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# A BILL FOR AN ACT

RELATING TO MORTGAGE FORECLOSURES.

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

1           SECTION 1. The legislature finds that the number of  
2 residential mortgage foreclosures in Hawaii has increased so  
3 rapidly during this current period of economic recession that  
4 Hawaii has gained the unfortunate distinction of having one of  
5 the highest foreclosure rates in the nation. The legislature  
6 finds that, all too often, homeowners who try to take steps to  
7 avoid foreclosure through negotiations with lenders are stymied  
8 by mortgage lenders or servicers who may not have a local  
9 presence to enable direct communication and who employ strategic  
10 delay tactics or other unfair practices to thwart good faith  
11 negotiations. Federal programs do exist to assist homeowners in  
12 avoiding foreclosure. However, the federal programs create a  
13 dual-track process that does not compel compliance by lenders  
14 and allows the foreclosure process to continue while  
15 negotiations or loan modifications are ongoing. In many  
16 instances, homeowners may still lose their homes even while they  
17 are in compliance with the terms of a foreclosure avoidance or  
18 mitigation program.



1           The legislature further finds that several other states and  
2 municipalities have enacted mandatory foreclosure dispute  
3 resolution programs to respond to their own high rates of  
4 foreclosure. Many of these programs have been successful in  
5 allowing families to stay in their homes or to reach some  
6 agreement that mitigates damages in the cases where foreclosure  
7 is inevitable. Nevada's foreclosure mediation program is widely  
8 seen as one example of such a successful program. Since the  
9 start of the Nevada program in September 2009, approximately  
10 4,200 mediations have been conducted between homeowners and  
11 foreclosing mortgagees. In forty-six per cent of these  
12 mediations, homeowners have been able to reach an agreement to  
13 remain in the home and in an additional sixteen per cent of  
14 cases, homeowners have been able to reach an agreement that  
15 mitigates damage and preserves their dignity. The legislature  
16 finds that Nevada's foreclosure mediation program serves as a  
17 useful model for a similar program in Hawaii.

18           The purpose of this Act is to authorize a mortgagor to  
19 require a foreclosing mortgagee to engage in dispute resolution  
20 prior to a judicial or nonjudicial mortgage foreclosure.



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

4 "PART . MANDATORY FORECLOSURE DISPUTE RESOLUTION

5 §667-A Definitions. As used in this part:

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

8 "Dispute resolution" means a facilitated negotiation  
9 between a mortgagor and mortgagee for the purpose of reaching an  
10 agreement for mortgage loan modification or other agreement in  
11 an attempt to avoid foreclosure or to mitigate damages in the  
12 event that foreclosure is unavoidable.

13 "Facilitator" means the person assigned to facilitate the  
14 dispute resolution process required by this part.

15 §667-B Dispute resolution required before foreclosure.

16 (a) Before a circuit court may order a judgment of foreclosure  
17 pursuant to section 667-1 or before a public sale may be  
18 conducted pursuant to section 667-5 or 667-25 for a residential  
19 property that is occupied by the mortgagor as a primary  
20 residence, the foreclosing mortgagee shall, at the election of  
21 the mortgagor, participate in dispute resolution pursuant to  
22 this part to attempt to reach a negotiated agreement to avoid



1 foreclosure or to mitigate damages where foreclosure is  
2 unavoidable.

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

6 **§667-C Notice of dispute resolution required.** (a) Notice  
7 of a foreclosure action in circuit court pursuant to section  
8 667-1, notice of a power of sale foreclosure given, filed, or  
9 posted pursuant to section 667-5, or notice of default served  
10 pursuant to section 667-22(c) shall include notice that the  
11 foreclosing mortgagee is required, at the election of the  
12 mortgagor, to participate in dispute resolution pursuant to this  
13 part for the purpose of attempting to avoid foreclosure.

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

15 (1) The name and contact information of a person or entity  
16 with the authority to negotiate a loan modification on  
17 behalf of the mortgagee;

18 (2) Contact information for at least one local housing  
19 counseling agency approved by the United States  
20 Department of Housing and Urban Development;

21 (3) A form for the mortgagor to use to elect or to waive  
22 dispute resolution pursuant to this part that shall



1 contain the mailing address of the center for  
2 alternative dispute resolution and instructions for  
3 the return of the form to the center for alternative  
4 dispute resolution; and

- 5 (4) A description of the information that the mortgagor is  
6 required to provide to the center for alternative  
7 dispute resolution.

8 **§667-D Election of dispute resolution; stay of foreclosure**

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

14 (b) Upon receipt of notice that a mortgagor has elected to  
15 pursue dispute resolution, the center for alternative dispute  
16 resolution shall process the notice, assign the matter to a  
17 facilitator, and schedule the dispute resolution no later than  
18 one hundred thirty-five days after receipt of the mortgagor's  
19 election to pursue dispute resolution according to rules adopted  
20 by the supreme court. All foreclosure proceedings shall be  
21 stayed effective upon the center for alternative dispute  
22 resolution's receipt of notice of election to pursue dispute



1 resolution pending the outcome of the dispute resolution  
2 process.

3 (c) If a mortgagor elects to waive dispute resolution or  
4 fails to give notice within the time specified to the center for  
5 alternative dispute resolution of the mortgagor's election to  
6 pursue dispute resolution, the center for alternative dispute  
7 resolution shall notify the court, the bureau of conveyances, or  
8 the land court, as appropriate, and the foreclosure process  
9 shall proceed pursuant to statute.

10 **§667-E Dispute resolution process; requirements.** (a)  
11 Parties to a dispute resolution process conducted pursuant to  
12 this part shall consist of the mortgagor or the mortgagor's  
13 representative and the mortgagee or the mortgagee's  
14 representative; provided that any representative of the  
15 mortgagee who participates in the dispute resolution shall be  
16 authorized to negotiate a loan modification on behalf of the  
17 mortgagee or shall have direct access by telephone or other  
18 immediately available communications medium at all times during  
19 the dispute resolution process to a person who is so authorized.  
20 All parties may be represented by counsel in the dispute  
21 resolution process; provided that the mortgagor may be



1 represented by a housing counselor who is certified by the  
2 United States Department of Housing and Urban Development.

3 (b) Prior to a dispute resolution process scheduled  
4 pursuant to this part, the mortgagor and the mortgagee shall  
5 provide the center for alternative dispute resolution with any  
6 information that the center may request. Information required  
7 by this subsection shall include financial and employment  
8 information to be provided by the mortgagor and loan  
9 information, including the original or a certified copy of the  
10 mortgage instrument and promissory note, provided by the  
11 mortgagee.

12 (c) A dispute resolution pursuant to this part shall take  
13 place at a community mediation center or other site specified by  
14 the center for alternative dispute resolution and shall consist  
15 of one four-hour meeting of the parties and the facilitator  
16 during which the parties shall present the dispute and attempt  
17 to conclude the dispute resolution process. The facilitator may  
18 extend the time allowed for the dispute resolution at the  
19 facilitator's discretion.

20 (d) If the mortgagee fails to attend the dispute  
21 resolution, fails to comply with the requirements of this part  
22 or the rules of the supreme court adopted pursuant to this part,



1 or participates through a representative that does not meet the  
2 requirements of subsection (a), the facilitator shall notify the  
3 court, the bureau of conveyances, or the land court, as  
4 appropriate. After receipt of notice pursuant to this  
5 subsection, the court shall not issue a judgment of foreclosure  
6 and neither the land court nor the bureau of conveyances shall  
7 record a notice of sale or other conveyance document for the  
8 subject property; provided that in the case of a judicial  
9 foreclosure, the court may order a loan modification according  
10 to terms determined proper by the court.

11 (e) If the mortgagor fails to attend the dispute  
12 resolution or fails to comply with the requirements of this part  
13 or the rules of the supreme court adopted pursuant to this part  
14 the facilitator shall notify the court, the bureau of  
15 conveyances, or the land court, as appropriate, that the  
16 requirements of this part have been met and the foreclosure  
17 process shall proceed pursuant to statute.

18 (f) If, despite both parties' participation in the dispute  
19 resolution process and compliance with the requirements of this  
20 part and the rules of the supreme court adopted pursuant to this  
21 part, the parties are not able to come to an agreement, the  
22 facilitator shall notify the court, the bureau of conveyances,





1 or the land court, as appropriate, that the requirements of this  
2 part have been met. Upon receipt of notice pursuant to this  
3 subsection, the foreclosure process shall proceed pursuant to  
4 statute.

5 (g) If the parties to a dispute resolution come to an  
6 agreement to resolve the matters at issue in the dispute  
7 resolution before the dispute resolution scheduled pursuant to  
8 this section, the parties shall notify the facilitator of the  
9 resolution no later than two business days before the scheduled  
10 dispute resolution. No fees shall be refunded if the parties  
11 come to an agreement prior to or outside of a dispute resolution  
12 conducted pursuant to this part.

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



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

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

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

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



1 knowledge in the areas of law, real estate, or finance and shall  
2 receive sufficient training to be able to effectuate the  
3 purposes of 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 foreclosure dispute  
10 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 chief justice of the supreme court may  
18 adopt rules for the administration of this part including rules  
19 to:

20       (1) Ensure that dispute resolution occurs in an orderly  
21             and timely manner;



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

12 **§667-L Foreclosure dispute resolution special fund. (a)**

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



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

3 (c) All persons who bring an action in the circuit court  
4 for foreclosure pursuant to section 667-1, who record an  
5 affidavit in the land court pursuant to section 501-118, or who  
6 record a conveyance document in the bureau of conveyances for a  
7 property subject to a nonjudicial power of sale foreclosure  
8 shall pay a fee of \$ for deposit into the foreclosure  
9 dispute resolution special fund. The fee established pursuant  
10 to this subsection shall be assessed only one time for each  
11 subject property, regardless of the number of filings related to  
12 the subject property.

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

16 SECTION 3. Section 613-2, Hawaii Revised Statutes, is  
17 amended by amending subsection (a) to read as follows:

18 "(a) There is established within the judiciary the center  
19 for alternative dispute resolution. The center shall facilitate  
20 the effective, timely, and voluntary resolution of disputes[-  
21 ~~Through these resolutions, it shall~~] in order to help reduce  
22 public and private costs of litigation and increase satisfaction



1 with the justice system. The center shall accomplish its  
2 purposes by:

3 (1) Providing, where feasible and agreed to by the  
4 parties, the consultative resources and technical  
5 assistance needed to achieve voluntary resolutions for  
6 cases that affect the public interest or the work of  
7 state and county agencies [~~. These cases shall include~~  
8 ~~but not be limited to:~~], including:

9 (A) Public disputes involving actual or threatened  
10 court actions over the allocation or management  
11 of public resources or the siting of public  
12 facilities;

13 (B) Complex litigation cases in which a court or a  
14 regulatory or administrative agency has  
15 determined that the dispute involves multiple  
16 parties or formidable technical, procedural, or  
17 factual issues, or both;

18 (C) Policy roundtables in which the center, at the  
19 request of an executive, legislative, or judicial  
20 decisionmaker, convenes and chairs advisory  
21 discussions on matters pertaining to standards or  
22 rules; [and]



- 1 (D) Other cases directly referred by judges,
- 2 legislators, agency heads, or appointed
- 3 government officials; and
- 4 (E) Foreclosures subject to part of chapter
- 5 667;

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

8 (3) Disseminating to government agencies and to the  
9 community at large up-to-date information on the  
10 methods and applications of alternative dispute  
11 resolution."

12 SECTION 4. Section 667-1, Hawaii Revised Statutes, is  
13 amended to read as follows:

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

21 SECTION 5. Section 667-5, Hawaii Revised Statutes, is  
22 amended as follows:



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

2 "(a) When a power of sale is contained in a mortgage[7]  
3 and where the mortgagee, the mortgagee's successor in interest,  
4 or any person authorized by the power to act in the premises[7]  
5 desires to foreclose under power of sale upon breach of a  
6 condition of the mortgage, the mortgagee, successor, or person  
7 shall be represented by an attorney who is licensed to practice  
8 law in the State and is physically located in the State. The  
9 attorney shall:

- 10 (1) Give notice of the mortgagee's, successor's, or  
11 person's intention to foreclose the mortgage, the  
12 notice of the mortgagor's right to elect to  
13 participate in dispute resolution as required by  
14 section 667-C, and of the sale of the mortgaged  
15 property, by publication of the notice once in each of  
16 three successive weeks [4], constituting three  
17 publications[77] with the last publication to be not  
18 less than fourteen days before the day of sale, in a  
19 newspaper having a general circulation in the county  
20 in which the mortgaged property lies; and  
21 (2) Give any notices and do all acts as are authorized or  
22 required by the power contained in the mortgage."





1           2. By amending subsection (e) to read:

2           "(e) [The] Subject to the requirements of part , the  
3 affidavit and copy of the notice shall be recorded and indexed  
4 by the registrar, in the manner provided in chapter 501 or 502,  
5 as the case may be."

6           SECTION 6. Section 667-22, Hawaii Revised Statutes, is  
7 amended to read as follows:

8           "**§667-22 Notice of default; contents; distribution.** (a)

9 When the mortgagor or the borrower has breached the mortgage  
10 agreement, and when the foreclosing mortgagee intends to conduct  
11 a power of sale foreclosure under this part, the foreclosing  
12 mortgagee shall prepare a written notice of default addressed to  
13 the mortgagor, the borrower, and any guarantor. The notice of  
14 default shall state:

- 15           (1) The name and address of the current mortgagee;
- 16           (2) The name and last known address of the mortgagor, the  
17 borrower, and any guarantor;
- 18           (3) The address or a description of the location of the  
19 mortgaged property[7] and the tax map key number of  
20 the mortgaged property;



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



1 other person may acquire the mortgaged property at the  
2 public sale; [and]

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

8 (9) Notice of the mortgagor's right to elect to  
9 participate in a dispute resolution process as  
10 required by section 667-C.

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

13 "IF THE DEFAULT ON THE LOAN CONTINUES AFTER THE  
14 DEADLINE DATE IN THIS NOTICE, THE MORTGAGED PROPERTY  
15 MAY BE FORECLOSED AND SOLD WITHOUT ANY COURT ACTION  
16 AND WITHOUT GOING TO COURT.

17 YOU MAY HAVE CERTAIN LEGAL RIGHTS OR DEFENSES. FOR  
18 ADVICE, YOU SHOULD CONSULT WITH AN ATTORNEY LICENSED  
19 IN THIS STATE.

20 AFTER THE DEADLINE DATE IN THIS NOTICE, TWO PUBLIC  
21 SHOWINGS (OPEN HOUSES) OF THE PROPERTY BY THE LENDER  
22 WILL BE HELD, BUT ONLY IF ALL MORTGAGORS (OWNERS) OF



1 THE PROPERTY SO AGREE. TO SHOW THAT ALL OWNERS AGREE  
2 TO ALLOW TWO OPEN HOUSES BY THE LENDER, ALL OWNERS  
3 MUST SIGN A LETTER SHOWING THEY AGREE. ALL OWNERS  
4 MUST SEND THE SIGNED LETTER TO THIS OFFICE AT THE  
5 ADDRESS GIVEN IN THIS NOTICE.

6 THIS OFFICE MUST ACTUALLY RECEIVE THE SIGNED LETTER  
7 BY THE DEADLINE DATE IN THIS NOTICE. THE SIGNED  
8 LETTER MUST BE SENT TO THIS OFFICE BY CERTIFIED MAIL,  
9 REGISTERED MAIL, OR EXPRESS MAIL, POSTAGE PREPAID AND  
10 RETURN RECEIPT REQUESTED.

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

14 EVEN IF THIS OFFICE RECEIVES THE SIGNED LETTER TO  
15 ALLOW THE LENDER TO HOLD TWO OPEN HOUSES OF THE  
16 PROPERTY, IF ALL OWNERS LATER DO NOT COOPERATE TO  
17 ALLOW THE OPEN HOUSES, THE PROPERTY WILL BE SOLD  
18 WITHOUT ANY OPEN HOUSES BEING HELD.

19 ALL FUTURE NOTICES AND CORRESPONDENCE WILL BE MAILED  
20 TO YOU AT THE ADDRESS AT WHICH YOU RECEIVED THIS  
21 NOTICE UNLESS YOU SEND WRITTEN INSTRUCTIONS TO THIS  
22 OFFICE INFORMING THIS OFFICE OF A DIFFERENT ADDRESS.



1 THE WRITTEN INSTRUCTIONS MUST BE SENT TO THIS OFFICE  
2 BY CERTIFIED MAIL, REGISTERED MAIL, OR EXPRESS MAIL,  
3 POSTAGE PREPAID AND RETURN RECEIPT REQUESTED."

4 (c) The foreclosing mortgagee shall have the notice of  
5 default served on:

6 (1) The mortgagor and the borrower;

7 (2) Any prior or junior creditors having a recorded lien  
8 on the mortgaged property before the recordation of  
9 the notice of default under section 667-23;

10 (3) The state director of taxation;

11 (4) The director of finance of the county where the  
12 mortgaged property is located; and

13 (5) Any other person entitled to receive notice under  
14 section 667-5.5.

15 (d) As used in this part, unless the context clearly  
16 indicates otherwise, the "notice of default" shall also include  
17 any amended notice of default that results from a failure of  
18 dispute resolution under section 667-E(e) or (f)."

19 SECTION 7. Section 667-24, Hawaii Revised Statutes, is  
20 amended to read as follows:

21 "[~~f~~]**\$667-24[~~f~~]** **Cure of default.** (a) If the default is  
22 cured as required by the notice of default[~~r~~] or if the parties



1 have reached an agreement to avoid foreclosure pursuant to part  
2 \_\_\_\_\_, the foreclosing mortgagee shall rescind the notice of  
3 default. Within fourteen days of the date of the cure[7] or an  
4 agreement reached by the parties through a dispute resolution  
5 process pursuant to part \_\_\_\_\_, the foreclosing mortgagee shall  
6 so notify any person who was served with the notice of default.  
7 If the notice of default was recorded, a release of the notice  
8 of default shall be recorded.

9 (b) If the default is not cured as required by the notice  
10 of default[7] or if the parties have not reached an agreement to  
11 avoid foreclosure pursuant to part \_\_\_\_\_, the foreclosing  
12 mortgagee, without filing a court action and without going to  
13 court, may foreclose the mortgage under power of sale to sell  
14 the mortgaged property at a public sale."

15 SECTION 8. Section 667-25, Hawaii Revised Statutes, is  
16 amended\* by amending subsection (a) to read as follows:

17 "(a) [~~The~~] Subject to the requirements of part \_\_\_\_\_,  
18 public sale of the mortgaged property shall take place on the  
19 later of the following:

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



1 (2) At least fourteen days after the date of the  
2 publication of the third public notice advertisement  
3 under section 667-27."

4 SECTION 9. There shall be a moratorium on foreclosure  
5 actions for property located in this State. No foreclosure by  
6 action or by power of sale shall proceed, no court shall issue  
7 an order for foreclosure pursuant to section 667-1, Hawaii  
8 Revised Statutes, the registrar of the land court shall not  
9 record an affidavit pursuant to section 501-118, Hawaii Revised  
10 Statutes, and the registrar of the bureau of conveyances shall  
11 not record a conveyance document with the bureau of conveyances  
12 following a power of sale foreclosure during the moratorium  
13 period established by this Act.

14 SECTION 10. There is appropriated out of the general  
15 revenues of the State of Hawaii the sum of \$ or so  
16 much thereof as may be necessary for fiscal year 2011-2012 to  
17 pay for the initial costs associated with establishing a dispute  
18 resolution program for use by mortgagors and mortgagees to  
19 attempt to avoid or mitigate the damages of foreclosure in the  
20 center for alternative dispute resolution.

21 The sum appropriated shall be deposited into the  
22 foreclosure dispute resolution special fund established pursuant



1 to section 667-L and shall be expended by the judiciary for the  
2 purposes of this Act; provided that upon receipt of sufficient  
3 moneys to sustain its purpose, the foreclosure dispute  
4 resolution special fund shall reimburse the general fund for the  
5 appropriation made pursuant to this Act.

6 SECTION 11. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 12. This Act shall take effect on July 1, 2050;  
9 provided that section 9 of this Act shall be repealed six months  
10 after its effective date.





**Report Title:**

Mortgage Foreclosures; Dispute Resolution; Appropriation

**Description:**

Requires foreclosing mortgagees to engage in a dispute resolution process at the election of a mortgagor before carrying out a judicial or nonjudicial power of sale foreclosure; authorizes the supreme court to adopt rules for dispute resolution; establishes a special fund for foreclosure dispute resolution to be expended by the judiciary; imposes a moratorium on foreclosures for 6 months after effective date; makes appropriation. Effective 7/1/2050. (SD2)

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

