclose
8 is served on the owner-occupant as required by section
9 667-22;

10 (3) Within forty-five days of the filing of the complaint,
11 all owners of an interest in the residential property
12 whose interests are pledged or otherwise encumbered by
13 the mortgage that is being foreclosed and all persons
14 who have signed the promissory note or other
15 instrument evidencing the debt secured by the mortgage
16 that is being foreclosed, including without limitation
17 co-obligors and guarantors, shall file a statement in
18 the circuit court action that they agree to submit
19 themselves to the judicial process and the
20 jurisdiction of the circuit court. If this condition
21 is not satisfied, the circuit court action shall be
22 dismissed with prejudice as to the right of any owner-



1 occupant to convert the action to a judicial
2 proceeding, and the mortgagee may proceed
3 nonjudicially;

4 (4) The filing of the complaint shall automatically stay
5 the nonjudicial foreclosure action unless and until
6 the judicial proceeding has been dismissed;

7 (5) The person filing the complaint shall have an
8 affirmative duty to promptly notify the Hawaii
9 attorney who is handling the nonjudicial foreclosure
10 about the filing of the conversion;

11 (6) All parties joined in the converted judicial
12 proceeding may assert therein any claims and defenses
13 that they could have asserted had the action
14 originally been commenced as a judicial foreclosure
15 action; and

16 (7) Notwithstanding chapter 607, the fee for filing the
17 complaint shall be not more than \$400.

18 (b) This section shall not apply to nonjudicial
19 foreclosures of association liens that arise under a declaration
20 filed pursuant to chapter 514A or 514B.

21 (c) Upon receipt by the center for dispute resolution of
22 notice that a mortgagor has elected to pursue dispute resolution



1 pursuant to section 667-D, the mortgagor's right to convert to a
2 judicial foreclosure under this section shall be terminated.

3 §667-N Complaint; residential property; required contents.

4 The complaint authorized under section 667-M shall contain at a
5 minimum the following:

- 6 (1) A caption setting forth the name of the court, the
7 title of the action, and the file number. The title
8 of the action shall include the names of the filing
9 party as plaintiff and the foreclosing party as the
10 defendant;
- 11 (2) The name, mailing address, and telephone number of the
12 filing party;
- 13 (3) The address or tax map key number and the certificate
14 of title or transfer certificate of title number if
15 within the land court's jurisdiction, of the property
16 subject to the foreclosure action;
- 17 (4) A statement identifying all other owners of an
18 interest in the residential property whose interests
19 are pledged or otherwise encumbered by the mortgage
20 that is being foreclosed and all persons who have
21 signed the promissory note or other instrument
22 evidencing the debt secured by the mortgage that is



- 1 being foreclosed, including without limitation co-
2 obligors and guarantors;
- 3 (5) A certification under penalty of perjury that the
4 filing party is an owner-occupant of the subject
5 property and seeks to convert the nonjudicial
6 foreclosure to a judicial proceeding;
- 7 (6) A statement certifying that the filing party served a
8 copy of the complaint on the attorney identified in
9 the notice of default and intention to foreclose
10 either by personal delivery at, or by postage prepaid
11 United States mail to, the address of the attorney as
12 set forth in the notice of default and intention to
13 foreclose; and
- 14 (7) A copy of the notice of default and intention to
15 foreclose that was served on the filing party and for
16 which the filing party is seeking to convert to a
17 judicial proceeding.
- 18 §667-0 Notice of default and intention to foreclose;
19 residential property; required statement on conversion. (a)
20 The notice of default and intention to foreclose that is served
21 as required under sections 667-22 shall include, in addition to



1 the contents required under section 667-22, a statement printed
2 in not less than 14-point font as follows:

3 "IF THE PROPERTY BEING FORECLOSED IS
4 IMPROVED AND USED FOR RESIDENTIAL PURPOSES, AN
5 OWNER-OCCUPANT OF THE PROPERTY (DEFINED UNDER
6 PART II OF CHAPTER 667 OF THE HAWAII REVISED
7 STATUTES, AS A PERSON WHO, AT THE TIME THIS
8 NOTICE IS SERVED, OWNS AN INTEREST IN THE
9 RESIDENTIAL PROPERTY THAT IS SUBJECT TO THE
10 MORTGAGE BEING FORECLOSED AND THE RESIDENTIAL
11 PROPERTY HAS BEEN THE PRIMARY RESIDENCE
12 CONTINUOUSLY FOR NOT LESS THAN ONE HUNDRED EIGHTY
13 DAYS) HAS THE RIGHT TO CONVERT A NONJUDICIAL
14 FORECLOSURE PROCEEDING TO A JUDICIAL FORECLOSURE
15 WHERE CLAIMS AND DEFENSES MAY BE CONSIDERED BY A
16 COURT OF LAW. TO EXERCISE THIS RIGHT, THE OWNER-
17 OCCUPANT SHALL COMPLETE AND FILE THE ATTACHED
18 FORM WITH THE CIRCUIT COURT IN THE CIRCUIT WHERE
19 THE PROPERTY IS LOCATED WITHIN TWENTY DAYS AFTER
20 SERVICE OF THIS NOTICE.

21 IN ADDITION, ALL OWNERS OF AN INTEREST IN
22 THE RESIDENTIAL PROPERTY WHOSE INTERESTS HAVE



1 BEEN PLEDGED OR OTHERWISE ENCUMBERED BY THE
2 MORTGAGE THAT IS BEING FORECLOSED AND ALL PERSONS
3 WHO HAVE SIGNED THE PROMISSORY NOTE OR OTHER
4 INSTRUMENT EVIDENCING THE DEBT SECURED BY THE
5 MORTGAGE THAT IS BEING FORECLOSED, INCLUDING,
6 WITHOUT LIMITATION, CO-OBLIGORS AND GUARANTORS,
7 SHALL FILE A STATEMENT IN THE CIRCUIT COURT
8 ACTION THAT THEY AGREE TO SUBMIT THEMSELVES TO
9 THE JUDICIAL PROCESS AND THE JURISDICTION OF THE
10 CIRCUIT COURT WITHIN NINETY DAYS OF THE FILING OF
11 THE ATTACHED FORM. FAILURE TO SATISFY THIS
12 CONDITION WILL RESULT IN DISMISSAL OF THE CIRCUIT
13 COURT ACTION.

14 AN OWNER-OCCUPANT SHALL PROMPTLY NOTIFY THE
15 HAWAII ATTORNEY LISTED IN THIS NOTICE ABOUT THE
16 FILING OF THE CONVERSION FORM.

17 A FORECLOSING LENDER WHO COMPLETES A
18 NONJUDICIAL FORECLOSURE OF RESIDENTIAL PROPERTY
19 SHALL BE PROHIBITED UNDER HAWAII LAW FROM
20 PURSUING A DEFICIENCY JUDGMENT AGAINST AN OWNER-
21 OCCUPANT WHO DOES NOT OWN A FEE SIMPLE OR
22 LEASEHOLD INTEREST IN ANY OTHER REAL PROPERTY.



1 IF THIS ACTION IS CONVERTED TO A JUDICIAL
2 PROCEEDING, HOWEVER, THEN ALL REMEDIES AVAILABLE
3 TO A LENDER MAY BE ASSERTED, INCLUDING THE RIGHT
4 TO SEEK A DEFICIENCY JUDGMENT."

5 (b) The statement required by this section shall not be
6 required to be included in the public notice of public sale
7 published pursuant to section 667-27. Nothing in this section
8 shall be construed to set a minimum font size for the published
9 notice of sale.

10 §667-P Bar against deficiency judgments; owner-occupant of
11 residential property. The mortgagee or other person who
12 completes, pursuant to this part, the nonjudicial foreclosure of
13 a mortgage or other lien on residential property shall not be
14 entitled to pursue or obtain a deficiency judgment against an
15 owner-occupant of the residential property who, at the time the
16 notice of default and intention to foreclose is served, does
17 not have a fee simple or leasehold ownership interest in any other
18 real property; provided, however, that nothing in this section
19 shall prohibit any other mortgagee or person who holds a lien on
20 the residential property subject to the nonjudicial foreclosure,
21 whose lien is subordinate to the mortgage being foreclosed and is



1 extinguished by the nonjudicial foreclosure sale, from pursuing a
2 monetary judgment against that owner-occupant.

3 §667-Q Duty of foreclosing mortgagee to maintain mortgaged
4 property. (a) Subject to subsection (b), from the deadline
5 date in the notice of default and intention to foreclose until
6 the recordation of the affidavit and conveyance document, for
7 any period of time in which the mortgaged property is not
8 occupied by the mortgagor, the foreclosing mortgagee shall:

- 9 (1) Ensure that the mortgaged property complies with all
10 applicable building and housing laws materially
11 affecting health and safety;
- 12 (2) Keep the mortgaged property in a clean and safe
13 condition;
- 14 (3) Make all repairs and arrangements necessary to put and
15 keep the mortgaged property in a habitable condition;
- 16 (4) Maintain all electrical, plumbing, and other
17 facilities and appliances in good working order and
18 condition;
- 19 (5) Make payments for all utility fees for the mortgaged
20 property; and
- 21 (6) Make regular payments for any association fees and
22 real property taxes owing on the mortgaged property.



1 (b) Subsection (a) shall not apply from the deadline date
 2 in the notice of default and intention to foreclose until the
 3 date of the public sale for any period of time in which the
 4 foreclosing mortgagee permits the mortgagor to occupy or
 5 otherwise possess the mortgaged property.

6 (c) The costs of maintenance borne by the foreclosing
 7 mortgagee under subsection (a) shall be added to the costs of
 8 the public sale under section 667-31(a). The costs of
 9 maintenance under subsection (b) shall be borne by the
 10 mortgagor.

11 §667-R Prohibited conduct. It shall be a prohibited
 12 practice for any foreclosing mortgagee to engage in any of the
 13 following practices:

14 (1) Holding a public sale on a date, at a time, or at a
 15 place other than that described in the public notice
 16 of the public sale;

17 (2) Specifying a fictitious place in the public notice of
 18 the public sale;

19 (3) Conducting a postponed public sale on a date other
 20 than the date described in the new public notice of
 21 the public sale;



- 1 (4) Delaying the conveyance of the conveyance document
- 2 deed to a bona fide purchaser who purchases in good
- 3 faith for more than forty-five days after the
- 4 completion of the public sale;
- 5 (5) Completing nonjudicial foreclosure proceedings during
- 6 "short sale" escrows for bid prices that are less than
- 7 a purchaser's offer to purchase;
- 8 (6) Completing nonjudicial foreclosure proceedings during
- 9 loan modification negotiations with the mortgagor; or
- 10 (7) Completing nonjudicial foreclosure proceedings against
- 11 a mortgagor who has been accepted or is being
- 12 evaluated for consideration into a federal loan
- 13 modification program before obtaining a certificate or
- 14 other documentation confirming that the mortgagor is
- 15 no longer eligible or an active participant of that
- 16 federal program.

17 §667-S Unfair or deceptive act or practice. Any
 18 foreclosing mortgagee who violates section 667-Q or 667-R shall
 19 be guilty of an unfair or deceptive act or practice under
 20 section 480-2.

21 §667-T Foreclosure notice. Notwithstanding any law or
 22 agreement to the contrary, any person who forecloses on a



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

18 SECTION 4. Chapter 667, Hawaii Revised Statutes, is
19 amended by adding three new sections to part III to be
20 appropriately designated and to read as follows:

21 "§667-U Invalid notice. (a) Any notices made pursuant to
22 this chapter may be issued only by persons authorized by a



1 foreclosing mortgagee or lender pursuant to an affiliate
2 statement signed by that foreclosing mortgagee or lender and
3 recorded at the bureau of conveyances identifying the agency or
4 affiliate relationship and the authority granted or conferred to
5 that agent or representative.

6 (b) The bureau of conveyances document number for the
7 affiliate statement required under subsection (a) shall be
8 included in any notice required to be personally served upon the
9 mortgagor or borrower under this chapter.

10 (c) Any notice provided by a mortgage servicer, including
11 an agent, employee, or representative of that mortgage servicer,
12 shall be issued only by a mortgage servicer that has been listed
13 in the affiliate statement filed by the foreclosing mortgagee or
14 lender under subsection (a); provided further that the mortgage
15 servicer shall be licensed under or otherwise exempt from
16 chapter 454M. The agency relationship or affiliation of the
17 mortgage servicer and the foreclosing mortgagee or lender and
18 any authority granted or conferred to that mortgage servicer
19 shall be described in the affiliate statement filed under both
20 subsection (a) and section 454M-5(a)(4)(F).

21 §667-V Actions and communications with the mortgagor in
22 connection with a foreclosure. Once a foreclosure has been



1 initiated under either part I or part II, a foreclosing
2 mortgagee shall be estopped from denying liability for any
3 action or communication respecting the subject property that is
4 received by the mortgagor from a mortgage servicer, a lender,
5 the foreclosing mortgagee, or the foreclosing mortgagee's
6 affiliate as named in the affiliate statement filed with the
7 bureau of conveyances pursuant to section 667-U. This section
8 shall also apply to any actions and communications made by the
9 agents, employees, or representatives of the lender, foreclosing
10 mortgagee, mortgage servicer, or foreclosing mortgagee's
11 affiliate.

12 §667-W Suspension of foreclosure actions by junior
13 lienholders. Upon initiation of a foreclosure action in part I
14 or part II by a foreclosing mortgagee as defined in section 667-
15 21(b), no junior lienholder shall be permitted to initiate or
16 continue with a foreclosure until the foreclosure initiated by
17 the foreclosing mortgagee has been concluded by either a
18 judgment issued by a court pursuant to section 667-1, the
19 recording of an affidavit after public sale pursuant to section
20 667-33, or the filing of a resolution document under the dispute
21 resolution provisions of section 667-F; provided that a junior



1 lienholder shall be permitted to initiate or continue with a
2 foreclosure if the resolution document allows for foreclosure."

3 SECTION 5. Section 454M-2, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) [A] No person [is] shall be engaged in the business
6 of mortgage servicing [~~if the person provides those services~~] in
7 this State [~~even if~~] unless the person providing services has
8 [~~no~~] a physical presence in the State[-] pursuant to section
9 454M-5(a)(5)."

10 SECTION 6. Section 454M-5, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) A mortgage servicer licensed or acting under this
13 chapter, in addition to duties imposed by law, shall:

- 14 (1) Safeguard and account for any money handled for the
15 borrower;
- 16 (2) Act with reasonable skill, care, timeliness,
17 promptness, and diligence;
- 18 (3) Disclose to the commissioner in the application and
19 yearly renewal a complete, current schedule of the
20 ranges of costs and fees it charges borrowers for its
21 servicing-related activities; [~~and~~]



- 1 (4) File with [~~the commissioner upon request~~] its yearly
2 renewal statement a report in a form and format
3 acceptable to the director detailing the servicer's
4 activities in this State, including:
- 5 (A) The number of mortgage loans the servicer is
6 servicing;
- 7 (B) The type and characteristics of such loans in
8 this State;
- 9 (C) The number of serviced loans in default, along
10 with a breakdown of thirty-, sixty-, and ninety-
11 day delinquencies;
- 12 (D) Information on loss mitigation activities,
13 including details on workout arrangements
14 undertaken;
- 15 (E) Information on foreclosures commenced in this
16 State; [~~and~~]
- 17 (F) The affiliations of the mortgage servicer,
18 including any lenders or mortgagees for which the
19 mortgage servicer is providing service, any
20 subsidiary or parent entities, and a description
21 of the authority held by the mortgage servicer
22 through its affiliations; and



1 ~~[-F-]~~ (G) Any other information that the commissioner may
2 require ~~[-]~~ i;
3 and
4 (5) Maintain an office in the State that is staffed by at
5 least one agent or employee for the purposes of
6 addressing consumer inquiries or complaints and
7 accepting service of process; provided that the
8 mortgage servicer has actively serviced at least
9 mortgage loans in the State within the
10 previous calendar year."

11 SECTION 7. Section 454M-10, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "~~[+]~~ §454M-10 ~~[+]~~ Penalty. Any person who violates any
14 provision of this chapter may be subject to an administrative
15 fine of not more than ~~[\$5,000]~~ \$7,000 for each violation."

16 SECTION 8. Section 514A-90, Hawaii Revised Statutes, is
17 amended by amending subsection (h) to read as follows:

18 "(h) The amount of the special assessment assessed under
19 subsection (g) shall not exceed the total amount of unpaid
20 regular monthly common assessments that were assessed during the
21 ~~[six]~~ twelve months immediately preceding the completion of the
22 judicial or nonjudicial power of sale foreclosure. In no event



1 shall the amount of the special assessment exceed the sum of
2 [~~\$3,600.~~] \$7,200."

3 SECTION 9. Section 514B-146, Hawaii Revised Statutes, is
4 amended by amending subsection (h) to read as follows:

5 "(h) The amount of the special assessment assessed under
6 subsection (g) shall not exceed the total amount of unpaid
7 regular monthly common assessments that were assessed during the
8 [~~six~~] twelve months immediately preceding the completion of the
9 judicial or nonjudicial power of sale foreclosure. In no event
10 shall the amount of the special assessment exceed the sum of
11 [~~\$3,600.~~] \$7,200."

12 SECTION 10. Section 613-2, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) There is established within the judiciary the center
15 for alternative dispute resolution. The center shall facilitate
16 the effective, timely, and voluntary resolution of disputes.
17 Through these resolutions, it shall help reduce public and
18 private costs of litigation and increase satisfaction with the
19 justice system. The center shall accomplish its purposes by:

20 (1) Providing, where feasible and agreed to by the
21 parties, the consultative resources and technical
22 assistance needed to achieve voluntary resolutions for



1 cases that affect the public interest or the work of
2 state and county agencies. These cases shall include
3 but not be limited to:

4 (A) Public disputes involving actual or threatened
5 court actions over the allocation or management
6 of public resources or the siting of public
7 facilities;

8 (B) Complex litigation cases in which a court or a
9 regulatory or administrative agency has
10 determined that the dispute involves multiple
11 parties or formidable technical, procedural, or
12 factual issues, or both;

13 (C) Policy roundtables in which the center, at the
14 request of an executive, legislative, or judicial
15 decisionmaker, convenes and chairs advisory
16 discussions on matters pertaining to standards or
17 rules; [~~and~~]

18 (D) Foreclosures subject to part of chapter 667;
19 and

20 [~~(D)~~] (E) Other cases directly referred by judges,
21 legislators, agency heads, or appointed
22 government officials;



1 (2) Promoting in a systematic manner the appropriate use
2 of alternative dispute resolution; and

3 (3) Disseminating to government agencies and to the
4 community at large up-to-date information on the
5 methods and applications of alternative dispute
6 resolution."

7 SECTION 11. Chapter 667, Hawaii Revised Statutes, is
8 amended by amending the title of part I to read as follows:

9 "PART I. FORECLOSURE BY ACTION [~~OR~~
10 ~~FORECLOSURE BY POWER OF SALE]~~"

11 SECTION 12. Section 667-1, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§667-1 Foreclosure by action. The circuit court may
14 assess the amount due upon a mortgage, whether of real or
15 personal property, without the intervention of a jury[7] and,
16 subject to the requirements of part , shall render judgment
17 for the amount awarded[7] and the foreclosure of the mortgage.
18 Execution may be issued on the judgment[7] as ordered by the
19 court."

20 SECTION 13. Section 667-5.5, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§667-5.5 Foreclosure notice. Notwithstanding any law or
2 agreement to the contrary, any person who forecloses on a
3 property under this part within a planned community, a
4 condominium apartment or unit, or an apartment in a cooperative
5 housing project shall notify, by way of registered or certified
6 mail, the board of directors of the planned community
7 association, the association of owners of the condominium
8 project, or the cooperative housing project in which the
9 property to be foreclosed is located, of the foreclosure at the
10 time foreclosure proceedings are begun. The notice, at a
11 minimum, shall identify the property, condominium apartment or
12 unit, or cooperative apartment which is the subject of the
13 foreclosure and identify the name or names of the person or
14 persons bringing foreclosure proceedings. This section shall
15 not apply when the planned community association, condominium
16 association of owners, or cooperative housing corporation is a
17 party in a foreclosure action. This section shall not affect
18 civil proceedings against parties other than the planned
19 community association, association of owners, or cooperative
20 housing corporation."

21 SECTION 14. Section 667-10, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "§667-10 Power unaffected by transfer; surplus after sale.
2 No sale or transfer by the mortgagor shall impair or annul any
3 right or power of attorney given in the mortgage to the
4 mortgagee to sell or transfer the mortgaged property, as
5 attorney or agent of the mortgagor, except as otherwise provided
6 by chapters 501 and 502. When public sale is made of the
7 mortgaged property under this [~~chapter,~~] part, the remainder of
8 the proceeds, if any, shall be paid over to the owner of the
9 mortgaged property, after deducting the amount of claim and all
10 expenses attending the same."

11 SECTION 15. Chapter 667, Hawaii Revised Statutes, is
12 amended by amending the title of part II to read as follows:

13 "[-]PART II. [~~ALTERNATE~~] POWER OF SALE FORECLOSURE PROCESS"

14 SECTION 16. Section 667-21, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "[-]§667-21 [~~Alternate power~~] Power of sale foreclosure
17 process; definitions. (a) The process in this part is [~~an~~
18 ~~alternative power of sale process to the foreclosure by action~~
19 ~~and the foreclosure by power of sale in part I.] a power of sale
20 foreclosure process.~~

21 (b) As used in this part:



1 "Association" has the same meaning as the term is defined
2 in section 514B-3.

3 "Borrower" means the borrower, maker, cosigner, or
4 guarantor under a mortgage agreement.

5 "Foreclosing mortgagee" means the mortgagee that intends to
6 conduct a power of sale foreclosure; provided that the mortgagee
7 is a federally insured bank, a federally insured savings and
8 loan association, a federally insured savings bank, a depository
9 financial services loan company, a nondepository financial
10 services loan company, a credit union insured by the National
11 Credit Union Administration, a bank holding company, a foreign
12 lender as defined in section 207-11, or an institutional
13 investor as defined in section 454-1.

14 Unless the context clearly indicates otherwise, as used in
15 this part, a "foreclosing mortgagee" shall encompass all of the
16 following entities:

- 17 (1) The foreclosing mortgagee;
18 (2) The lender that has an ownership interest in the
19 promissory note on the mortgage agreement or a
20 security interest represented by the mortgage for the
21 subject property;



- 1 (3) Any mortgage servicer, who services the mortgage loan
- 2 of the mortgagor; and
- 3 (4) The agents, employees, trustees, and representatives
- 4 of a lender, the foreclosing mortgagee, a mortgagee,
- 5 and a mortgage servicer.

6 "Mailed" means to be sent by regular mail, postage prepaid,
7 and by certified, registered, or express mail, postage prepaid
8 and return receipt requested.

9 "Mortgage" means a mortgage, security agreement, or other
10 document under which property is mortgaged, encumbered, pledged,
11 or otherwise rendered subject to a lien for the purpose of
12 securing the payment of money or the performance of an
13 obligation.

14 "Mortgage agreement" includes the mortgage, the note or
15 debt document, or any document amending any of the foregoing.

16 "Mortgaged property" means the property that is subject to
17 the lien of the mortgage.

18 "Mortgagee" means the current holder of record of the
19 mortgagee's or the lender's interest under the mortgage, or the
20 current mortgagee's or lender's duly authorized agent.

21 "Mortgagor" means the mortgagor or borrower named in the
22 mortgage and, unless the context otherwise indicates, includes



1 the current owner of record of the mortgaged property whose
2 interest is subject to the mortgage.

3 "Nonjudicial foreclosure" means foreclosure under the power
4 of sale foreclosure process under part II.

5 "Open house" means a public showing of the mortgaged
6 property during a scheduled time period.

7 "Owner-occupant" means a person who, at the time that a
8 notice of default and intention to foreclose is served on the
9 mortgagor under the power of sale:

10 (1) Owns an interest in the residential property, and the
11 interest is encumbered by the mortgage being
12 foreclosed; and

13 (2) The residential property is and has been the person's
14 primary residence for a continuous period of not less
15 than one hundred eighty days immediately preceding the
16 date on which the notice is served.

17 "Power of sale" or "power of sale foreclosure" means a
18 nonjudicial foreclosure under this part when the mortgage
19 contains, authorizes, permits, or provides for a power of sale,
20 a power of sale foreclosure, a power of sale remedy, or a
21 nonjudicial foreclosure.



1 "Property" means property (real, personal, or mixed), an
2 interest in property (including fee simple, leasehold, life
3 estate, reversionary interest, and any other estate under
4 applicable law), or other interests that can be subject to the
5 lien of a mortgage.

6 "Record" or "recorded" means a document is recorded or
7 filed with the office of the assistant registrar of the land
8 court under chapter 501 or recorded with the registrar of
9 conveyances under chapter 502, or both, as applicable.

10 "Residential property" means real property that is improved
11 and used for residential purposes.

12 "Served" means to have service of the notice of default and
13 intention to foreclose made in accordance with the service of
14 process or the service of summons under the Hawaii rules of
15 civil procedure, and under sections 634-35 and 634-36."

16 SECTION 17. Section 667-22, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§667-22 Notice of default[+] and intention to foreclose;
19 contents; distribution. (a) When the mortgagor or the borrower
20 has breached the mortgage agreement, and when the foreclosing
21 mortgagee intends to conduct a power of sale foreclosure under
22 this part, the foreclosing mortgagee shall prepare a written



1 notice of default and intention to foreclose addressed to the
2 mortgagor, the borrower, and any guarantor. The notice of
3 default and intention to foreclose shall state:

- 4 (1) The name and address of the current mortgagee;
- 5 (2) The name and last known address of the mortgagor, the
6 borrower, and any guarantor;
- 7 (3) The address or a description of the location of the
8 mortgaged property, [~~and~~] the tax map key number, and
9 the certificate of title or transfer certificate of
10 title number if within the jurisdiction of the land
11 court, of the mortgaged property;
- 12 (4) The description of the default, and if the default is
13 a monetary default, an itemization of the delinquent
14 amount shall be given;
- 15 (5) The action that must be taken to cure the default,
16 including the amount to cure the default, together
17 with the estimated amount of the foreclosing
18 mortgagee's attorney's fees and costs, and all other
19 fees and costs estimated to be incurred by the
20 foreclosing mortgagee related to the default by the
21 deadline date;



- 1 (6) The date by which the default must be cured, which
2 deadline date shall be at least [~~sixty~~] ninety days
3 after the date of the notice of default [~~7~~] and
4 intention to foreclose;
- 5 (7) That if the default is not cured by the deadline date
6 stated in the notice of default [~~7~~] and intention to
7 foreclose, the entire unpaid balance of the moneys
8 owed to the mortgagee under the mortgage agreement
9 will be due, that the mortgagee intends to conduct a
10 power of sale foreclosure to sell the mortgaged
11 property at a public sale without any court action and
12 without going to court, and that the mortgagee or any
13 other person may acquire the mortgaged property at the
14 public sale; [~~and~~]
- 15 (8) The name, address, [~~including~~] electronic address, and
16 telephone number of the attorney who is representing
17 the foreclosing mortgagee; provided that the attorney
18 shall be licensed to practice law in the State and
19 physically located in the State [~~7~~]; and
- 20 (9) Notice of the right of the mortgagor to elect to
21 participate in a dispute resolution process as
22 required by part .



1 (b) The notice of default and intention to foreclose shall
2 also contain wording substantially similar to the following in
3 all capital letters:

4 "IF THE DEFAULT ON THE LOAN CONTINUES AFTER THE
5 DEADLINE DATE IN THIS NOTICE, THE MORTGAGED PROPERTY
6 MAY BE FORECLOSED AND SOLD WITHOUT ANY COURT ACTION
7 AND WITHOUT GOING TO COURT.

8 YOU MAY HAVE CERTAIN LEGAL RIGHTS OR DEFENSES.
9 FOR ADVICE, YOU SHOULD CONSULT WITH AN ATTORNEY
10 LICENSED IN THIS STATE.

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

19 THIS OFFICE MUST ACTUALLY RECEIVE THE SIGNED
20 LETTER BY THE DEADLINE DATE IN THIS NOTICE. THE
21 SIGNED LETTER MUST BE SENT TO THIS OFFICE BY CERTIFIED



1 MAIL, REGISTERED MAIL, OR EXPRESS MAIL, POSTAGE
2 PREPAID AND RETURN RECEIPT REQUESTED.

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

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

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

19 (c) The notice of default and intention to foreclose shall
20 include:

- 21 (1) A copy of the original mortgage agreement, and any
- 22 subsequent mortgage agreements and assignments;



- 1 (2) The promissory note, signed by both the mortgagor and
2 the mortgagee, and any endorsements and allonges on
3 the note; and
- 4 (3) Any other documents that amended or altered the terms
5 of the original mortgage agreement that were signed by
6 the mortgagor and the mortgagee or any successors or
7 assigns of the mortgagor or the mortgagee.
- 8 (d) The notice of default and intention to foreclose shall
9 also include contact information for at least one local housing
10 counseling agency approved by the United States Department of
11 Housing and Urban Development.
- 12 ~~[-e-]~~ (e) The foreclosing mortgagee shall have the notice
13 of default and intention to foreclose served on:
- 14 (1) The mortgagor and the borrower[+] in the same manner
15 as service of a civil complaint under chapter 634 and
16 the Hawaii rules of civil procedure, as they may be
17 amended from time to time;
- 18 (2) Any prior or junior creditors having a recorded lien
19 on the mortgaged property before the recordation of
20 the notice of default and intention to foreclose under
21 section 667-23;
- 22 (3) The state director of taxation;



- 1 (4) The director of finance of the county where the
- 2 mortgaged property is located; and
- 3 (5) Any other person entitled to receive notice under
- 4 ~~[section 667-5.5.]~~ this part."

5 SECTION 18. Section 667-23, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[+]§667-23 [+] Recordation of notice of default[-] and
8 intention to foreclose. Before the deadline date in the notice
9 of default[-] and intention to foreclose, the notice [~~of~~
10 ~~default~~] shall be recorded in a recordable form [~~shall be~~
11 ~~recorded~~] in a manner similar to recordation of notices of
12 pendency of action under section 501-151 or section 634-51, or
13 both, as applicable. The recorded notice of default and
14 intention to foreclose shall have the same effect as a notice of
15 pendency of action. From and after the recordation of the
16 notice of default[-] and intention to foreclose, any person who
17 becomes a purchaser or encumbrancer of the mortgaged property
18 shall be deemed to have constructive notice of the power of sale
19 foreclosure and shall be bound by the foreclosure."

20 SECTION 19. Section 667-24, Hawaii Revised Statutes, is
21 amended to read as follows:



1 " ~~[+] §667-24 []~~ Cure of default. (a) If the default is
 2 cured as required by the notice of default ~~[]~~ and intention to
 3 foreclose, or if the parties have reached an agreement to avoid
 4 foreclosure pursuant to part , the foreclosing mortgagee shall
 5 rescind the notice of default ~~[]~~ and intention to foreclose.
 6 Within fourteen days of the date of the cure ~~[]~~ or an agreement
 7 reached by the parties through a dispute resolution process
 8 pursuant to part , the foreclosing mortgagee shall so notify
 9 any person who was served with the notice of default ~~[]~~ and
 10 intention to foreclose. If the notice of default and intention
 11 to foreclose was recorded, a release of the notice of default
 12 and intention to foreclose shall be recorded.

13 (b) If the default is not cured, as required by the notice
 14 of default ~~[]~~ and intention to foreclose or if the parties have
 15 not reached an agreement to avoid foreclosure pursuant to
 16 part , the foreclosing mortgagee, without filing a court
 17 action and without going to court, may foreclose the mortgage
 18 under power of sale to sell the mortgaged property at a public
 19 sale."

20 SECTION 20. Section 667-25, Hawaii Revised Statutes, is
 21 amended by amending subsections (a) and (b) to read as follows:



1 "(a) ~~[The]~~ Subject to the requirements of part , public
2 sale of the mortgaged property shall take place on the later of
3 the following:

4 (1) At least sixty days after the public notice of the
5 public sale is distributed under section 667-27; or

6 (2) At least fourteen days after the date of the
7 publication of the third public notice advertisement
8 under section 667-27.

9 (b) The public sale of the mortgaged property shall be
10 held only in the county where the mortgaged property is
11 located~~[. However, if the borrower, the mortgagor, and the~~
12 ~~foreclosing mortgagee all agree in writing, the public sale may~~
13 ~~be held in a different county in the State.]~~; provided that the
14 public sale shall be held only on grounds or at facilities under
15 the administration of the State, as follows:

16 (1) At the state capitol, for a public sale of mortgaged
17 property located in the city and county of Honolulu;

18 (2) At a state facility or on public lands in Hilo, for a
19 public sale of mortgaged property located in the
20 eastern portion of the county of Hawaii;



- 1 (3) At a state facility or on public lands in Kona, for a
2 public sale of mortgaged property located in the
3 western portion of the county of Hawaii;
- 4 (4) At a state building or on public lands in Maui, for a
5 public sale of mortgaged property located in the
6 county of Maui; and
- 7 (5) At a state building or on public lands in Kauai, for a
8 public sale of mortgaged property located in the
9 county of Kauai;
- 10 provided further that no public sale shall be held on grounds or
11 at facilities under the administration of the judiciary. The
12 public sale shall be held during business hours on a business
13 day."

14 SECTION 21. Section 667-26, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) If the default is not cured as stated in the notice
17 of default[7] and intention to foreclose, the foreclosing
18 mortgagee shall conduct two open houses of the mortgaged
19 property before the public sale; provided that the foreclosing
20 mortgagee timely received the signed letter of agreement from
21 the mortgagor as required by the notice of default[-] and



1 intention to foreclose. Only two open houses shall be required
2 even if the date of the public sale is postponed."

3 SECTION 22. Section 667-27, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By amending subsection (a) to read:

6 "(a) The foreclosing mortgagee shall prepare the public
7 notice of the public sale. The public notice shall state:

8 (1) The date, time, and place of the public sale;

9 (2) The dates and times of the two open houses of the
10 mortgaged property, or if there will not [~~te~~] be any
11 open houses, the public notice shall so state;

12 (3) The unpaid balance of the moneys owed to the mortgagee
13 under the mortgage agreement;

14 (4) A description of the mortgaged property, including the
15 address or description of the location of the
16 mortgaged property, and the tax map key number of the
17 mortgaged property;

18 (5) The name of the mortgagor and the borrower;

19 (6) The name of the foreclosing mortgagee;

20 (7) The name of any prior or junior creditors having a
21 recorded lien on the mortgaged property before the



1 recordation of the notice of default and intention to
2 foreclose under section 667-23;

3 (8) The name, the address in the State, and the telephone
4 number in the State of the person in the State
5 conducting the public sale; [~~and~~]

6 (9) The terms and conditions of the public sale[~~-~~]; and

7 (10) An estimate of the opening bid."

8 2. By amending subsections (c) and (d) to read:

9 "(c) If the default is not cured as required by the notice
10 of default [~~-~~] and intention to foreclose, the foreclosing
11 mortgagee shall have a copy of the public notice of the public
12 sale of the mortgaged property:

13 (1) Mailed or delivered to the mortgagor and the borrower
14 at their respective last known addresses;

15 (2) Mailed or delivered to any prior or junior creditors
16 having a recorded lien on the mortgaged property
17 before the recordation of the notice of default and
18 intention to foreclose under section 667-23;

19 (3) Mailed or delivered to the state director of taxation;

20 (4) Mailed or delivered to the director of finance of the
21 county where the mortgaged property is located;



1 (5) Posted on the mortgaged property or on such other real
2 property of which the mortgaged property is a part;
3 and

4 (6) Mailed or delivered to any other person entitled to
5 receive notice under section [~~667-5.5.~~] 667-T.

6 (d) The foreclosing mortgagee shall have the public notice
7 of the public sale published in the classified section of a
8 daily newspaper [~~of~~] having the largest general circulation
9 expressly in the county where the mortgaged property is located.

10 The public notice shall be published once each week for three
11 consecutive weeks (three publications). The public sale shall
12 take place no sooner than fourteen days after the date of the
13 publication of the third public notice advertisement."

14 SECTION 23. Section 667-28, Hawaii Revised Statutes, is
15 amended by amending subsections (a) and (b) to read as follows:

16 "(a) The public sale may be either postponed or canceled
17 by the foreclosing mortgagee. Notice of the postponement or the
18 cancellation of the public sale shall be:

19 (1) Announced by the foreclosing mortgagee at the date,
20 time, and place of the last scheduled public sale; and

21 (2) Provided, upon request, to any other person who is
22 entitled to receive the notice of default and



1 intention to foreclose under section [~~667-22(e)~~] 667-
2 22(e).

3 (b) If there is a postponement of the public sale of the
4 mortgaged property, a new public notice of the public sale shall
5 be published once in the format described in section 667-27.
6 The new public notice shall state that it is a notice of a
7 postponed sale. The public sale shall take place no sooner than
8 fourteen days after the date of the publication of the new
9 public notice. [~~No sooner~~] Not less than fourteen days before
10 the date of the public sale, a copy of the new public notice
11 shall be posted on the mortgaged property or on such other real
12 property of which the mortgaged property is a part, and it shall
13 be mailed or delivered to the mortgagor, to the borrower, and to
14 any other person entitled to receive notice under section 667-
15 27. Notwithstanding the foregoing, upon the fourth postponement
16 of every series of four consecutive postponements, the
17 foreclosing mortgagee shall follow all of the public notice of
18 public sale requirements of section 667-27, including the
19 requirements of mailing and posting under section 667-27(c) and
20 of publication under section 667-27(d)."

21 SECTION 24. Section 667-29, Hawaii Revised Statutes, is
22 amended to read as follows:



1 " [†] §667-29 [†] Authorized bidder; successful bidder. Any
2 person, including the foreclosing mortgagee, shall be authorized
3 to bid for the mortgaged property at the public sale and to
4 purchase the mortgaged property. The highest bidder who meets
5 the requirements of the terms and conditions of the public sale
6 shall be the successful bidder. The public sale shall be
7 considered as being held when the mortgaged property is declared
8 by the foreclosing mortgagee as being sold to the successful
9 bidder. When the public sale is held; the successful bidder at
10 the public sale, as the purchaser, shall make a nonrefundable
11 downpayment to the foreclosing mortgagee of not less than ten
12 per cent of the highest successful bid price. If the successful
13 bidder is the foreclosing mortgagee or any other mortgagee
14 having a recorded lien on the mortgaged property before the
15 recordation of the notice of default and intention to foreclose
16 under section 667-23, the downpayment requirement may be
17 satisfied by offset and a credit bid up to the amount of the
18 mortgage debt."

19 SECTION 25. Section 667-31, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:

21 "(a) After the purchaser completes the purchase by paying
22 the full purchase price and the costs for the purchase, the



1 mortgaged property shall be conveyed to the purchaser by a
 2 conveyance document. The conveyance document shall be in a
 3 recordable form and shall be signed by the foreclosing mortgagee
 4 in the foreclosing mortgagee's name. The mortgagor or borrower
 5 shall not be required to sign the conveyance document [~~on his or~~
 6 ~~her own behalf~~]."

7 SECTION 26. Section 667-32, Hawaii Revised Statutes, is
 8 amended to read as follows:

9 "[+]§667-32[+] Affidavit after public sale; contents. (a)

10 After the public sale is held, the foreclosing mortgagee shall
 11 sign an affidavit under penalty of perjury:

12 (1) Stating that the power of sale foreclosure was made
 13 pursuant to the power of sale provision in the
 14 mortgage;

15 (2) Stating that the power of sale foreclosure was
 16 conducted as required by this part;

17 (3) Summarizing what was done by the foreclosing
 18 mortgagee;

19 (4) Attaching a copy of the recorded notice of default [✓]
 20 and intention to foreclose;

21 (5) Attaching a copy of the last public notice of the
 22 public sale [✓];



1 (6) Attaching a copy of the affiliate statement filed at
2 the bureau of conveyances as required under section
3 667-U; and

4 (7) Attaching a copy of the statement filed with the
5 commissioner of financial institutions of the mortgage
6 servicer affiliations as required under section 454M-
7 5(a)(4)(F), describing the authority held by the
8 mortgage servicer through its affiliations.

9 (b) The recitals in the affidavit required under
10 subsection (a) may, but need not, be substantially in the
11 following form:

12 (1) I am duly authorized to represent or act on behalf of
13 _____ (name of mortgagee) ("foreclosing
14 mortgagee") regarding the following power of sale
15 foreclosure. I am signing this affidavit in
16 accordance with the alternate power of sale
17 foreclosure law (Chapter 667, Part II, Hawaii Revised
18 Statutes);

19 (2) The foreclosing mortgagee is a "foreclosing mortgagee"
20 as defined in the power of sale foreclosure law;

21 (3) The power of sale foreclosure is of a mortgage made by
22 _____ (name of mortgagor)



1 ("mortgagor"), dated _____, and recorded in the
 2 _____ (bureau of conveyances or office of
 3 the assistant registrar of the land court) as
 4 _____ (recordation information). The
 5 mortgaged property is located at:

6 _____ (address or description of
 7 location) and is identified by tax map key number:
 8 _____. The legal description of the mortgaged
 9 property is attached as Exhibit "A". The name of the
 10 borrower, if different from the mortgagor, is
 11 _____ ("borrower");

12 (4) Pursuant to the power of sale provision of the
 13 mortgage, the power of sale foreclosure was conducted
 14 as required by the power of sale foreclosure law. The
 15 following is a summary of what was done:

16 (A) A notice of default and intention to foreclose
 17 was served on the mortgagor, the borrower, and
 18 the following person: _____. The
 19 notice of default and intention to foreclose was
 20 served on the following date and in the following
 21 manner: _____;



- 1 (B) The date of the notice of default and intention
- 2 to foreclose was _____ (date). The deadline
- 3 in the notice for curing the default was
- 4 _____ (date), which deadline date was at
- 5 least sixty days after the date of the notice;
- 6 (C) The notice of default and intention to foreclose
- 7 was recorded before the deadline date in the
- 8 _____ (bureau of conveyances or office
- 9 of the assistant registrar of the land court).
- 10 The notice was recorded on _____ (date) as
- 11 document no. _____. A copy of the recorded
- 12 notice is attached as Exhibit "1";
- 13 (D) The default was not cured by the deadline date in
- 14 the notice of default[?] and intention to
- 15 foreclose;
- 16 (E) A public notice of the public sale was initially
- 17 published in the classified section of the
- 18 _____, a daily newspaper of
- 19 general circulation in the county where the
- 20 mortgaged property is located, once each week for
- 21 three consecutive weeks on the following dates:
- 22 _____ . A copy of the affidavit of



1 publication for the last public notice of the
 2 public sale is attached as Exhibit "2". The date
 3 of the public sale was _____ (date). The
 4 last publication was not less than fourteen days
 5 before the date of the public sale;

6 (F) The public notice of the public sale was sent to
 7 the mortgagor, to the borrower, to the state
 8 director of taxation, to the director of finance
 9 of the county where the mortgaged property is
 10 located, and to the following:

11 _____ . The public notice was sent on
 12 the following dates and in the following manner:

13 _____ . Those dates were after the
 14 deadline date in the notice of default [7] and
 15 intention to foreclose, and those dates were at
 16 least sixty days before the date of the public
 17 sale;

18 (G) The public notice of the public sale was posted
 19 on the mortgaged property or on such other real
 20 property of which the mortgaged property is a
 21 part on _____ (date). That date was at



1 least sixty days before the date of the public
2 sale;

3 (H) Two public showings (open houses) of the
4 mortgaged property were held (or were not held
5 because the mortgagor did not cooperate);

6 (I) A public sale of the mortgaged property was held
7 on a business day during business hours on:

8 _____ (date), at _____ (time), at the
9 following location: _____. The

10 highest successful bidder was _____
11 _____ (name) with the highest
12 successful bid price of \$ _____; and

13 (J) At the time the public sale was held, the default
14 was not cured and there was no circuit court
15 foreclosure action pending in the circuit where
16 the mortgaged property is located; and

17 (5) This affidavit is signed under penalty of perjury."

18 SECTION 27. Section 667-39, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "~~§~~667-39~~§~~ Right to enforce this part. (a) The
21 foreclosing mortgagee, any other creditor having a recorded lien
22 on the mortgaged property before the recordation of the notice



1 of default and intention to foreclose under section 667-23, the
2 borrower, and the mortgagor, may enforce this part by bringing
3 an action in the circuit court of the circuit where the
4 mortgaged property is located.

5 (b) The remedies provided in this part are cumulative and
6 shall not abridge the right of a party to bring action under any
7 other law, including but not limited to section 454M-9."

8 SECTION 28. Section 667-41, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "~~+~~ §667-41 ~~+~~ Public information requirement. ~~[A++]~~
11 Beginning on September 1, 2011, all financial institutions,
12 mortgagees, lenders, business entities and organizations without
13 limitation, and persons, who intend to use the power of sale
14 foreclosure under this part, under the conditions required by
15 this part, shall also develop informational materials to educate
16 and inform borrowers and mortgagors. These materials shall be
17 made available to the public~~[-]~~ and provided to the mortgagors
18 of all mortgage agreements entered into, including the borrowers
19 at the time of application for a mortgage or loan, or other
20 contract containing a power of sale foreclosure provision.
21 These materials, among other things, shall inform the borrower
22 that the financial institution and other business entities and



1 persons who are authorized under this part to exercise the power
2 of sale foreclosure, in the event of the borrower's default,
3 have the option of pursuing either a judicial or nonjudicial
4 foreclosure as provided by law. These informational materials
5 shall fully and completely explain these remedies[-] in simple
6 and understandable terms."

7 SECTION 29. Section 667-5, Hawaii Revised Statutes, is
8 repealed.

9 [~~§667-5 Foreclosure under power of sale; notice;~~
10 ~~affidavit after sale.~~ (a) ~~When a power of sale is contained in~~
11 ~~a mortgage, and where the mortgagee, the mortgagee's successor~~
12 ~~in interest, or any person authorized by the power to act in the~~
13 ~~premises, desires to foreclose under power of sale upon breach~~
14 ~~of a condition of the mortgage, the mortgagee, successor, or~~
15 ~~person shall be represented by an attorney who is licensed to~~
16 ~~practice law in the State and is physically located in the~~
17 ~~State. The attorney shall:~~

18 ~~(1) Give notice of the mortgagee's, successor's, or~~
19 ~~person's intention to foreclose the mortgage and of~~
20 ~~the sale of the mortgaged property, by publication of~~
21 ~~the notice once in each of three successive weeks~~
22 ~~(three publications), the last publication to be not~~



1 ~~less than fourteen days before the day of sale, in a~~
2 ~~newspaper having a general circulation in the county~~
3 ~~in which the mortgaged property lies; and~~
4 ~~(2) Give any notices and do all acts as are authorized or~~
5 ~~required by the power contained in the mortgage.~~
6 ~~(b) Copies of the notice required under subsection (a)~~
7 ~~shall be:~~
8 ~~(1) Filed with the state director of taxation; and~~
9 ~~(2) Posted on the premises not less than twenty one days~~
10 ~~before the day of sale.~~
11 ~~(c) Upon the request of any person entitled to notice~~
12 ~~pursuant to this section and sections 667-5.5 and 667-6, the~~
13 ~~attorney, the mortgagee, successor, or person represented by the~~
14 ~~attorney shall disclose to the requestor the following~~
15 ~~information:~~
16 ~~(1) The amount to cure the default, together with the~~
17 ~~estimated amount of the foreclosing mortgagee's~~
18 ~~attorneys' fees and costs, and all other fees and~~
19 ~~costs estimated to be incurred by the foreclosing~~
20 ~~mortgagee related to the default prior to the auction~~
21 ~~within five business days of the request; and~~



1 ~~(2) The sale price of the mortgaged property once~~
2 ~~auctioned.~~

3 ~~(d) Any sale, of which notice has been given as aforesaid,~~
4 ~~may be postponed from time to time by public announcement made~~
5 ~~by the mortgagee or by some person acting on the mortgagee's~~
6 ~~behalf. Upon request made by any person who is entitled to~~
7 ~~notice pursuant to section 667-5.5 or 667-6, or this section,~~
8 ~~the mortgagee or person acting on the mortgagee's behalf shall~~
9 ~~provide the date and time of a postponed auction, or if the~~
10 ~~auction is canceled, information that the auction was canceled.~~
11 ~~The mortgagee within thirty days after selling the property in~~
12 ~~pursuance of the power, shall file a copy of the notice of sale~~
13 ~~and the mortgagee's affidavit, setting forth the mortgagee's~~
14 ~~acts in the premises fully and particularly, in the bureau of~~
15 ~~conveyances.~~

16 ~~(e) The affidavit and copy of the notice shall be recorded~~
17 ~~and indexed by the registrar, in the manner provided in chapter~~
18 ~~501 or 502, as the case may be.~~

19 ~~(f) This section is inapplicable if the mortgagee is~~
20 ~~foreclosing as to personal property only."]~~

21 SECTION 30. Section 667-6, Hawaii Revised Statutes, is
22 repealed.



1 ~~["§667-6 Notice to mortgage creditors. Whenever a~~
2 ~~mortgage creditor having a mortgage lien on certain premises~~
3 ~~desires notice that another mortgage creditor having a mortgage~~
4 ~~lien on the same premises intends to foreclose the mortgage and~~
5 ~~sell the mortgaged property pursuant to a power of sale under~~
6 ~~section 667-5, the mortgage creditor may submit a written~~
7 ~~request to the mortgagee foreclosing or who may foreclose the~~
8 ~~mortgage by power of sale, to receive notice of the mortgagee's~~
9 ~~intention to foreclose the mortgage under power of sale. This~~
10 ~~request for notice may be submitted any time after the~~
11 ~~recordation or filing of the subject mortgage at the bureau of~~
12 ~~conveyances or the land court, but must be submitted prior to~~
13 ~~the completion of the publication of the mortgagee's notice of~~
14 ~~intention to foreclose the mortgage and of the sale of the~~
15 ~~mortgaged property. This request shall be signed by the~~
16 ~~mortgage creditor, or its authorized representative, desiring to~~
17 ~~receive notice, specifying the name and address of the person to~~
18 ~~whom the notice is to be mailed. The mortgagee receiving the~~
19 ~~request shall thereafter give notice to all mortgage creditors~~
20 ~~who have timely submitted their request. The notice shall be~~
21 ~~sent by mail or otherwise communicated to the mortgage~~



1 ~~creditors, not less than seven calendar days prior to the date~~
2 ~~of sale.~~

3 ~~No request for copy of any notice pursuant to this section~~
4 ~~nor any statement or allegation in any such request nor any~~
5 ~~record thereof shall affect the title to real property or be~~
6 ~~deemed notice to any person that any party requesting copy of~~
7 ~~the notice has or claims any right, title, or interest in, or~~
8 ~~lien or charge upon the property described in the mortgage~~
9 ~~referred to therein."]~~

10 SECTION 31. Section 667-7, Hawaii Revised Statutes, is
11 repealed.

12 [~~§667-7 Notice, contents; affidavit. (a) The notice of~~
13 ~~intention of foreclosure shall contain:~~

14 ~~(1) A description of the mortgaged property; and~~
15 ~~(2) A statement of the time and place proposed for the~~
16 ~~sale thereof at any time after the expiration of four~~
17 ~~weeks from the date when first advertised.~~

18 ~~(b) The affidavit described under section 667-5 may~~
19 ~~lawfully be made by any person duly authorized to act for the~~
20 ~~mortgagee, and in such capacity conducting the foreclosure."]~~

21 SECTION 32. Section 667-8, Hawaii Revised Statutes, is
22 repealed.



1 ~~["§667-8 Affidavit as evidence, when. If it appears by~~
2 ~~the affidavit that the affiant has in all respects complied with~~
3 ~~the requirements of the power of sale and the statute, in~~
4 ~~relation to all things to be done by the affiant before selling~~
5 ~~the property, and has sold the same in the manner required by~~
6 ~~the power, the affidavit, or a duly certified copy of the record~~
7 ~~thereof, shall be admitted as evidence that the power of sale~~
8 ~~was duly executed."]~~

9 SECTION 33. Section 667-9, Hawaii Revised Statutes, is
10 repealed.

11 ~~["§667-9 Dower barred, when. If the mortgage was executed~~
12 ~~by a man having at the time no lawful wife, or if the mortgagor~~
13 ~~being married, his wife joined in the deed in token of her~~
14 ~~release of dower, the sale of the property in the mode aforesaid~~
15 ~~shall be effectual to bar all claim and possibility of dower in~~
16 ~~the property."]~~

17 SECTION 34. Section 667-34, Hawaii Revised Statutes, is
18 repealed.

19 ~~["[§667-34] Foreclosure sale; conclusive presumptions.~~
20 ~~Unless an appeal is taken as set forth in section 667-35, any~~
21 ~~foreclosure sale held in accordance with this part shall be~~
22 ~~conclusively presumed to have been conducted in a legal, fair,~~



1 ~~and reasonable manner. The sale price shall be conclusively~~
2 ~~presumed to be reasonable and equal to the fair market value of~~
3 ~~the property based on the circumstances and on the economic~~
4 ~~conditions at the time of the sale. The statements in the~~
5 ~~recorded affidavit shall be conclusive evidence as to the facts~~
6 ~~stated therein for any purpose, in any court and in any~~
7 ~~proceeding, and in favor of bona fide purchasers and~~
8 ~~encumbrancers for value without notice. The purchaser of the~~
9 ~~mortgaged property shall be conclusively presumed to be a bona~~
10 ~~fide purchaser. Encumbrancers for value include liens placed by~~
11 ~~lenders who provide the purchaser with purchase money in~~
12 ~~exchange for a mortgage or other security interest in the newly-~~
13 ~~conveyed property."]~~

14 SECTION 35. Section 667-35, Hawaii Revised Statutes, is
15 repealed.

16 ~~"[§667-35] Appeal to circuit court. The borrower, the~~
17 ~~mortgagor, and any creditor having a recorded lien on the~~
18 ~~mortgaged property before the recordation of the notice of~~
19 ~~default under section 667-23, shall have the right to file an~~
20 ~~appeal in the circuit court where the mortgaged property is~~
21 ~~located to contest the presumptions set forth in section 667-34,~~
22 ~~and the statements contained in the affidavit required by~~



1 ~~section 667-32. No appeal shall be filed later than thirty days~~
2 ~~after the recordation of the affidavit. Failure to timely~~
3 ~~appeal shall result in the statements in the affidavit and the~~
4 ~~presumptions set forth in section 667-34 becoming conclusive in~~
5 ~~accordance with the terms of that section."]~~

6 SECTION 36. Section 667-37, Hawaii Revised Statutes, is
7 repealed.

8 [~~§667-37] Judicial action of foreclosure before public~~
9 ~~sale. This part shall not prohibit the borrower, the~~
10 ~~foreclosing mortgagee, or any other creditor having a recorded~~
11 ~~lien on the mortgaged property before the recordation of the~~
12 ~~notice of default under section 667-23, from filing an action~~
13 ~~for the judicial foreclosure of the mortgaged property in the~~
14 ~~circuit court of the circuit where the mortgaged property is~~
15 ~~located; provided that the action is filed before the public~~
16 ~~sale is held. While that circuit court foreclosure action is~~
17 ~~pending, the power of sale foreclosure process shall be~~
18 ~~stayed."]~~

19 SECTION 37. Section 667-38, Hawaii Revised Statutes, is
20 repealed.

21 [~~§667-38] Recordation; full satisfaction of debt by~~
22 ~~borrower. The recordation of both the conveyance document and~~



1 ~~the affidavit shall operate as full satisfaction of the debt~~
2 ~~owed by the borrower to the foreclosing mortgagee even if the~~
3 ~~foreclosing mortgagee receives nothing from the sale proceeds,~~
4 ~~unless the debt is secured by other collateral, or except as~~
5 ~~otherwise provided by law. The debts of other lien creditors~~
6 ~~are unaffected except as provided in this part."]~~

7 SECTION 38. Section 667-42, Hawaii Revised Statutes, is
8 repealed.

9 ~~["[~~§667-42~~] Application of this part. The requirements of~~
10 ~~this part shall apply only to new mortgages, loans, agreements,~~
11 ~~and contracts containing power of sale foreclosure language~~
12 ~~executed by the borrowers or mortgagors after July 1, 1999."]~~

13 SECTION 39. Upon the effective date of this Act, the
14 judiciary is requested to consider creating and adopting a form
15 for the conversion complaint established under section 3 of this
16 Act.

17 SECTION 40. There is appropriated out of the general
18 revenues of the State of Hawaii the sum of \$ or so much
19 thereof as may be necessary for fiscal year 2011-2012 to be
20 deposited into the mortgage foreclosure dispute resolution
21 special fund established pursuant to section 667-L, Hawaii
22 Revised Statutes, and used to pay for the initial costs



1 associated with establishing a dispute resolution program at the
2 center for alternative dispute resolution for use by mortgagors
3 and mortgagees to avoid or mitigate the damages of foreclosure.

4 The sum appropriated shall be expended by the judiciary for
5 the purposes of this Act; provided that upon receipt of
6 sufficient moneys to accomplish its purpose, the mortgage
7 foreclosure dispute resolution special fund shall reimburse the
8 general fund for the appropriation made pursuant to this Act.

9 SECTION 41. In codifying the new sections added by
10 sections 2, 3, and 4 of this Act, the revisor of statutes shall
11 substitute appropriate section numbers for the letters used in
12 designating the new sections in this Act.

13 SECTION 42. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 43. This Act shall take effect on July 1, 2050;
16 provided that sections 2, 8, and 9 shall be repealed on July 1,
17 2053; provided that on July 1, 2053, sections 514A-90 and 514B-
18 146, Hawaii Revised Statutes, shall be reenacted in the form in
19 which they read on June 30, 2050; and provided further that if
20 any other Act of the legislature effectuates a moratorium on
21 nonjudicial foreclosures and whose termination date is



- 1 subsequent to July 1, 2050, the moratorium shall be terminated
- 2 on July 1, 2050.



Report Title:

Mortgage Foreclosures

Description:

Repeals the old non-judicial foreclosure process. Clarifies the new non-judicial foreclosure process. Strengthens laws regarding mortgage servicers. Broadens the duties of the Center for Alternative Dispute Resolution. Effective July 1, 2050.
(HB1411 HD2)

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

