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# A BILL FOR AN ACT

RELATING TO FORECLOSURES.

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

1 PART I

2 SECTION 1. The legislature finds that Act 162, Session  
3 Laws of Hawaii 2010, established a mortgage foreclosure task  
4 force to develop policies and procedures to improve the way  
5 mortgage foreclosures are conducted in the State. Act 162  
6 required the task force to submit its findings and  
7 recommendations, including any proposed legislation, to the  
8 legislature for the regular sessions of 2011 and 2012.

9 The task force held several public meetings over the  
10 legislative interim of 2010 to discuss the various items for  
11 review raised under Act 162. Based upon these discussions, the  
12 task force adopted recommendations, including proposed  
13 legislation, in its report to the legislature for the regular  
14 session of 2011. Some of the task force's recommendations were  
15 included in Act 48, Session Laws of Hawaii 2011, a far-reaching  
16 mortgage foreclosure reform measure that, among other things:



1 (1) Temporarily authorized mortgagors who are occupying,  
2 as a primary residence, real property that is subject  
3 to nonjudicial foreclosure to either:

4 (A) Participate in the mortgage foreclosure dispute  
5 resolution program established under Act 48; or

6 (B) Convert the nonjudicial foreclosure to a judicial  
7 foreclosure;

8 (2) Imposed a temporary moratorium on all new nonjudicial  
9 foreclosures conducted under part I of chapter 667,  
10 Hawaii Revised Statutes; and

11 (3) Specified prohibited conduct and consequences of  
12 violations for foreclosing mortgagees, including  
13 making any violation of the mortgage foreclosure law  
14 under chapter 667, Hawaii Revised Statutes, an unfair  
15 or deceptive act or practice subject to the enhanced  
16 penalties under chapter 480, Hawaii Revised Statutes.

17 The task force met again over several public meetings  
18 during the legislative interim of 2011 to continue its work  
19 under Act 162. The focus of these meetings was divided among  
20 these major issues:

21 (1) The new mortgage foreclosure provisions of Act 48,  
22 Session Laws of Hawaii 2011;



1 (2) Matters involving condominium and other homeowner  
2 associations, including association liens and the  
3 collection of unpaid assessments; and

4 (3) Mortgage foreclosure counseling and dispute resolution  
5 issues.

6 Based upon its deliberations on these issues, the task force  
7 adopted further recommendations in its report to the legislature  
8 for the regular session of 2012.

9 The purpose of this Act is to implement the recommendations  
10 of the mortgage foreclosure task force submitted to the  
11 legislature for the regular session of 2012, and other best  
12 practices to address mortgage foreclosures and related issues.

13 PART II

14 SECTION 2. Chapter 421J, Hawaii Revised Statutes, is  
15 amended as follows:

16 1. By adding two new sections to be appropriately  
17 designated and to read:

18 "§421J-A Association fiscal matters; lien for assessments.

19 (a) All sums assessed by the association but unpaid for the  
20 share of the assessments chargeable to any unit shall constitute  
21 a lien on the unit with the priority stated in the association  
22 documents. If the association documents do not provide for a



1 lien, the association's lien on the unit shall have priority  
2 over all other liens, except:

3 (1) Liens for taxes and assessments lawfully imposed by  
4 governmental authority against the unit;

5 (2) All sums unpaid on any mortgage of record that was  
6 recorded prior to the recordation of a notice of a  
7 lien by the association and any costs and expenses,  
8 including attorneys' fees, provided in such mortgages;  
9 and

10 (3) Liens of a condominium association that are secured by  
11 the unit;

12 provided that a lien recorded by the association shall expire  
13 two years from the date of recordation unless renewed by the  
14 association prior to the expiration of the lien.

15 The lien of the association may be foreclosed by action or  
16 by nonjudicial or power of sale foreclosure procedures set forth  
17 in chapter 667, by the managing agent or board, acting on behalf  
18 of the association; provided that no association may foreclose a  
19 lien against any unit that arises solely from fines, penalties,  
20 legal fees, or late fees. In any association foreclosure, the  
21 unit owner shall be required to pay a reasonable rental for the  
22 unit, if so provided in the association documents or the law,



1 and the plaintiff in the foreclosure shall be entitled to the  
2 appointment of a receiver to collect the rental owed by the unit  
3 owner or any tenant of the unit. If the association is the  
4 plaintiff, it may request that its managing agent be appointed  
5 as receiver to collect the rental from the tenant. The managing  
6 agent or board, acting on behalf of the association, may bid on  
7 the unit at foreclosure sale and acquire and hold, lease,  
8 mortgage, and convey the unit. Action to recover a money  
9 judgment for unpaid assessments shall be maintainable without  
10 foreclosing or waiving the lien securing the unpaid assessments  
11 owed.

12 (b) Except as provided in subsection (g), when the  
13 mortgagee of a mortgage of record or other purchaser of a unit  
14 obtains title to the unit as a result of foreclosure of the  
15 mortgage, the acquirer of title and the acquirer's successors  
16 and assigns shall not be liable for the share of the assessments  
17 by the association chargeable to the unit that became due prior  
18 to the acquisition of title to the unit by the acquirer. The  
19 unpaid share of assessments shall be deemed to be assessments  
20 collectible from all of the unit owners, including the acquirer  
21 and the acquirer's successors and assigns. The mortgagee of  
22 record or other purchaser of the unit shall be deemed to acquire



1 title and shall be required to pay the unit's share of  
2 assessments beginning:

3 (1) Thirty-six days after the order confirming the sale to  
4 the purchaser has been filed with the court;

5 (2) Sixty days after the hearing at which the court grants  
6 the motion to confirm the sale to the purchaser;

7 (3) Thirty days after the public sale in a nonjudicial  
8 power of sale foreclosure conducted pursuant to  
9 chapter 667; or

10 (4) Upon the recording of the instrument of conveyance;  
11 whichever occurs first; provided that the mortgagee of record or  
12 other purchaser of the unit shall not be deemed to acquire title  
13 under paragraph (1), (2), or (3), if transfer of title is  
14 delayed past the thirty-six days specified in paragraph (1), the  
15 sixty days specified in paragraph (2), or the thirty days  
16 specified in paragraph (3), when a person who appears at the  
17 hearing on the motion or a party to the foreclosure action  
18 requests reconsideration of the motion or order to confirm sale,  
19 objects to the form of the proposed order to confirm sale,  
20 appeals the decision of the court to grant the motion to confirm  
21 sale, or the debtor or mortgagor declares bankruptcy or is  
22 involuntarily placed into bankruptcy. In any such case, the



1 mortgagee of record or other purchaser of the unit shall be  
2 deemed to acquire title upon recordation of the instrument of  
3 conveyance.

4 (c) Except as provided in section 667-B(c), no unit owner  
5 shall withhold any assessment claimed by the association. A  
6 unit owner who disputes the amount of an assessment may request  
7 a written statement clearly indicating:

8 (1) The amount of regular and special assessments included  
9 in the assessment, including the due date of each  
10 amount claimed;

11 (2) The amount of any penalty, late fee, lien filing fee,  
12 and any other charge included in the assessment;

13 (3) The amount of attorneys' fees and costs, if any,  
14 included in the assessment;

15 (4) That under Hawaii law, a unit owner has no right to  
16 withhold assessments for any reason;

17 (5) That a unit owner has a right to demand mediation to  
18 resolve disputes about the amount or validity of an  
19 association's assessment; provided that the unit owner  
20 immediately pays the assessment in full and keeps  
21 assessments current; and



1       (6) That payment in full of the assessment does not  
2       prevent the unit owner from contesting the assessment  
3       or receiving a refund of amounts not owed.

4       Nothing in this section shall limit the rights of a unit owner  
5       to the protection of all fair debt collection procedures  
6       mandated under federal and state law.

7       (d) A unit owner who pays an association the full amount  
8       claimed by the association may file a claim against the  
9       association in court or require the association to mediate under  
10      section 421J-13 to resolve any disputes concerning the amount or  
11      validity of the association's claim.

12      (e) In conjunction with or as an alternative to  
13      foreclosure proceedings under subsection (a), where a unit is  
14      owner-occupied, the association may authorize its managing agent  
15      or board, after sixty days written notice to the unit owner and  
16      to the unit's first mortgagee of the nonpayment of the unit's  
17      share of the assessments, to terminate the delinquent unit's  
18      access to the common elements and cease supplying a delinquent  
19      unit with any and all services normally supplied or paid for by  
20      the association. Any terminated services and privileges shall  
21      be restored upon payment of all delinquent assessments, but need  
22      not be restored until payment in full is received.





1       (f) Before the board or managing agent may take the  
2 actions permitted under subsection (e), the board shall adopt a  
3 written policy providing for such actions and have the policy  
4 approved by a majority vote of the unit owners at an annual or  
5 special meeting of the association or by the written consent of  
6 a majority of the unit owners unless the association documents  
7 already permit the process.

8       (g) Subject to this subsection and subsections (h) and  
9 (i), the board may specially assess the amount of the unpaid  
10 regular monthly common assessments for assessments against a  
11 person who, in a judicial or nonjudicial power of sale  
12 foreclosure, purchases a delinquent unit; provided that:

13       (1) A purchaser who holds a mortgage on a delinquent unit  
14 that was recorded prior to the filing of a notice of  
15 lien by the association and who acquires the  
16 delinquent unit through a judicial or nonjudicial  
17 foreclosure proceeding, including purchasing the  
18 delinquent unit at a foreclosure auction, shall not be  
19 obligated to make, nor be liable for, payment of the  
20 special assessment as provided for under this  
21 subsection; and



1       (2) A person who subsequently purchases the delinquent  
2       unit from the mortgagee referred to in paragraph (1)  
3       shall be obligated to make, and shall be liable for,  
4       payment of the special assessment provided for under  
5       this subsection; and provided further that the  
6       mortgagee or subsequent purchaser may require the  
7       association to provide, at no charge, a notice of the  
8       association's intent to claim a lien against the  
9       delinquent unit for the amount of the special  
10       assessment, prior to the subsequent purchaser's  
11       acquisition of title to the delinquent unit. The  
12       notice shall state the amount of the special  
13       assessment, how that amount was calculated, and the  
14       legal description of the unit.

15       (h) The amount of the special assessment assessed under  
16       subsection (g) shall not exceed the total amount of unpaid  
17       regular monthly common assessments that were assessed during the  
18       twelve months immediately preceding the completion of the  
19       judicial or nonjudicial power of sale foreclosure.

20       (i) For purposes of subsections (g) and (h), the following  
21       definitions shall apply, unless the context requires otherwise:



1 "Completion" means:

2 (1) In a nonjudicial power of sale foreclosure, when the  
3 affidavit required under section 667-33 is recorded;  
4 and

5 (2) In a judicial foreclosure, when a purchaser is deemed  
6 to acquire title pursuant to subsection (b).

7 "Regular monthly common assessments" does not include:

8 (1) Any other special assessment, except for a special  
9 assessment imposed on all units as part of a budget  
10 adopted pursuant to the association documents;

11 (2) Late charges, fines, or penalties;

12 (3) Interest assessed by the association;

13 (4) Any lien arising out of the assessment; or

14 (5) Any fees or costs related to the collection or  
15 enforcement of the assessment, including attorneys'  
16 fees and court costs.

17 (j) The cost of a release of any lien filed pursuant to  
18 this section shall be paid by the party requesting the release.

19 **§421J-B Association fiscal matters; collection of unpaid**  
20 **assessments from tenants or rental agents.** (a) If a unit owner

21 rents or leases the unit and is in default for thirty days or  
22 more in the payment of the unit's share of the regular



1 assessments, the board, for as long as the default continues,  
2 may demand in writing and receive each month from any tenant  
3 occupying the unit or rental agent renting the unit, an amount  
4 sufficient to pay all sums due from the unit owner to the  
5 association, including interest, if any, but the amount shall  
6 not exceed the tenant's rent due each month. The tenant's  
7 payment under this section shall discharge that amount of  
8 payment from the tenant's rent obligation, and any contractual  
9 provision to the contrary shall be void as a matter of law.

10 (b) Before taking any action under this section, the board  
11 shall give to the delinquent unit owner written notice of its  
12 intent to collect the rent owed. The notice shall:

- 13 (1) Be sent both by first-class and certified mail;  
14 (2) Set forth the exact amount the association claims is  
15 due and owing by the unit owner; and  
16 (3) Indicate the intent of the board to collect such  
17 amount from the rent, along with any other amounts  
18 that become due and remain unpaid.

19 (c) The unit owner shall not take any retaliatory action  
20 against the tenant for payments made under this section.

21 (d) The payment of any portion of the unit's share of  
22 regular assessments by the tenant pursuant to a written demand



1 by the board is a complete defense, to the extent of the amount  
2 demanded and paid by the tenant, in an action for nonpayment of  
3 rent brought by the unit owner against a tenant.

4 (e) The board may not demand payment from the tenant  
5 pursuant to this section if:

6 (1) A commissioner or receiver has been appointed to take  
7 charge of the premises pending a mortgage foreclosure;

8 (2) A mortgagee is in possession pending a mortgage  
9 foreclosure; or

10 (3) The tenant is served with a court order directing  
11 payment to a third party.

12 (f) In the event of any conflict between this section and  
13 any provision of chapter 521, the conflict shall be resolved in  
14 favor of this section; provided that if the tenant is entitled  
15 to an offset of rent under chapter 521, the tenant may deduct  
16 the offset from the amount due to the association, up to the  
17 limits stated in chapter 521. Nothing herein precludes the unit  
18 owner or tenant from seeking equitable relief from a court of  
19 competent jurisdiction or seeking a judicial determination of  
20 the amount owed.

21 (g) Before the board may take the actions permitted under  
22 subsection (a), the board shall adopt a written policy providing



1 for the actions and have the policy approved by a majority vote  
2 of the unit owners at an annual or special meeting of the  
3 association or by the written consent of a quorum of the unit  
4 owners."

5 2. By adding a new definition to section 421J-2 to be  
6 appropriately inserted and to read:

7 "Assessment" means funds collected by an association from  
8 association members to operate and manage the association,  
9 maintain property within the planned community for the common  
10 use or benefit of association members, or provide services to  
11 association members."

12 SECTION 3. Chapter 667, Hawaii Revised Statutes, is  
13 amended as follows:

14 1. By adding a new part I to read:

15 **"PART I. GENERAL PROVISIONS**

16 **§667-1 Definitions.** As used in this chapter:

17 "Approved budget and credit counselor" means a Hawaii-based  
18 budget and credit counseling agency that has received approval  
19 from a United States trustee or bankruptcy administrator to  
20 provide instructional courses concerning personal financial  
21 management pursuant to title 11 United States Code section 111.



1 "Approved housing counselor" means a Hawaii-based housing  
2 counseling agency that has received approval from the United  
3 States Department of Housing and Urban Development to provide  
4 housing counseling services pursuant to section 106(a)(2) of the  
5 Housing and Urban Development Act of 1968, title 12 United  
6 States Code section 1701x, as the agency appears on the United  
7 States Department of Housing and Urban Development website.

8 "Assessment" has the same meaning as "assessment" in  
9 chapter 421J and "common expense" in chapter 514B.

10 "Association" has the same meaning as defined in sections  
11 421J-2 and 514B-3.

12 "Association documents" has the same meaning as defined in  
13 section 421J-2 and includes the "declaration" defined in section  
14 514B-3 and the "bylaws" described in section 514B-108,  
15 respectively.

16 "Association lien" has the same meaning as the lien  
17 established under section 421J-A or 514B-146.

18 "Borrower" means the borrower, maker, cosigner, or  
19 guarantor under a mortgage agreement.

20 "Department" means the department of commerce and consumer  
21 affairs.



1 "Director" means the director of commerce and consumer  
2 affairs.

3 "Dispute resolution" means a facilitated negotiation under  
4 part V between a mortgagor and mortgagee for the purpose of  
5 reaching an agreement for mortgage loan modification or other  
6 agreement in an attempt to avoid foreclosure or to mitigate  
7 damages if foreclosure is unavoidable.

8 "Foreclosure notice" means notice of default and intention  
9 to foreclose prepared pursuant to section 667-22.

10 "Mailed" means to be sent by first class mail, postage  
11 prepaid, unless otherwise expressly directed in this chapter.

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

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

19 "Mortgaged property" means the property that is subject to  
20 the lien of the mortgage.





1 "Mortgagee" means the current holder of record of the  
2 mortgagee's or the lender's interest under the mortgage or the  
3 current mortgagee's or lender's duly authorized agent.

4 "Mortgagor" means the mortgagor or borrower named in the  
5 mortgage and, unless the context otherwise indicates, includes  
6 the current owner of record of the mortgaged property whose  
7 interest is subject to the mortgage.

8 "Neutral" means a person who is a dispute resolution  
9 specialist assigned to facilitate the dispute resolution process  
10 required by part V..

11 "Nonjudicial foreclosure" means foreclosure under power of  
12 sale.

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

15 "Owner-occupant" means a person, at the time that a notice  
16 of default and intention to foreclose is served on the mortgagor  
17 under the power of sale:

18 (1) Who owns an interest in the residential property, and  
19 the interest is encumbered by the mortgage being  
20 foreclosed; and

21 (2) For whom the residential property is and has been the  
22 person's primary residence for a continuous period of



1 not less than two hundred days immediately preceding  
2 the date on which the notice is served.

3 "Power of sale" or "power of sale foreclosure" means a  
4 nonjudicial foreclosure when the mortgage contains, authorizes,  
5 permits, or provides for a power of sale, a power of sale  
6 foreclosure, a power of sale remedy, or a nonjudicial  
7 foreclosure.

8 "Property" means property (real, personal, or mixed), an  
9 interest in property (including fee simple, leasehold, life  
10 estate, reversionary interest, and any other estate under  
11 applicable law), or other interests that can be subject to the  
12 lien of a mortgage.

13 "Record" means to record or file a document in the office  
14 of the assistant registrar of the land court under chapter 501  
15 or to record a document in the bureau of conveyances under  
16 chapter 502, or both, as applicable.

17 "Residential property" means real property that is improved  
18 and used for residential purposes.

19 "Serve", when referring to providing notice of intention to  
20 foreclose or notice of default and intention to foreclose  
21 pursuant to a nonjudicial foreclosure, means to have service of  
22 the notice of default and intention to foreclose made in



1 accordance with the service of process or the service of summons  
2 under the Hawaii rules of civil procedure and under sections  
3 634-35 and 634-36, excluding however, any return or affidavit of  
4 service obligations required therein.

5 "Time share interest" has the same meaning as in section  
6 514E-1.

7 "Unit" has the same meaning as in sections 421J-2 and 514B-  
8 3.

9 "Unit owner" has the same meaning as "member" in section  
10 421J-2 and "unit owner" in section 514B-3."

11 2. By adding a new part to be appropriately designated and  
12 to read:

13 **"PART . ASSOCIATION ALTERNATE POWER OF SALE**

14 **FORECLOSURE PROCESS**

15 **§667-A Alternate power of sale process.** The process in  
16 this part is an alternative power of sale process for  
17 associations to the foreclosure by action and the foreclosure by  
18 power of sale in part IA.

19 **§667-B Notice of default and intention to foreclose;**  
20 **contents; distribution; alternative remedies for failure to**  
21 **serve.** (a) When a unit owner has failed to pay an assessment,  
22 and when the association intends to conduct a power of sale



1 foreclosure under this part, the association shall prepare a  
2 written notice of default and intention to foreclose addressed  
3 to the unit owner. The notice of default and intention to  
4 foreclose shall state:

5 (1) The name and address of the association;

6 (2) The name and last known address of the unit owners;

7 (3) With respect to the unit, the address or a description  
8 of its location, tax map key number, and certificate  
9 of title or transfer certificate of title number if  
10 registered in the land court;

11 (4) The description of the default or, if the default is a  
12 monetary default, an itemization of the delinquent  
13 amount;

14 (5) The action required to cure the default, including the  
15 delinquent amount and the estimated amount of the  
16 association's attorney's fees and costs, and all other  
17 fees and costs related to the default estimated to be  
18 incurred by the association by the deadline date;

19 (6) The date by which the default must be cured, which  
20 shall be within sixty days after service of the notice  
21 of default and intention to foreclose;



- 1 (7) A statement that if the default is not cured by the  
2 deadline date stated in the notice of default and  
3 intention to foreclose, the entire unpaid balance of  
4 the moneys owed to the association will become due,  
5 that the association intends to conduct a power of  
6 sale foreclosure to sell the unit at a public sale  
7 without any court action and without going to court,  
8 and that the association or any other person may  
9 acquire the unit at the public sale;
- 10 (8) The name, address, electronic address, and telephone  
11 number of the attorney who is representing the  
12 association; provided that the attorney shall be  
13 licensed to practice law in the State and physically  
14 located in the State; and
- 15 (9) Notice of the right of the unit owner to submit a  
16 payment plan within thirty days pursuant to subsection  
17 (c).
- 18 (b) The notice of default and intention to foreclose shall  
19 also contain wording substantially similar to the following in  
20 all capital letters and printed in not less than fourteen-point  
21 font:



1 "IF THE DEFAULT ON THE PAYMENT OF ASSESSMENTS  
2 CONTINUES AFTER THE DEADLINE DATE IN THIS NOTICE, THE  
3 UNIT MAY BE FORECLOSED AND SOLD WITHOUT ANY COURT  
4 ACTION AND WITHOUT GOING TO COURT.

5 YOU MAY HAVE CERTAIN LEGAL RIGHTS OR DEFENSES.  
6 FOR ADVICE, YOU SHOULD CONSULT WITH AN ATTORNEY  
7 LICENSED IN THIS STATE.

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

16 (c) A unit owner may submit a payment plan within thirty  
17 days after service of a notice of default and intention to  
18 foreclose on the unit owner. The unit owner shall submit the  
19 payment plan to the association or its attorney by certified  
20 mail return receipt requested or by hand delivery. A unit owner  
21 may also cure the default within sixty days after service of a  
22 notice of default and intention to foreclose on the unit owner



1 by paying the association the full amount of the default,  
2 including the foreclosing association's attorneys' fees and  
3 costs, and all other fees and costs related to the default that  
4 are incurred or estimated to be incurred by the foreclosing  
5 association. The association shall not reject a reasonable  
6 payment plan. From and after the date that the unit owner gives  
7 written notice to the association of its intent to cure the  
8 default or timely submits a payment plan, any nonjudicial  
9 foreclosure of the lien shall be stayed during the sixty-day  
10 period to cure the default or during the term of the payment  
11 plan or a longer period that is agreed upon by the parties. A  
12 unit owner's failure to strictly perform any agreed-upon payment  
13 plan shall entitle the association to pursue its remedies  
14 without further delay.

15 For purposes of this section, "reasonable payment plan"  
16 means a plan that provides for:

- 17 (1) Timely payment of all assessments that become due  
18 after the date that the payment plan is proposed; and
- 19 (2) Additional monthly payments of an amount sufficient to  
20 cure the default, within a reasonable period under the  
21 circumstances as determined by the board of directors  
22 in its discretion; provided that a period of up to



1 twelve months shall be deemed reasonable; and provided  
2 further that the board of directors shall have the  
3 discretion to agree to a payment plan in excess of  
4 twelve months.

5 (d) The notice of default and intention to foreclose shall  
6 also include contact information for approved housing counselors  
7 and approved budget and credit counselors.

8 (e) The association shall have the notice of default and  
9 intention to foreclose served on:

10 (1) The unit owner;

11 (2) Any prior or junior creditors who have a recorded lien  
12 on the unit before the recordation of the notice of  
13 default and intention to foreclose under section  
14 667-C;

15 (3) The state director of taxation;

16 (4) The director of finance of the county where the unit  
17 is located; and

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

20 (f) If the association is unable to serve the notice of  
21 default and intention to foreclose on the unit owner or any





1 other party listed in subsection (e)(2) to (5) within sixty  
2 days, the association may:

3 (1) File a special proceeding in the circuit court of the  
4 circuit in which the unit is located, for permission  
5 to proceed with a nonjudicial foreclosure by serving  
6 the unit owner only by publication and posting;

7 (2) Proceed with a nonjudicial foreclosure of the unit;  
8 provided that if the association proceeds without the  
9 permission of the court, the association shall not be  
10 entitled to obtain a deficiency judgment against the  
11 unit owner, and the unit owner shall have one year  
12 from the date the association records the deed in the  
13 nonjudicial foreclosure to redeem the unit; or

14 (3) Take control of the unit if the unit is unoccupied,  
15 after giving notice to the unit owner at the unit  
16 owner's last known address as shown on the records of  
17 the association or as determined by the association as  
18 part of its due diligence to serve notice to the  
19 owner. The association's authority to take control of  
20 the unit pursuant to this paragraph shall be exercised  
21 solely for the purpose of renting the unit to generate  
22 rental income to pay the unit owner's delinquency, and



1 the association shall acquire no legal title to the  
2 unit. In addition, the association shall credit the  
3 net rental proceeds generated from the rental of the  
4 unit to the owner's delinquency. For purposes of this  
5 paragraph, "net rental proceeds" means the rental  
6 proceeds remaining each month after deducting:

- 7 (A) The unit's regular monthly assessments that come  
8 due while the association controls the unit  
9 pursuant to this subsection;
- 10 (B) Any rental agent commissions; and
- 11 (C) Expenses incurred by the association in  
12 maintaining the unit in rentable condition.

13 If the unit owner pays the full amount of the unit  
14 owner's delinquency to the association, the  
15 association shall return control of the unit to the  
16 unit owner; provided that the full amount of the  
17 owner's delinquency shall be calculated by deducting  
18 the net rental proceeds, if any, from the owner's  
19 delinquency.

20 **§667-C Recordation of notice of default and intention to**  
21 **foreclose.** Before the deadline date in the notice of default  
22 and intention to foreclose, the notice may be recorded in a



1 recordable form in a manner similar to recordation of notices of  
2 pendency of action under section 501-151 or section 634-51, or  
3 both, as applicable. The recorded notice of default and  
4 intention to foreclose shall have the same effect as a notice of  
5 pendency of action. From and after the recordation of the  
6 notice of default and intention to foreclose, any person who  
7 becomes a purchaser or encumbrancer of the unit shall be deemed  
8 to have constructive notice of the power of sale foreclosure and  
9 shall be bound by the foreclosure.

10 **§667-D Cure of default.** (a) If the default is cured as  
11 required by the notice of default and intention to foreclose, or  
12 if the parties have agreed on a payment plan, the association  
13 shall rescind the notice of default and intention to foreclose.  
14 Within fourteen days of the date of the cure or an agreement on  
15 a payment plan, the association shall so notify any person who  
16 was served with the notice of default and intention to  
17 foreclose. If the notice of default and intention to foreclose  
18 was recorded, a release of the notice of default and intention  
19 to foreclose shall be recorded.

20 (b) If the default is not cured as required by the notice  
21 of default and intention to foreclose, or the parties have not  
22 agreed on a payment plan, the association, without filing a



1 court action and without going to court, may foreclose the  
2 association's lien under power of sale to sell the unit at a  
3 public sale.

4 **§667-E Date of public sale of unit; place of sale. (a)**

5 The public sale of the unit shall take place on the later of the  
6 following:

7 (1) At least sixty days after the public notice of the  
8 public sale is distributed under section 667-F; or

9 (2) At least fourteen days after the date of the  
10 publication of the third public notice advertisement  
11 under section 667-F(d).

12 (b) The public sale of the unit shall be held only in the  
13 county where the unit is located; provided that the public sale  
14 shall be held only on grounds or at facilities under the  
15 administration of the State, as follows:

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

18 (2) At a state facility in Hilo, for a public sale of a  
19 unit located in the districts of Hamakua, North Hilo,  
20 South Hilo, or Puna;



1 (3) At a state facility in Kailua-Kona, for a public sale  
2 of a unit located in the districts of North Kohala,  
3 South Kohala, North Kona, South Kona, or Kau;

4 (4) At a state facility in the county seat of Maui, for a  
5 public sale of a unit located in the county of Maui;  
6 and

7 (5) At a state facility in the county seat of Kauai, for a  
8 public sale of a unit located in the county of Kauai;  
9 as designated by the department of accounting and general  
10 services; provided further that no public sale shall be held on  
11 grounds or at facilities under the administration of the  
12 judiciary. The public sale shall be held during business hours  
13 on a business day.

14 (c) The public sale of the unit shall be conducted by the  
15 association on the date, at the time, and at the place described  
16 in the public notice of the public sale.

17 **§667-F Public notice of public sale; contents;**

18 **distribution; publication.** (a) The association shall prepare  
19 the public notice of the public sale. The public notice shall  
20 state:



- 1 (1) The date, time, and place of the public sale;
- 2 (2) The unpaid balance of the moneys owed to the
- 3 association;
- 4 (3) A description of the unit, including the address and
- 5 the tax map key number of the unit;
- 6 (4) The name of the unit owner;
- 7 (5) The name of the association;
- 8 (6) The name of any prior or junior creditors having a
- 9 recorded lien on the unit before the recordation of
- 10 the notice of default and intention to foreclose under
- 11 section 667-C;
- 12 (7) The name, the address in the State, and the telephone
- 13 number in the State of the person in the State
- 14 conducting the public sale; and
- 15 (8) The terms and conditions of the public sale.

16 (b) The public notice shall also contain wording  
 17 substantially similar to the following in all capital letters:

18 "THE DEFAULT UNDER THE ASSOCIATION  
 19 DOCUMENTS MAY BE CURED NO LATER THAN THREE  
 20 BUSINESS DAYS BEFORE THE DATE OF THE PUBLIC  
 21 SALE OF THE UNIT BY PAYING THE ENTIRE AMOUNT  
 22 THAT WOULD BE OWED TO THE ASSOCIATION PLUS



1 THE ASSOCIATION'S ATTORNEY'S FEES AND COSTS,  
2 AND ALL OTHER FEES AND COSTS INCURRED BY THE  
3 FORECLOSING ASSOCIATION RELATED TO THE  
4 DEFAULT, UNLESS OTHERWISE AGREED TO BETWEEN  
5 THE ASSOCIATION AND THE UNIT OWNER. THERE  
6 IS NO RIGHT TO CURE THE DEFAULT OR ANY RIGHT  
7 OF REDEMPTION AFTER THAT TIME. IF THE  
8 DEFAULT IS SO CURED, THE PUBLIC SALE SHALL  
9 BE CANCELED."

10 (c) If the default is not cured as required by the notice  
11 of default and intention to foreclose, the association shall  
12 have a copy of the public notice of the public sale of the unit:

- 13 (1) Mailed or delivered to the unit owners at their  
14 respective last known addresses;
- 15 (2) Mailed or delivered to any prior or junior creditors  
16 having a recorded lien on the unit before the  
17 recordation of the notice of default and intention to  
18 foreclose under section 667-C;
- 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 unit is located;



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

3 (6) Mailed or delivered to any other person entitled to  
4 receive notice under section 667-5.5 or 667-21.5.

5 (d) The association shall have the public notice of the  
6 public sale printed in not less than seven-point font and  
7 published in the classified section of a newspaper of general  
8 circulation in the specific county in which the mortgaged  
9 property is located. For the purposes of this subsection, a  
10 newspaper is of general circulation if the newspaper:

11 (1) Contains news of a general nature; and

12 (2) Is distributed within the county where the mortgaged  
13 property is located:

14 (A) At least weekly;

15 (B) For a minimum of six months unless interrupted by  
16 strike, natural disaster, or act of war or  
17 terror; and

18 (C) To a minimum of one per cent of the residents of  
19 the county, as determined by the last decennial  
20 United States census and as verified by an  
21 independent audit.





1 A person may apply to the circuit court for an order confirming  
2 a newspaper to be of general circulation for purposes of this  
3 subsection, which the court shall grant upon proof of compliance  
4 with this subsection. The public notice shall be published once  
5 each week for three consecutive weeks, constituting three  
6 publications. The public sale shall take place no sooner than  
7 fourteen days after the date of the publication of the third  
8 public notice advertisement.

9 **§667-G Postponement, cancellation of sale.** (a) The  
10 public sale may be either postponed or canceled by the  
11 association. Notice of the postponement or the cancellation of  
12 the public sale shall be:

13 (1) Announced by the association at the date, time, and  
14 place of the last scheduled public sale; and

15 (2) Provided to any other person who is entitled to  
16 receive the notice of default under section 667-B.

17 (b) If there is a postponement of the public sale of the  
18 unit, a new public notice of the public sale shall be published  
19 once in the format described in section 667-F. The new public  
20 notice shall state that it is a notice of a postponed sale. The  
21 public sale shall take place no sooner than fourteen days after  
22 the date of the publication of the new public notice. Not less



1 than fourteen days before the date of the public sale, a copy of  
2 the new public notice shall be posted on the unit or on another  
3 real property of which the unit is a part, and it shall be  
4 mailed or delivered to the unit owner and to any other person  
5 entitled to receive notice under section 667-B(e).

6 (c) Upon the fourth postponement of every series of four  
7 consecutive postponements, the association shall follow all of  
8 the public notice of public sale requirements of section 667-F,  
9 including the requirements of mailing and posting under section  
10 667-F(c) and of publication under section 667-F(d).

11 (d) The default under the association documents may be  
12 cured no later than three business days before the date of the  
13 public sale of the unit by paying the entire amount that would  
14 be owed to the association if the payments under the association  
15 documents had not been accelerated, plus the association's  
16 attorney's fees and costs, and all other fees and costs incurred  
17 by the association related to the default, unless otherwise  
18 agreed to between the association and the unit owner. There is  
19 no right to cure the default or any right of redemption after  
20 that time. If the default is so cured, the public sale shall be  
21 canceled.



1           **§667-H Authorized bidder; successful bidder.** Any person,  
2 including the association, shall be authorized to bid for the  
3 unit at the public sale and to purchase the unit. The highest  
4 bidder who meets the requirements of the terms and conditions of  
5 the public sale shall be the successful bidder. The public sale  
6 shall be considered as being held when the unit is declared by  
7 the association as being sold to the successful bidder. When  
8 the public sale is held, the successful bidder at the public  
9 sale, as the purchaser, shall make a nonrefundable downpayment  
10 to the association of not less than ten per cent of the highest  
11 successful bid price. If the successful bidder is the  
12 association, the downpayment requirement may be satisfied by  
13 offset and a credit bid up to the amount of the lien debt.

14           **§667-I Successful bidder's failure to comply; forfeiture**  
15 **of downpayment.** If the successful bidder later fails to comply  
16 with the terms and conditions of the public sale or fails to  
17 complete the purchase within forty-five days after the public  
18 sale is held, the downpayment shall be forfeited by that bidder.  
19 The forfeited downpayment shall be credited by the association  
20 first towards the association's attorney's fees and costs, then  
21 towards the fees and costs of the power of sale foreclosure, and  
22 any balance towards the moneys owed to the association. The



1 association, in its discretion, may then accept the bid of the  
2 next highest bidder who meets the requirements of the terms and  
3 conditions of the public sale or may begin the public sale  
4 process again.

5 **§667-J Conveyance of property on payment of purchase**

6 **price; distribution of sale proceeds.** (a) After the purchaser  
7 completes the purchase by paying the full purchase price and the  
8 costs for the purchase, the unit shall be conveyed to the  
9 purchaser by a conveyance document. The conveyance document  
10 shall be in a recordable form and shall be signed by the  
11 association in the association's name. The unit owner shall not  
12 be required to sign the conveyance document.

13 (b) From the sale proceeds, after paying:

- 14 (1) Liens for taxes and assessments lawfully imposed by  
15 governmental authority against the unit;  
16 (2) The association's attorney's fees and costs;  
17 (3) The fees and costs of the power of sale foreclosure;  
18 (4) The moneys owed to the association; and  
19 (5) All other liens and encumbrances in the order of  
20 priority as a matter of law,

21 the balance of the sale proceeds shall be distributed by the  
22 association to junior creditors having valid liens on the unit



1 in the order of their priority and not pro rata. Any remaining  
2 surplus after payment in full of all valid lien creditors shall  
3 be distributed to the unit owner.

4 (c) Lien creditors prior to the association shall not be  
5 forced to their right of recovery. However, the association and  
6 any prior lien creditor may agree in writing that the proceeds  
7 from the sale will be distributed by the association to the  
8 prior lien creditor towards the payment of moneys owed to the  
9 prior lien creditor before any moneys are paid to the  
10 association.

11 **§667-K Affidavit after public sale; contents.** (a) After  
12 the public sale is held, the association shall sign an affidavit  
13 under penalty of perjury:

- 14 (1) Stating that the power of sale foreclosure was made  
15 pursuant to the power of sale provision in the law or  
16 association documents;
- 17 (2) Stating that the power of sale foreclosure was  
18 conducted as required by this part;
- 19 (3) Summarizing what was done by the association;
- 20 (4) Attaching a copy of the recorded notice of default and  
21 intention to foreclose; and



1 (5) Attaching a copy of the last public notice of the  
2 public sale.

3 (b) The recitals in the affidavit required under  
4 subsection (a) may, but need not, be substantially in the  
5 following form:

6 (1) I am duly authorized to represent or act on behalf of  
7 \_\_\_\_\_ (name of association)  
8 ("association") regarding the following power of sale  
9 foreclosure. I am signing this affidavit in  
10 accordance with the alternate power of sale  
11 foreclosure law (Chapter 667, Part \_\_\_\_\_, Hawaii Revised  
12 Statutes);

13 (2) The association is a "association" as defined in the  
14 power of sale foreclosure law;

15 (3) The power of sale foreclosure is of an association  
16 lien. If the lien was recorded, the lien was dated  
17 \_\_\_\_\_, and recorded in the  
18 \_\_\_\_\_ (bureau of conveyances or office  
19 of the assistant registrar of the land court) as  
20 \_\_\_\_\_ (recordation information). The  
21 unit is located at: \_\_\_\_\_ (address or  
22 description of location) and is identified by tax map



1 key number: \_\_\_\_\_. The legal  
 2 description of the property, including the certificate  
 3 of title or transfer certificate of title number if  
 4 registered with the land court, is attached as Exhibit  
 5 "A";

6 (4) Pursuant to the power of sale provision of law or  
 7 association documents, the power of sale foreclosure  
 8 was conducted as required by the power of sale  
 9 foreclosure law. The following is a summary of what  
 10 was done:

11 (A) A notice of default and intention to foreclose  
 12 was served on the mortgagor, the borrower, and  
 13 the following person: \_\_\_\_\_. The  
 14 notice of default and intention to foreclose was  
 15 served on the following date and in the following  
 16 manner: \_\_\_\_\_;

17 (B) The date of the notice of default and intention  
 18 to foreclose was \_\_\_\_\_ (date).  
 19 The deadline in the notice for curing the default  
 20 was \_\_\_\_\_ (date), which deadline  
 21 date was at least sixty days after the date of  
 22 the notice;



1 (C) The notice of default and intention to foreclose  
 2 was recorded before the deadline date in the  
 3 \_\_\_\_\_ (bureau of conveyances or  
 4 office of the assistant registrar of the land  
 5 court). The notice was recorded on  
 6 \_\_\_\_\_ (date) as document no.  
 7 \_\_\_\_\_ . A copy of the recorded  
 8 notice is attached as Exhibit "1";

9 (D) The default was not cured by the deadline date in  
 10 the notice of default and intention to foreclose;

11 (E) A public notice of the public sale was initially  
 12 published in the classified section of the  
 13 \_\_\_\_\_, in accordance with section  
 14 667-F(d), Hawaii Revised Statutes, once each week  
 15 for three consecutive weeks on the following  
 16 dates: \_\_\_\_\_. A copy of the  
 17 affidavit of publication for the last public  
 18 notice of the public sale is attached as Exhibit  
 19 "2". The date of the public sale was  
 20 \_\_\_\_\_ (date). The last  
 21 publication was not less than fourteen days  
 22 before the date of the public sale;



1 (F) The public notice of the public sale was sent to  
 2 the unit owner, to the state director of  
 3 taxation, to the director of finance of the  
 4 county where the unit is located, and to the  
 5 following: \_\_\_\_\_. The public  
 6 notice was sent on the following dates and in the  
 7 following manner: \_\_\_\_\_. Those  
 8 dates were after the deadline date in the notice  
 9 of default and intention to foreclose, and those  
 10 dates were at least sixty days before the date of  
 11 the public sale;

12 (G) The public notice of the public sale was posted  
 13 on the unit or on such other real property of  
 14 which the unit is a part on \_\_\_\_\_  
 15 (date). That date was at least sixty days before  
 16 the date of the public sale;

17 (H) A public sale of the unit was held on a business  
 18 day during business hours on: \_\_\_\_\_  
 19 (date), at \_\_\_\_\_ (time), at the  
 20 following location: \_\_\_\_\_. The  
 21 highest successful bidder was  
 22 \_\_\_\_\_ (name) with the highest



1                   successful bid price of \$\_\_\_\_\_;

2                   and

3                   (I) At the time the public sale was held, the default  
4                   was not cured; and

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

6                   **§667-L Recordation of affidavit, conveyance document;**

7 **effect.** (a) The affidavit required under section 667-K and the  
8 conveyance document shall be recorded no earlier than ten days  
9 after the public sale is held but not later than forty-five days  
10 after the public sale is held. The affidavit and the conveyance  
11 document may be recorded separately and on different days.

12 After the recordation, the association shall mail or deliver a  
13 recorded copy to those persons entitled to receive the public  
14 notice of the public sale under section 667-F(c).

15                   (b) When both the affidavit and the conveyance document  
16 are recorded:

17                   (1) The sale of the unit is considered completed;

18                   (2) All persons claiming by, through, or under the  
19 mortgagor and all other persons having liens on the  
20 unit junior to the lien of the association shall be  
21 forever barred of and from any and all right, title,  
22 interest, and claims at law or in equity in and to the



1 unit and every part of the unit, except as otherwise  
2 provided by law;

3 (3) The lien of the association and all liens junior in  
4 priority to the lien of a association shall be  
5 automatically extinguished from the unit; and

6 (4) The purchaser shall be entitled to immediate and  
7 exclusive possession of the unit.

8 (c) The mortgagor and any person claiming by, through, or  
9 under the mortgagor and who is remaining in possession of the  
10 unit after the recordation of the affidavit and the conveyance  
11 document shall be considered a tenant at sufferance subject to  
12 eviction or ejection. The purchaser may bring an action in the  
13 nature of summary possession under chapter 666, ejection, or  
14 trespass or may bring any other appropriate action in a court  
15 where the unit is located to obtain a writ of possession, a writ  
16 of assistance, or any other relief. In any such action, the  
17 court shall award the prevailing party its reasonable attorneys'  
18 fees and costs and all other reasonable fees and costs, all of  
19 which are to be paid for by the non-prevailing party.

20 **§667-M Recordation; full satisfaction of debt by borrower.**

21 The recordation of both the conveyance document and the  
22 affidavit shall not operate as full satisfaction of the debt



1 owed by the unit owner to the association unless the sale  
2 proceeds from the unit or the amounts paid by a purchaser under  
3 the special assessment permitted by section 421J-A or 514B-146  
4 are sufficient to satisfy the unit owner's debt to the  
5 association, including the association's legal fees and costs.  
6 The debts of other lien creditors are unaffected except as  
7 provided in this part.

8 **§667-N Prohibited conduct.** It shall be a prohibited  
9 practice for any association to engage in any of the following  
10 practices:

- 11 (1) Holding a public sale on a date, at a time, or at a  
12 place other than that described in the public notice  
13 of the public sale or a properly noticed postponement;
- 14 (2) Specifying a fictitious place in the public notice of  
15 the public sale;
- 16 (3) Conducting a postponed public sale on a date other  
17 than the date described in the new public notice of  
18 the public sale; or
- 19 (4) Completing or attempting to complete nonjudicial  
20 foreclosure proceedings against a unit owner in  
21 violation of section 667-B(c)."



1           3. By adding a new section to part III to be appropriately  
2 designated and to read:

3           "§667-       Unfair or deceptive act or practice; transfer of  
4 title. (a) Any foreclosing mortgagee who engages in any of the  
5 following violations of this chapter shall have committed an  
6 unfair or deceptive act or practice under section 480-2:

7           (1) Failing to provide a borrower or mortgagor with, or  
8           failing to serve as required, the information required  
9           by section 667-22 or 667-55;

10          (2) Failing to publish, or to post, information on the  
11          mortgaged property, as required by section 667-27 or  
12          667-28;

13          (3) Failing to take any action required by section 667-24  
14          if the default is cured or an agreement is reached;

15          (4) Engaging in conduct prohibited under section 667-56;

16          (5) Holding a public sale in violation of section 667-25  
17          or 667-26;

18          (6) Failing to include the information required by section  
19          667-27 or 667-28 in a public notice of public sale;

20          (7) Failing to provide the public information required by  
21          section 667-41;



1       (8) Completing a nonjudicial foreclosure while a stay is  
2       in effect under section 667-83, as that section read  
3       at any time prior to its repeal on September 30, 2014,  
4       pursuant to Act 48, Session Laws of Hawaii 2011;

5       (9) Failing to distribute sale proceeds as required by  
6       section 667-31;

7       (10) Making any false statement in the affidavit of public  
8       sale required by section 667-32; or

9       (11) Attempting to collect a deficiency in violation of  
10       section 667-38.

11       (b) Notwithstanding subsection (a), the transfer of title  
12       to the purchaser of the property as a result of a foreclosure  
13       under this chapter shall only be subject to avoidance under  
14       section 480-12 for a violation described in subsection (a)(1) to  
15       (8) if the violation is shown to be substantial and material;  
16       provided that a foreclosure sale shall not be subject to  
17       avoidance under section 480-12 for a violation of section 667-  
18       56(5).

19       (c) Any action to void the transfer of title to the  
20       purchaser of property under this chapter shall be filed in the  
21       circuit court of the circuit within which the foreclosed  
22       property is situated no later than one hundred eighty days



1 following the recording of the affidavit after public sale  
2 pursuant to section 667-33. If no such action is filed within  
3 the one hundred eighty-day period, title to the property shall  
4 be deemed conclusively vested in the purchaser free and clear of  
5 any claim by the mortgagor or any person claiming by, through,  
6 or under the mortgagor."

7 4. By adding a new section to part IA, as designated in  
8 section 11 of this Act, to be appropriately designated and to  
9 read:

10 **"§667- Attorney affirmation in judicial foreclosure.**

11 Any attorney who files on behalf of a plaintiff seeking to  
12 foreclose on a residential property under this part shall sign  
13 and submit an affirmation that the attorney has verified the  
14 accuracy of the documents submitted, under penalty of perjury  
15 and subject to applicable rules of professional conduct. The  
16 affirmation shall be in substantially the following form:



\_\_\_\_ CIRCUIT COURT OF THE STATE OF HAWAII

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\_\_\_\_\_

Plaintiff,

**AFFIRMATION**

v.

Defendant(s)

Mortgaged Premises:

\_\_\_\_\_

\_\_\_\_\_

*Note: During and after August 2010, numerous and widespread insufficiencies in foreclosure filings in various courts around the nation were reported by major mortgage lenders and other authorities, including failure to review documents and files to establish standing and other foreclosure requisites; filing of notarized affidavits which falsely attest to such review and to other critical facts in the foreclosure process; and "robo-signature" of documents.*

\* \* \*

[\_\_\_\_], Esq., pursuant to Hawaii Revised Statutes §667- \_\_\_\_ and under the penalties of perjury, affirms as follows:

1. I am an attorney at law duly licensed to practice in the state of Hawaii and am affiliated with the Law Firm of \_\_\_\_\_, the attorneys of record for Plaintiff in the above-captioned mortgage foreclosure action. As such, I am fully aware of the underlying action, as well as the proceedings had herein.
2. On [date], I communicated with the following representative or representatives of Plaintiff, who informed me that he/she/they (a) personally reviewed plaintiff's documents and records relating to this case for factual accuracy; and (b) confirmed the factual accuracy of the allegations set forth in the Complaint and any supporting affidavits or affirmations filed with the Court, as well as the accuracy of the notarizations contained in the supporting documents filed therewith.

Name

Title

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_





1 3. Based upon my communication with [persons specified in item 2], as well as upon my  
2 own inspection and other reasonable inquiry under the circumstances, I affirm that, to the  
3 best of my knowledge, information, and belief, the Summons, Complaint, and other  
4 papers filed or submitted to the Court in this matter contain no false statements of fact or  
5 law and that plaintiff has legal standing to bring this foreclosure action. I understand my  
6 continuing obligation to amend this Affirmation in light of newly discovered material  
7 facts following its filing.  
8

9 4. I am aware of my obligations under Hawaii Rules of Professional Conduct.  
10

11  
12 \_\_\_\_\_  
12 DATED:

13  
14 *N.B.: Counsel may augment this affirmation to provide explanatory details,*  
15 *and may file supplemental affirmations or affidavits for the same purpose."*  
16

17 PART III

18 SECTION 4. Section 454M-10, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "**§454M-10 Penalty.** Any person who violates any provision  
21 of this chapter may be subject to an administrative fine of [~~at~~  
22 ~~least \$1,000 and~~] not more than \$7,000 for each violation;  
23 provided that \$1,000 of the aggregate fine amount shall be  
24 deposited into the mortgage foreclosure dispute resolution  
25 special fund established pursuant to section 667-86."

26 SECTION 5. Section 501-151, Hawaii Revised Statutes, is  
27 amended to read as follows:

28 "**§501-151 Pending actions, judgments; recording of,**  
29 **notice.** No writ of entry, action for partition, or any action  
30 affecting the title to real property or the use and occupation



1 thereof or the buildings thereon, and no judgment, nor any  
2 appeal or other proceeding to vacate or reverse any judgment,  
3 shall have any effect upon registered land as against persons  
4 other than the parties thereto, unless a full memorandum  
5 thereof, containing also a reference to the number of  
6 certificate of title of the land affected is filed or recorded  
7 and registered. Except as otherwise provided, every judgment  
8 shall contain or have endorsed on it the State of Hawaii general  
9 excise taxpayer identification number, the federal employer  
10 identification number, or the last four digits only of the  
11 social security number for persons, corporations, partnerships,  
12 or other entities against whom the judgment is rendered. If the  
13 judgment debtor has no social security number, State of Hawaii  
14 general excise taxpayer identification number, or federal  
15 employer identification number, or if that information is not in  
16 the possession of the party seeking registration of the  
17 judgment, the judgment shall be accompanied by a certificate  
18 that provides that the information does not exist or is not in  
19 the possession of the party seeking registration of the  
20 judgment. Failure to disclose or disclosure of an incorrect  
21 social security number, State of Hawaii general excise taxpayer  
22 identification number, or federal employer identification number



1 shall not in any way adversely affect or impair the lien created  
2 upon recording of the judgment. This section does not apply to  
3 attachments, levies of execution, or to proceedings for the  
4 probate of wills, or for administration in a probate court;  
5 provided that in case notice of the pendency of the action has  
6 been duly registered it is sufficient to register the judgment  
7 in the action within sixty days after the rendition thereof.

8 As used in this chapter "judgment" includes an order or  
9 decree having the effect of a judgment.

10 Notice of the pendency of an action in a United States  
11 District Court, as well as a court of the State of Hawaii, may  
12 be recorded.

13 Notice of opening a dispute resolution case as provided in  
14 section 667-79 may be recorded.

15 Foreclosure notice as provided in section [~~667-14~~] 667-23  
16 may be recorded.

17 The party seeking registration of a judgment shall redact  
18 the first five digits of any social security number by blocking  
19 the numbers out on the copy of the judgment to be filed or  
20 recorded."

21 SECTION 6. Section 501-241, Hawaii Revised Statutes, is  
22 amended by amending subsection (b) to read as follows:



1           "(b) Without limiting the generality of subsection (a),  
2 the following instruments need not be registered pursuant to  
3 this chapter to be effective and shall be recorded in the bureau  
4 of conveyances pursuant to chapter 502:

5           (1) An assignment or other instrument transferring a  
6 leasehold time share interest;

7           (2) A mortgage or other instrument granting a lien on a  
8 leasehold time share interest;

9           (3) An agreement of sale for the sale of a leasehold time  
10 share interest. Any such agreement of sale shall be  
11 subject to section 502-85 and shall not be subject to  
12 section 501-101.5;

13           (4) A lien or notice of lien pertaining to a leasehold  
14 time share interest in favor of a time share owners  
15 association, an association of owners under chapter  
16 514A or 514B, or a similar homeowner's association;

17           (5) A judgment, decree, order of court, attachment, writ,  
18 or other process against a leasehold time share  
19 interest;

20           (6) A mechanic's or materialman's lien or other lien upon  
21 a leasehold time share interest;



- 1 (7) A lis pendens or notice of pendency of action, notice,  
2 affidavit, demand, certificate, execution, copy of  
3 execution, officer's return, or other instrument  
4 relating to a leasehold time share interest and  
5 otherwise required or permitted to be recorded or  
6 registered in connection with the enforcement or  
7 foreclosure of any lien, whether by way of power of  
8 sale pursuant to [~~section 667-57~~] chapter 667 or  
9 otherwise;
- 10 (8) A power of attorney given by the owner of a leasehold  
11 time share interest or the vendor or vendee under an  
12 agreement of sale for the sale of a leasehold time  
13 share interest, a mortgagee or other lienor having a  
14 mortgage or lien upon a leasehold time share interest,  
15 or another party holding a claim or encumbrance  
16 against or an interest in a leasehold time share  
17 interest; or
- 18 (9) An instrument assigning, extending, continuing,  
19 dissolving, discharging, releasing in whole or in  
20 part, reducing, canceling, extinguishing, or otherwise  
21 modifying or amending any of the foregoing  
22 instruments."



1 SECTION 7. Section 501-263, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 " ~~§~~501-263 ~~§~~ Effect of deregistration in specific  
4 cases. Notwithstanding section 501-262(a)(3), the following  
5 documents, instruments, and papers need not be registered  
6 pursuant to this chapter to be effective and shall be recorded  
7 in the bureau of conveyances pursuant to chapter 502:

8 (1) Any document, instrument, or paper assigning,  
9 extending, continuing, dissolving, discharging,  
10 releasing in whole or in part, reducing, canceling,  
11 extinguishing, or otherwise modifying or amending any  
12 of the following documents, instruments, or papers  
13 that have been registered pursuant to this chapter and  
14 that pertain to deregistered land:

- 15 (A) A mortgage;
- 16 (B) An agreement of sale for the sale of a fee time  
17 share interest or interest in other deregistered  
18 land. After the recordation of the certificate  
19 of title, any agreement of sale shall be subject  
20 to section 502-85 and shall not be subject to  
21 section 501-101.5;



- 1 (C) A correction deed, correction mortgage, or other  
2 document, instrument, or paper correcting a  
3 document, instrument, or paper registered  
4 pursuant to this chapter;
- 5 (D) A lien or claim of lien on a fee time share  
6 interest held or claimed by a time share owners  
7 association, an association of apartment owners,  
8 or other homeowners' association or a lien or  
9 claim on an interest in other deregistered land  
10 held by a lienor or person claiming a lien;
- 11 (E) A lease that demises a fee time share interest or  
12 interest in other deregistered land;
- 13 (F) An order of court, attachment, writ, or other  
14 process against a fee time share interest or  
15 interest in other deregistered land;
- 16 (G) A mechanic's or materialman's lien or other lien  
17 upon a fee time share interest or interest in  
18 other deregistered land;
- 19 (H) A lis pendens or notice of pendency of action,  
20 notice, affidavit, demand, certificate,  
21 execution, copy of execution, officer's return,  
22 or other instrument relating to a fee time share



1 interest or interest in other deregistered land  
2 and otherwise required or permitted to be  
3 recorded or registered in connection with the  
4 enforcement or foreclosure of any lien, whether  
5 by way of power of sale pursuant to [~~a power of~~  
6 ~~sale under section 667-5,~~] chapter 667 or  
7 otherwise; or

8 (I) A power of attorney given by the owner of a fee  
9 time share interest or interest in other  
10 deregistered land or the vendor or vendee under  
11 an agreement of sale for the sale of a fee time  
12 share interest or interest in other deregistered  
13 land, a mortgagee or other lienor having a  
14 mortgage or lien upon a fee time share interest  
15 or interest in other deregistered land, or  
16 another party holding a claim or encumbrance  
17 against or an interest in a fee time share  
18 interest or interest in other deregistered land;

19 (2) A lis pendens or notice of pendency of action, notice,  
20 affidavit, demand, certificate, execution, copy of  
21 execution, officer's return, or other instrument  
22 relating to a fee time share interest or interest in





1 other deregistered land and otherwise required or  
2 permitted to be recorded or registered in connection  
3 with the enforcement or foreclosure of any lien,  
4 whether by way of power of sale pursuant to [~~a power~~  
5 ~~of sale under section 667-5,~~] chapter 667 or  
6 otherwise; and

7 (3) Any declaration annexing property to, any declaration  
8 deannexing property from, any amendment or supplement  
9 to, correction of, or release or termination of, any  
10 of the following documents, instruments, or papers  
11 that have been registered pursuant to this chapter and  
12 that pertain to deregistered land:

13 (A) A declaration of covenants, conditions,  
14 restrictions, or similar instrument, by whatever  
15 name denominated, establishing or governing a  
16 time share plan, or the bylaws of a time share  
17 owners association, notice of time share plan, or  
18 other time share instrument;

19 (B) A declaration of condominium property regime or  
20 similar declaration by whatever name denominated,  
21 the bylaws of the association of apartment  
22 owners, the condominium map, any declaration of



1 merger and any instrument effecting a merger;  
2 provided that if only some of the condominium  
3 apartments are included in the time share plan,  
4 then it shall be necessary to register, and to  
5 note on the certificate of title for any  
6 apartment not included in the time share plan:

- 7 (i) Any declaration annexing property to the  
8 condominium property regime;
- 9 (ii) Any declaration deannexing property from the  
10 condominium property regime;
- 11 (iii) Any instrument effecting a merger of two or  
12 more condominium projects or two or more  
13 phases of a condominium project; and
- 14 (iv) Any document, instrument, or paper amending,  
15 supplementing, correcting, releasing, or  
16 terminating any of the documents listed in  
17 subparagraph (B)(i) through (iii), the  
18 declaration of condominium property regime,  
19 the bylaws of the association of apartment  
20 owners, the condominium map, or any  
21 declaration of merger; and



1 (C) A declaration of covenants, conditions,  
2 restrictions, or similar instrument, by whatever  
3 name denominated, the bylaws of any homeowners  
4 association, any declaration of annexation or  
5 deannexation, any amendments and supplements  
6 thereto, and any cancellation or extinguishment  
7 thereof, any declaration of merger and any  
8 instrument effecting a merger; provided that if  
9 only some of the parcels of land covered by the  
10 declaration constitutes deregistered land, and if  
11 one or more of the remaining parcels constitute  
12 registered land, then it shall be necessary to  
13 register, and to note on the certificate of title  
14 for any registered land:

- 15 (i) Any declaration annexing property to the  
16 declaration;
- 17 (ii) Any declaration deannexing property from the  
18 operation of the declaration; and
- 19 (iii) Any document, instrument, or paper amending,  
20 supplementing, correcting, releasing, or  
21 terminating any of the documents listed in  
22 subparagraph (C)(i) or (ii), the declaration



1 of covenants, conditions, restrictions, or  
2 the bylaws of the homeowners association."

3 SECTION 8. Section 514A-90, Hawaii Revised Statutes, is  
4 amended as follows:

5 1. By amending subsections (a) and (b) to read:

6 "(a) All sums assessed by the association of apartment  
7 owners but unpaid for the share of the common expenses chargeable  
8 to any apartment constitute a lien on the apartment prior to all  
9 other liens, except:

10 (1) Liens for taxes and assessments lawfully imposed by  
11 governmental authority against the apartment; and

12 (2) All sums unpaid on any mortgage of record that was  
13 recorded prior to the recordation of notice of a lien  
14 by the association of apartment owners, and costs and  
15 expenses including attorneys' fees provided in such  
16 mortgages[-];

17 provided that a lien recorded by the association of apartment  
18 owners shall expire two years from the date of recordation  
19 unless renewed by the association of apartment owners prior to  
20 the expiration of the lien.

21 The lien of the association of apartment owners may be  
22 foreclosed by action or by nonjudicial or power of sale



1 foreclosure procedures set forth in chapter 667, by the managing  
2 agent or board of directors, acting on behalf of the association  
3 of apartment owners [~~in like manner as a mortgage of real~~  
4 ~~property.~~]; provided that no association of apartment owners may  
5 foreclose a lien against any apartment that arises solely from  
6 finances, penalties, legal fees, or late fees. In any such  
7 foreclosure, the apartment owner shall be required to pay a  
8 reasonable rental for the apartment, if so provided in the  
9 bylaws [~~]~~ or the law, and the plaintiff in the foreclosure shall  
10 be entitled to the appointment of a receiver to collect the rental  
11 owed [~~]~~ by the apartment owner or any tenant of the apartment. If  
12 the association of apartment owners is the plaintiff, it may  
13 request that its managing agent be appointed as receiver to  
14 collect the rent from the tenant. The managing agent or board of  
15 directors, acting on behalf of the association of apartment  
16 owners, unless prohibited by the declaration, may bid on the  
17 apartment at foreclosure sale, and acquire and hold, lease,  
18 mortgage, and convey the apartment. Action to recover a money  
19 judgment for unpaid common expenses shall be maintainable without  
20 foreclosing or waiving the lien securing the unpaid common  
21 expenses owed.



1 (b) Except as provided in subsection (g), when the mortgagee  
2 of a mortgage of record or other purchaser of an apartment obtains  
3 title to the apartment as a result of foreclosure of the mortgage,  
4 the acquirer of title and the acquirer's successors and assigns  
5 shall not be liable for the share of the common expenses or  
6 assessments by the association of apartment owners chargeable to  
7 the apartment [~~which~~] that became due prior to the acquisition of  
8 title to the apartment by the acquirer. The unpaid share of  
9 common expenses or assessments shall be deemed to be common  
10 expenses collectible from all of the apartment owners, including  
11 the acquirer and the acquirer's successors and assigns. The  
12 mortgagee of record or other purchaser of the apartment shall be  
13 deemed to acquire title and shall be required to pay the  
14 apartment's share of common expenses and assessments beginning:

- 15 (1) Thirty-six days after the order confirming the sale to  
16 the purchaser has been filed with the court;
- 17 (2) Sixty days after the hearing at which the court grants  
18 the motion to confirm the sale to the purchaser;
- 19 (3) Thirty days after the public sale in a nonjudicial  
20 power of sale foreclosure conducted pursuant to  
21 [~~section 667-5,~~] chapter 667; or  
22



1           (4) Upon the recording of the instrument of conveyance,  
2 whichever occurs first; provided that the mortgagee of record or  
3 other purchaser of the apartment shall not be deemed to acquire  
4 title under paragraph (1), (2), or (3), if transfer of title is  
5 delayed past the thirty-six days specified in paragraph (1), the  
6 sixty days specified in paragraph (2), or the thirty days  
7 specified in paragraph (3), when a person who appears at the  
8 hearing on the motion or a party to the foreclosure action  
9 requests reconsideration of the motion or order to confirm sale,  
10 objects to the form of the proposed order to confirm sale,  
11 appeals the decision of the court to grant the motion to confirm  
12 sale, or the debtor or mortgagor declares bankruptcy or is  
13 involuntarily placed into bankruptcy. In any such case, the  
14 mortgagee of record or other purchaser of the apartment shall be  
15 deemed to acquire title upon recordation of the instrument of  
16 conveyance."

17           2. By amending subsections (h) and (i) to read:

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 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 ~~\$7,200.]~~

3 (i) For purposes of subsections (g) and (h), the following  
4 definitions shall apply:

5 "Completion" means:

- 6 (1) In a nonjudicial power of sale foreclosure, when  
7 the affidavit [~~required under section 667-5 is~~  
8 ~~filed;~~] after public sale is recorded pursuant to  
9 section 667-33; and  
10 (2) In a judicial foreclosure, when a purchaser is  
11 deemed to acquire title pursuant to subsection  
12 (b).

13 "Regular monthly common assessments" shall not include:

- 14 (1) Any other special assessment, except for a  
15 special assessment imposed on all apartments as  
16 part of a budget adopted pursuant to section  
17 514A-83.6;  
18 (2) Late charges, fines, or penalties;  
19 (3) Interest assessed by the association of apartment  
20 owners;  
21 (4) Any lien arising out of the assessment; or





1           (5) Any fees or costs related to the collection or  
2           enforcement of the assessment, including  
3           attorneys' fees and court costs."

4           SECTION 9. Section 514B-146, Hawaii Revised Statutes, is  
5 amended as follows:

6           1. By amending subsections (a) and (b) to read:

7           "(a) All sums assessed by the association but unpaid for  
8 the share of the common expenses chargeable to any unit shall  
9 constitute a lien on the unit with priority over all other  
10 liens, except:

11           (1) Liens for taxes and assessments lawfully imposed by  
12 governmental authority against the unit; and

13           (2) All sums unpaid on any mortgage of record that was  
14 recorded prior to the recordation of a notice of a  
15 lien by the association, and costs and expenses  
16 including attorneys' fees provided in such  
17 mortgages[-];

18 provided that a lien recorded by the association shall expire  
19 two years from the date of recordation unless renewed by the  
20 association prior to the expiration of the lien.

21           The lien of the association may be foreclosed by action or  
22 by nonjudicial or power of sale foreclosure procedures set forth



1 in chapter 667, by the managing agent or board, acting on behalf  
2 of the association[~~, in like manner as a mortgage of real~~  
3 ~~property.~~]; provided that no association may foreclose a lien  
4 against any unit that arises solely from fines, penalties, legal  
5 fees, or late fees. In any such foreclosure, the unit owner  
6 shall be required to pay a reasonable rental for the unit, if so  
7 provided in the bylaws[~~7~~] or the law, and the plaintiff in the  
8 foreclosure shall be entitled to the appointment of a receiver  
9 to collect the rental owed[~~7~~] by the unit owner or any tenant of  
10 the unit. If the association is the plaintiff, it may request  
11 that its managing agent be appointed as receiver to collect the  
12 rent from the tenant. The managing agent or board, acting on  
13 behalf of the association, unless prohibited by the declaration,  
14 may bid on the unit at foreclosure sale, and acquire and hold,  
15 lease, mortgage, and convey the unit. Action to recover a money  
16 judgment for unpaid common expenses shall be maintainable  
17 without foreclosing or waiving the lien securing the unpaid  
18 common expenses owed.

19 (b) Except as provided in subsection (g), when the  
20 mortgagee of a mortgage of record or other purchaser of a unit  
21 obtains title to the unit as a result of foreclosure of the  
22 mortgage, the acquirer of title and the acquirer's successors



1 and assigns shall not be liable for the share of the common  
2 expenses or assessments by the association chargeable to the  
3 unit [~~which~~] that became due prior to the acquisition of title  
4 to the unit by the acquirer. The unpaid share of common  
5 expenses or assessments shall be deemed to be common expenses  
6 collectible from all of the unit owners, including the acquirer  
7 and the acquirer's successors and assigns. The mortgagee of  
8 record or other purchaser of the unit shall be deemed to acquire  
9 title and shall be required to pay the unit's share of common  
10 expenses and assessments beginning:

- 11 (1) Thirty-six days after the order confirming the sale to  
12 the purchaser has been filed with the court;
- 13 (2) Sixty days after the hearing at which the court grants  
14 the motion to confirm the sale to the purchaser;
- 15 (3) Thirty days after the public sale in a nonjudicial  
16 power of sale foreclosure conducted pursuant to  
17 [~~section 667-5,~~] chapter 667; or
- 18 (4) Upon the recording of the instrument of conveyance;  
19 whichever occurs first; provided that the mortgagee of record or  
20 other purchaser of the unit shall not be deemed to acquire title  
21 under paragraph (1), (2), or (3), if transfer of title is  
22 delayed past the thirty-six days specified in paragraph (1), the



1 sixty days specified in paragraph (2), or the thirty days  
2 specified in paragraph (3), when a person who appears at the  
3 hearing on the motion or a party to the foreclosure action  
4 requests reconsideration of the motion or order to confirm sale,  
5 objects to the form of the proposed order to confirm sale,  
6 appeals the decision of the court to grant the motion to confirm  
7 sale, or the debtor or mortgagor declares bankruptcy or is  
8 involuntarily placed into bankruptcy. In any such case, the  
9 mortgagee of record or other purchaser of the unit shall be  
10 deemed to acquire title upon recordation of the instrument of  
11 conveyance."

12 2. By amending subsections (h) and (i) to read:

13 "(h) The amount of the special assessment assessed under  
14 subsection (g) shall not exceed the total amount of unpaid  
15 regular monthly common assessments that were assessed during the  
16 twelve months immediately preceding the completion of the  
17 judicial or nonjudicial power of sale foreclosure. [~~In no event~~  
18 ~~shall the amount of the special assessment exceed the sum of~~  
19 ~~\$7,200.~~]

20 (i) For purposes of subsections (g) and (h), the following  
21 definitions shall apply, unless the context requires otherwise:

22



1 "Completion" means:

2 (1) In a nonjudicial power of sale foreclosure, when the  
3 affidavit [~~required under section 667-5 is filed,~~]  
4 after public sale is recorded pursuant to section 667-  
5 33; and

6 (2) In a judicial foreclosure, when a purchaser is deemed  
7 to acquire title pursuant to subsection (b).

8 "Regular monthly common assessments" does not include:

- 9 (1) Any other special assessment, except for a special  
10 assessment imposed on all units as part of a budget  
11 adopted pursuant to section 514B-148;
- 12 (2) Late charges, fines, or penalties;
- 13 (3) Interest assessed by the association;
- 14 (4) Any lien arising out of the assessment; or
- 15 (5) Any fees or costs related to the collection or  
16 enforcement of the assessment, including attorneys'  
17 fees and court costs."

18 SECTION 10. Section 607-5, Hawaii Revised Statutes, is  
19 amended by amending subsections (a) and (b) to read as follows:

20 "(a) The fees prescribed by the schedule in this section  
21 shall be paid to the clerk of the circuit court as costs of  
22 court by the person instituting the action or proceeding, or



1 offering the paper for filing, or causing the document to be  
2 issued or the services to be performed in the circuit court;  
3 provided that nothing in the schedule shall apply to cases of  
4 adults charged with commission of a crime, or to proceedings  
5 under section 571-11(1), (2), or (9), to proceedings under  
6 chapter 333F or 334, to small estates including decedents'  
7 estates and protection of property of minors and persons under  
8 disability when the amount payable is fixed by another statute[  
9 ~~or to nonjudicial foreclosures converted to judicial proceedings~~  
10 ~~pursuant to section 667-53; and~~]; provided further that the fees  
11 prescribed by subsection (c)(32) shall be deposited by the clerk  
12 of the circuit court into the judiciary computer system special  
13 fund pursuant to section 601-3.7[-]; and provided further that  
14 the fees prescribed by subsection (b)(1a) shall be deposited by  
15 the clerk of the circuit court as provided in section 667-  
16 53(a)(6).

17 For the purpose of this section, "judgment" includes a  
18 decree and any order from which an appeal lies.

19 **SCHEDULE**

20 In the application of this schedule, each case assigned a  
21 new number or filed under the number previously assigned to a  
22 probate, trust, guardianship, or conservatorship, shall carry a



1 fee for the institution or transfer of the action or proceeding  
2 as prescribed by part I, and in addition the fees prescribed by  
3 part II unless otherwise provided.

4 (b) **PART I**

5 Action or proceeding, general:

6 (1) Civil action or special proceeding, unless  
7 another item in part I applies ..... \$200

8 (1a) Petition for conversion of nonjudicial  
9 foreclosure to judicial foreclosure ..... \$250

10 (2) Appeal to a circuit court ..... \$100

11 (3) Transfer of action to circuit court from district  
12 court, in addition to district court fees ..... \$125

13 Trusts:

14 (4) Proceeding for (A) appointment of trustee; (B)  
15 appointment of successor; (C) resignation of  
16 trustee; (D) instructions; (E) approval of  
17 investment; (F) approval of sale, mortgage,  
18 lease, or other disposition of property; (G)  
19 approval of compromise of claim, for each such  
20 matter ..... \$100

21 (5) Proceeding for (A) removal of trustee; (B) order  
22 requiring accounting; (C) invalidation of action



- 1           taken by trustee; (D) termination of trust, for
- 2           each such matter ..... \$100
- 3       (6)   Accounting, this fee to be paid for each account
- 4           filed and to include the settlement of the
- 5           account ..... \$10
- 6       (7)   Vesting order ..... no charge under part I
- 7       (8)   Allowance of fees of trustees, attorneys, or
- 8           other fees for services incurred in a
- 9           proceeding for which a fee has been paid
- 10           under this section ..... no charge under part I
- 11       (8a)  Registration of a trust, or release of
- 12           registration, under chapter 560 ..... \$3
- 13       (9)   Any other proceeding relating to a trust ..... \$15
- 14   Conservatorship:
- 15       (10)  Proceeding for (A) appointment; (B) appointment
- 16           of successor; (C) resignation; (D) instructions,
- 17           unless included in one of the foregoing
- 18           proceedings; (E), (F), (G) approval of any matter
- 19           listed in (E), (F), or (G) of item (4) in
- 20           relation to a trust, for each such matter ..... \$100





1 (11) Proceeding of the nature listed in (A), (B), (C),  
2 or (D) of item (5) in relation to a trust, for  
3 each such matter ..... \$15

4 (12) Accounting, same as provided by item (6) in  
5 relation to a trust ..... \$10

6 (13) Any other proceeding relating to a  
7 conservatorship ..... no charge under part I

8 Guardianship:

9 (13a) Guardianship, including all matters of the nature  
10 listed in items (4) to (9), whether in family or  
11 circuit court ..... \$100

12 Probate (decedents' estates). These fees include all matters of  
13 the nature listed in items (4) to (9), without additional  
14 charge:

15 (14) Probate, administration, domiciliary foreign  
16 personal representative, or ancillary  
17 administration, this fee to be paid once only for  
18 each decedent's estate ..... \$100

19 Family court cases:

20 (15) Matrimonial action (annulment, divorce,  
21 separation, or separate maintenance) ..... \$100

22 (16) Adoption ..... \$100



- 1 (17) Guardianship, including all matters of the nature
- 2 listed in items (4) to (9) .....
- 3 As provided in item 13(a)
- 4 (18) Termination of parental rights .....
- 5 ..... no charge under part I
- 6 (19) Any other family court proceeding, except motions or
- 7 other pleadings in matrimonial, adoption, and
- 8 guardianship actions, but including without limitation
- 9 custody proceedings even if in the form of an habeas
- 10 corpus proceeding ..... \$15"

11 SECTION 11. Chapter 667, Hawaii Revised Statutes, is  
 12 amended as follows:

13 1. By designating part I as part IA and amending the title  
 14 of that part to read:

15 "PART [~~I.~~] IA. FORECLOSURE BY ACTION [~~OR~~  
 16 ~~FORECLOSURE BY POWER OF SALE]~~"

17 2. By designating section 667-1 as section 667-1.5:

18 "~~§667-1~~ §667-1.5 Foreclosure by action."

19 3. By amending the title of part II to read:

20 "[~~I.~~]PART II. [~~I.~~—ALTERNATE] POWER OF  
 21 SALE FORECLOSURE PROCESS"



1 SECTION 12. Section 667-3, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§667-3 Proceeds, how applied.** Mortgage and other  
4 creditors shall be entitled to payment according to the priority  
5 of their liens, and not pro rata; and judgments of foreclosure  
6 ~~[and foreclosures by power of sale]~~ that are conducted in  
7 compliance with this part ~~[and for which an affidavit is~~  
8 ~~recorded as required under section 667-5]~~ shall operate to  
9 extinguish the liens of subsequent mortgages and liens of the  
10 same property, without forcing prior mortgagees or lienors to  
11 their right of recovery. The surplus after payment of the  
12 mortgage foreclosed, shall be applied pro tanto to the next  
13 junior mortgage or lien, and so on to the payment, wholly or in  
14 part, of mortgages and liens junior to the one assessed."

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

17 **"§667-5.5 Foreclosure notice; planned communities;**  
18 **condominiums; cooperative housing projects.** Notwithstanding any  
19 law or agreement to the contrary, any person who forecloses on a  
20 property under this part within a planned community, a  
21 condominium apartment or unit, or an apartment in a cooperative  
22 housing project shall notify, by registered or certified mail,



1 the board of directors of the planned community association, the  
2 association of owners of the condominium project, or the  
3 cooperative housing project in which the property to be  
4 foreclosed is located, of the following:

5 (1) The foreclosure at the time foreclosure proceedings  
6 are begun[-]; and

7 (2) Any election by an owner-occupant of the property that  
8 is the subject of the foreclosure to participate in  
9 the mortgage foreclosure dispute resolution program  
10 under part V.

11 The notice, at a minimum, shall identify the property,  
12 condominium apartment or unit, or cooperative apartment that is  
13 the subject of the foreclosure and identify the name or names of  
14 the person or persons bringing foreclosure proceedings. [~~This~~  
15 ~~section~~] Paragraph (1) shall not apply if the planned community  
16 association, condominium association of owners, or cooperative  
17 housing corporation is a party in a foreclosure action. This  
18 section shall not affect civil proceedings against parties other  
19 than the planned community association, association of owners,  
20 or cooperative 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 part, distribution of the proceeds  
8 of the sale shall be as specified in section 667-3, and the  
9 remainder of the proceeds, if any, shall be paid over to the  
10 owner of the mortgaged property, after deducting the amount of  
11 [~~claim~~] all claims and all expenses attending the same."

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

14           **"§667-21 [~~Alternate power~~] Power of sale process[~~+~~**  
15 **~~definitions~~].** [~~(a)~~] The power of sale process in this part is  
16 an alternative [~~power of sale process~~] to the foreclosure by  
17 action [~~and the foreclosure by power of sale~~] in part [~~I.~~] IA.

18           [~~(b)~~] ~~As used in this part:~~

19           ~~"Approved budget and credit counselor" means a budget and~~  
20 ~~credit counseling agency that has received approval from a~~  
21 ~~United States trustee or bankruptcy administrator to provide~~



1 ~~instructional courses concerning personal financial management~~  
2 ~~pursuant to Title 11 United States Code, section 111.~~

3 ~~"Approved housing counselor" means a housing counseling~~  
4 ~~agency that has received approval from the United States~~  
5 ~~Department of Housing and Urban Development to provide housing~~  
6 ~~counseling services pursuant to section 106(a)(2) of the Housing~~  
7 ~~and Urban Development Act of 1968, Title 12 United States Code,~~  
8 ~~section 1701x.~~

9 ~~"Association" has the same meaning as the term is defined~~  
10 ~~in section 514B-3.~~

11 ~~"Borrower" means the borrower, maker, cosigner, or~~  
12 ~~guarantor under a mortgage agreement.~~

13 ~~"Foreclosing mortgagee" means the mortgagee that intends to~~  
14 ~~conduct a power of sale foreclosure; provided that the mortgagee~~  
15 ~~is a federally insured bank, a federally insured savings and~~  
16 ~~loan association, a federally insured savings bank, a depository~~  
17 ~~financial services loan company, a nondepository financial~~  
18 ~~services loan company, a credit union insured by the National~~  
19 ~~Credit Union Administration, a bank holding company, a foreign~~  
20 ~~lender as defined in section 207 11, or an institutional~~  
21 ~~investor as defined in section 454 1.~~



1       ~~Unless the context clearly indicates otherwise, as used in~~  
2 ~~this part, a "foreclosing mortgagee" shall encompass all of the~~  
3 ~~following entities:~~

- 4       ~~(1) The foreclosing mortgagee;~~
- 5       ~~(2) Any person that has an ownership interest in the~~  
6       ~~promissory note on the mortgage agreement or a~~  
7       ~~security interest represented by the mortgage for the~~  
8       ~~subject property;~~
- 9       ~~(3) Any mortgage servicer, who services the mortgage loan~~  
10       ~~of the mortgagor; and~~
- 11       ~~(4) The agents, employees, trustees, and representatives~~  
12       ~~of a lender, the foreclosing mortgagee, a mortgagee,~~  
13       ~~and a mortgage servicer.~~

14       ~~"Mailed" means to be sent by regular mail, postage prepaid,~~  
15 ~~and by certified, registered, or express mail, postage prepaid~~  
16 ~~and return receipt requested.~~

17       ~~"Mortgage" means a mortgage, security agreement, or other~~  
18 ~~document under which property is mortgaged, encumbered, pledged,~~  
19 ~~or otherwise rendered subject to a lien for the purpose of~~  
20 ~~securing the payment of money or the performance of an~~  
21 ~~obligation.~~

1 ~~"Mortgage agreement" includes the mortgage, the note or~~  
2 ~~debt document, or any document amending any of the foregoing.~~

3 ~~"Mortgaged property" means the property that is subject to~~  
4 ~~the lien of the mortgage.~~

5 ~~"Mortgagee" means the current holder of record of the~~  
6 ~~mortgagee's or the lender's interest under the mortgage, or the~~  
7 ~~current mortgagee's or lender's duly authorized agent.~~

8 ~~"Mortgagor" means the mortgagor or borrower named in the~~  
9 ~~mortgage and, unless the context otherwise indicates, includes~~  
10 ~~the current owner of record of the mortgaged property whose~~  
11 ~~interest is subject to the mortgage.~~

12 ~~"Nonjudicial foreclosure" means foreclosure under power of~~  
13 ~~sale.~~

14 ~~"Open house" means a public showing of the mortgaged~~  
15 ~~property during a scheduled time period.~~

16 ~~"Owner-occupant" means a person, at the time that a notice~~  
17 ~~of default and intention to foreclose is served on the mortgagor~~  
18 ~~under the power of sale:~~

- 19 ~~(1) Who owns an interest in the residential property, and~~  
20 ~~the interest is encumbered by the mortgage being~~  
21 ~~foreclosed; and~~





1       ~~(2) For whom the residential property is and has been the~~  
2           ~~person's primary residence for a continuous period of~~  
3           ~~not less than two hundred days immediately preceding~~  
4           ~~the date on which the notice is served.~~

5       ~~"Power of sale" or "power of sale foreclosure" means a~~  
6       ~~nonjudicial foreclosure under this part when the mortgage~~  
7       ~~contains, authorizes, permits, or provides for a power of sale,~~  
8       ~~a power of sale foreclosure, a power of sale remedy, or a~~  
9       ~~nonjudicial foreclosure.~~

10       ~~"Property" means property (real, personal, or mixed), an~~  
11       ~~interest in property (including fee simple, leasehold, life~~  
12       ~~estate, reversionary interest, and any other estate under~~  
13       ~~applicable law), or other interests that can be subject to the~~  
14       ~~lien of a mortgage.~~

15       ~~"Record" or "recorded" means a document is recorded or~~  
16       ~~filed with the office of the assistant registrar of the land~~  
17       ~~court under chapter 501 or recorded with the registrar of~~  
18       ~~conveyances under chapter 502, or both, as applicable.~~

19       ~~"Residential property" means real property that is improved~~  
20       ~~and used for residential purposes.~~

21       ~~"Served" means to have service of the notice of default and~~  
22       ~~intention to foreclose made in accordance with the service of~~



1 ~~process or the service of summons under the Hawaii rules of~~  
2 ~~civil procedure, and under sections 634 35 and 634 36.]"~~

3 SECTION 16. Section 667-21.5, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 " ~~[+]§667-21.5[+]~~ **Foreclosure notice; planned communities;**  
6 **condominiums; cooperative housing projects.** Notwithstanding any  
7 law or agreement to the contrary, any person who forecloses on a  
8 property under this part within a planned community, a  
9 condominium apartment or unit, or an apartment in a cooperative  
10 housing project shall notify, by way of registered or certified  
11 mail, the board of directors of the planned community  
12 association, the association of owners of the condominium  
13 project, or the cooperative housing project in which the  
14 property to be foreclosed is located, of the following:

15 (1) The foreclosure at the time foreclosure proceedings  
16 are begun[-]; and

17 (2) Any election by an owner-occupant of the property that  
18 is the subject of the foreclosure to participate in  
19 the mortgage foreclosure dispute resolution program  
20 under part V.

21 The notice, at a minimum, shall identify the property,  
22 condominium apartment or unit, or cooperative apartment that is



1 the subject of the foreclosure and identify the name or names of  
2 the person or persons bringing foreclosure proceedings. [~~This~~  
3 ~~section~~] Paragraph (1) shall not apply when the planned  
4 community association, condominium association of owners, or  
5 cooperative housing corporation is a party in a foreclosure  
6 action. This section shall not affect civil proceedings against  
7 parties other than the planned community association,  
8 association of owners, or cooperative housing corporation."

9 SECTION 17. Section 667-22, Hawaii Revised Statutes, is  
10 amended as follows:

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

12 "(a) When the mortgagor or the borrower has breached the  
13 mortgage agreement, and when the foreclosing mortgagee intends  
14 to conduct a power of sale foreclosure under this part, the  
15 foreclosing mortgagee shall prepare a written notice of default  
16 and intention to foreclose addressed to the mortgagor, the  
17 borrower, and any guarantor. The notice of default and  
18 intention to foreclose shall state:

19 (1) The name and address of the current mortgagee;

20 (2) The name and last known address of [~~all~~] the  
21 mortgagors, the borrowers, and any guarantors;

22



- 1           (3) ~~[The]~~ With respect to the mortgaged property, the  
2           address or a description of ~~[the]~~ its location ~~[of the~~  
3           ~~mortgaged property]~~, ~~[the]~~ tax map key number, and  
4           ~~[the]~~ certificate of title or transfer certificate of  
5           title number if ~~[within the jurisdiction of]~~  
6           registered in the land court ~~[, of the mortgaged~~  
7           ~~property]~~;
- 8           (4) The description of the default or, if the default is a  
9           monetary default, an itemization of the delinquent  
10          amount;
- 11          (5) The action required to cure the default, including the  
12          delinquent amount and the estimated amount of the  
13          foreclosing mortgagee's attorney's fees and costs, and  
14          all other fees and costs related to the default  
15          estimated to be incurred by the foreclosing mortgagee  
16          by the deadline date;
- 17          (6) The date by which the default must be cured, which  
18          shall be at least sixty days after the date of the  
19          notice of default and intention to foreclose;
- 20          (7) A statement that if the default is not cured by the  
21          deadline date stated in the notice of default and  
22          intention to foreclose, the entire unpaid balance of

1 the moneys owed to the mortgagee under the mortgage  
2 agreement will become due, that the mortgagee intends  
3 to conduct a power of sale foreclosure to sell the  
4 mortgaged property at a public sale without any court  
5 action and without going to court, and that the  
6 mortgagee or any other person may acquire the  
7 mortgaged property at the public sale;

8 (8) The name, address, electronic address, and telephone  
9 number of the attorney who is representing the  
10 foreclosing mortgagee; provided that the attorney  
11 shall be licensed to practice law in the State and  
12 physically located in the State; and

13 (9) Notice of the right of the owner-occupant to elect to  
14 participate in any other process as established by  
15 law."

16 2. By amending subsections (d) and (e) to read:

17 "(d) The notice of default and intention to foreclose  
18 shall also include contact information for [~~local~~] approved  
19 housing counselors and approved budget and credit counselors.

20 (e) The foreclosing mortgagee shall have the notice of  
21 default and intention to foreclose served on:

22



- 1           (1) The mortgagor and the borrower [~~in the same manner as~~  
2           service of a civil complaint under chapter 634 or the  
3           Hawaii rules of civil procedure, as they may be  
4           amended from time to time];
- 5           (2) Any prior or junior creditors who have a recorded lien  
6           on the mortgaged property before the recordation of  
7           the notice of default and intention to foreclose under  
8           section 667-23;
- 9           (3) The state director of taxation;
- 10          (4) The director of finance of the county where the  
11          mortgaged property is located;
- 12          (5) The department of commerce and consumer affairs, by  
13          filing the notice with the department when required;  
14          and
- 15          (6) Any other person entitled to receive notice under this  
16          part."

17          SECTION 18. Section 667-24, Hawaii Revised Statutes, is  
18          amended to read as follows:

19          "**§667-24 Cure of default.** (a) If the default is cured as  
20          required by the notice of default and intention to foreclose, or  
21          if the parties have reached [~~a settlement document,~~] an  
22          agreement to resolve the nonjudicial foreclosure, the



1 foreclosing mortgagee shall rescind the notice of default and  
2 intention to foreclose. Within fourteen days of the date of the  
3 cure or [~~a settlement document reached by the parties,~~] an  
4 agreement to resolve the nonjudicial foreclosure, the  
5 foreclosing mortgagee shall so notify any person who was served  
6 with the notice of default and intention to foreclose. If the  
7 notice of default and intention to foreclose was recorded, a  
8 release of the notice of default and intention to foreclose  
9 shall be recorded.

10 (b) If the default is not cured as required by the notice  
11 of default and intention to foreclose, the parties have not  
12 reached [~~a settlement document pursuant to part V~~] an agreement  
13 to resolve the nonjudicial foreclosure and no report of  
14 noncompliance has been issued against the mortgagee under  
15 section 667-82, and the mortgagor has not elected to convert the  
16 foreclosure to a judicial action, the foreclosing mortgagee,  
17 without filing a court action and without going to court, may  
18 foreclose the mortgage under power of sale to sell the mortgaged  
19 property at a public sale."

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



1           "(b) The public sale of the mortgaged property shall be  
2 held only in the county where the mortgaged property is located;  
3 provided that the public sale shall be held only on grounds or  
4 at facilities under the administration of the State, as follows:

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

7           (2) At a state facility in Hilo, for a public sale of  
8 mortgaged property located in the [~~eastern portion of~~  
9 ~~the county of Hawaii;~~] districts of Hamakua, North  
10 Hilo, South Hilo, or Puna;

11           (3) At a state facility in Kailua-Kona, for a public sale  
12 of mortgaged property located in the [~~western portion~~  
13 ~~of the county of Hawaii;~~] districts of North Kohala,  
14 South Kohala, North Kona, South Kona, or Kau;

15           (4) At a state facility in the county seat of Maui, for a  
16 public sale of mortgaged property located in the  
17 county of Maui; and

18           (5) At a state facility in the county seat of Kauai, for a  
19 public sale of mortgaged property located in the  
20 county of Kauai;

21 as designated by the department of accounting and general  
22 services; provided further that no public sale shall be held on





1 grounds or at facilities under the administration of the  
2 judiciary. The public sale shall be held during business hours  
3 on a business day."

4 SECTION 20. Section 667-27, Hawaii Revised Statutes, is  
5 amended as follows:

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

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

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

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

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

15 (4) A description of the mortgaged property, including the  
16 address and the tax map key number of the mortgaged  
17 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  
22 recordation of the notice of default and intention to



1 foreclose under section 667-23;  
2 (8) The name, the address in the State, and the telephone  
3 number in the State of the person in the State  
4 conducting the public sale; and

5 (9) The terms and conditions of the public sale[ ~~and~~  
6 ~~(10) An estimate of the opening bid~~]."

7 2. By amending subsection (d) to read:

8 "(d) The foreclosing mortgagee shall have the public  
9 notice of the public sale printed in not less than seven-point  
10 font and published in the classified section of a [~~daily~~]  
11 newspaper [~~having the largest~~] of general circulation  
12 [~~specifically~~] in the specific county where the mortgaged  
13 property is located[~~; provided that for property located in a~~  
14 ~~county with a population of more than one hundred thousand but~~  
15 ~~less than three hundred thousand, the public notice shall be~~  
16 ~~published in the newspaper having the largest general~~  
17 ~~circulation specifically in the western or eastern half of the~~  
18 ~~county, as the case may be, in which the property is located~~].  
19 For the purposes of this subsection, a newspaper is of general  
20 circulation if the newspaper:

21 (1) Contains news of a general nature; and



- 1        (2) Is distributed within the county where the mortgaged  
2        property is located:
- 3        (A) At least weekly;
- 4        (B) For a minimum of six months unless interrupted by  
5        strike, natural disaster, or act of war or  
6        terror; and
- 7        (C) To a minimum of one per cent of the residents of  
8        the county, as determined by the last decennial  
9        United States census and as verified by an  
10       independent audit.

11 A person may apply to the circuit court for an order confirming  
12 a newspaper to be of general circulation for purposes of this  
13 subsection, which the court shall grant upon proof of compliance  
14 with this subsection. The public notice shall be published once  
15 each week for three consecutive weeks, constituting three  
16 publications. The public sale shall take place no sooner than  
17 fourteen days after the date of the publication of the third  
18 public notice advertisement."

19        SECTION 21. Section 667-28, Hawaii Revised Statutes, is  
20 amended by amending subsection (a) to read as follows:



1           "(a) The public sale may be either postponed or canceled  
2 by the foreclosing mortgagee. Notice of the postponement or the  
3 cancellation of the public sale shall be [~~announced~~]:

4           (1) Announced by the foreclosing mortgagee at the date,  
5           time, and place of the last scheduled public sale[-];  
6           and

7           (2) Provided to any other person who is entitled to  
8           receive the notice of default under section 667-22."

9           SECTION 22. Section 667-32, Hawaii Revised Statutes, is  
10 amended by amending subsection (b) to read as follows:

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

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

21           (2) The foreclosing mortgagee is a [~~"foreclosing~~  
22 ~~mortgagee"~~] mortgagee as defined in [~~the power of sale~~



1       ~~foreclosure law,~~] section 667-1, Hawaii Revised  
2       Statutes, conducting a power of sale foreclosure;

3       (3) The power of sale foreclosure is of a mortgage made by

4       \_\_\_\_\_ (name of mortgagor)

5       ("mortgagor"), dated \_\_\_\_\_, and

6       recorded in the \_\_\_\_\_ (bureau of

7       conveyances or office of the assistant registrar of

8       the land court) as \_\_\_\_\_ (recording

9       information). The mortgaged property is located at:

10      \_\_\_\_\_ (address or description of

11      location) and is identified by tax map key number:

12      \_\_\_\_\_. The legal description of the

13      mortgaged property, including the certificate of title

14      or transfer certificate of title number if registered

15      in the land court, is attached as Exhibit "A". The

16      name of the borrower, if different from the mortgagor,

17      is \_\_\_\_\_ ("borrower");

18      (4) Pursuant to the power of sale provision of the

19      mortgage, the power of sale foreclosure was conducted

20      as required by the power of sale foreclosure law. The

21      following is a summary of what was done:

22      (A) A notice of default and intention to foreclose



1 was served on the mortgagor, the borrower, and  
 2 the following person: \_\_\_\_\_. The  
 3 notice of default and intention to foreclose was  
 4 served on the following date and in the following  
 5 manner: \_\_\_\_\_;

6 (B) The date of the notice of default and intention  
 7 to foreclose was \_\_\_\_\_ (date).  
 8 The deadline in the notice for curing the default  
 9 was \_\_\_\_\_ (date), which deadline  
 10 date was at least sixty days after the date of  
 11 the notice;

12 (C) The notice of default and intention to foreclose  
 13 was recorded before the deadline date in the  
 14 \_\_\_\_\_ (bureau of conveyances or  
 15 office of the assistant registrar of the land  
 16 court). The notice was recorded on  
 17 \_\_\_\_\_ (date) as document no.  
 18 \_\_\_\_\_. A copy of the recorded  
 19 notice is attached as Exhibit "1";

20 (D) The default was not cured by the deadline date in  
 21 the notice of default and intention to foreclose;

22 (E) A public notice of the public sale was initially



1 published in the classified section of the  
 2 \_\_\_\_\_, [~~a daily newspaper of~~  
 3 ~~general circulation in the county where the~~  
 4 ~~mortgaged property is located,~~] in accordance  
 5 with section 667-27(d), Hawaii Revised Statutes,  
 6 once each week for three consecutive weeks on the  
 7 following dates: \_\_\_\_\_. A copy  
 8 of the affidavit of publication for the last  
 9 public notice of the public sale is attached as  
 10 Exhibit "2". The date of the public sale was  
 11 \_\_\_\_\_ (date). The last  
 12 publication was not less than fourteen days  
 13 before the date of the public sale;

14 (F) The public notice of the public sale was sent to  
 15 the mortgagor, to the borrower, to the state  
 16 director of taxation, to the director of finance  
 17 of the county where the mortgaged property is  
 18 located, and to the following:  
 19 \_\_\_\_\_ . The public notice was sent  
 20 on the following dates and in the following  
 21 manner: \_\_\_\_\_. Those dates were  
 22 after the deadline date in the notice of default



1 and intention to foreclose, and those dates were  
2 at least sixty days before the date of the public  
3 sale;

4 (G) The public notice of the public sale was posted  
5 on the mortgaged property or on such other real  
6 property of which the mortgaged property is a  
7 part on \_\_\_\_\_ (date). That date  
8 was at least sixty days before the date of the  
9 public sale;

10 (H) Two public showings (open houses) of the  
11 mortgaged property were held (or were not held  
12 because the mortgagor did not cooperate);

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

15 \_\_\_\_\_ (date), at  
16 \_\_\_\_\_ (time), at the following  
17 location: \_\_\_\_\_. The highest  
18 successful bidder was \_\_\_\_\_ (name)  
19 with the highest successful bid price of  
20 \$\_\_\_\_\_; and

21 (J) At the time the public sale was held, the default  
22 was not cured and there was no circuit court





1 foreclosure action pending in the circuit where  
2 the mortgaged property is located; and

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

4 SECTION 23. Section 667-33, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6 "(a) The affidavit required under section 667-32 and the  
7 conveyance document shall be recorded [~~at any time~~] no earlier  
8 than ten days after the public sale is held but not later than  
9 forty-five days after the public sale is held. The affidavit  
10 and the conveyance document may be recorded separately and on  
11 different days. After the recordation, the foreclosing  
12 mortgagee shall mail or deliver a recorded copy to those persons  
13 entitled to receive the public notice of the public sale under  
14 section 667-27(c)."

15 SECTION 24. Section 667-37, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "**§667-37 Judicial action of foreclosure before public**  
18 **sale.** This part shall not prohibit [~~the borrower,~~] the  
19 foreclosing mortgagee, or any other creditor having a recorded  
20 lien on the mortgaged property before the recordation of the  
21 notice of default under section 667-23, from filing an action  
22 for the judicial foreclosure of the mortgaged property in the



1 circuit court of the circuit where the mortgaged property is  
2 located[-]; provided that the action is filed before the public  
3 sale is held. The power of sale foreclosure process shall be  
4 stayed during the pendency of the circuit court foreclosure  
5 action."

6 SECTION 25. Section 667-41, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "**§667-41 Public information notice requirement.**

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



1 ~~event of the borrower's default, have the option of pursuing~~  
2 ~~either a judicial or nonjudicial foreclosure as provided by law.~~  
3 ~~These informational materials shall fully and completely explain~~  
4 ~~these remedies in simple and understandable terms.]~~ provide the  
5 public information notice described in subsection (b) to the  
6 public, upon request, and to any applicant submitting a loan  
7 application where residential property is required to be used to  
8 secure the loan. The notice shall be provided to all applicants  
9 and all owners of the residential property (if different from  
10 the applicants) within three business days after the submission  
11 of a written loan application, or within three business days  
12 after the time residential property is required to be used to  
13 secure a loan, whether or not there is a written loan  
14 application. The purpose of the public information notice is to  
15 inform the public, applicants, and others that the financial  
16 institutions, mortgagees, lenders, organizations, and other  
17 business entities and persons who are authorized under this part  
18 to enforce the foreclosure rights in a mortgage, in the event of  
19 the borrower's default, have the option of pursuing either a  
20 judicial or nonjudicial foreclosure in the manner provided by  
21 law.



1       (b) The public information notice requirement shall be  
2 satisfied by the delivery of a separate notice that contains the  
3 following wording and is printed in not less than fourteen-point  
4 font:

5                   PUBLIC INFORMATION NOTICE PURSUANT TO

6                   HAWAII REVISED STATUTES SECTION 667-41

7                   WHAT IS FORECLOSURE?

8           This notice informs you regarding a lender's  
9 right to foreclose in the event of a default on the  
10 loan you have applied for or are considering if your  
11 home is used to secure its repayment.

12           The mortgage agreement or contract that you may  
13 enter into states that in the event the amounts due  
14 under the loan are not paid when they are due, or for  
15 other reasons you do not perform your promises in the  
16 note and mortgage, all of which are known as defaults,  
17 the lender shall have the option to foreclose the  
18 mortgage, which will result in a sale of your home.

19           The entity or person who holds your mortgage  
20 ("Mortgagee") may send you a notice informing you that  
21 the Mortgagee is starting foreclosure proceedings.

22           You should not wait for that to happen; take steps to



1 prevent a foreclosure as soon as you are having  
2 trouble paying your mortgage. You should contact your  
3 lender or your lender's loan servicer, or you may  
4 contact a budget and credit counselor or housing  
5 counselor, to discuss your situation.

6 STEP ONE: NOTICE OF DEFAULT. The first step in  
7 the foreclosure process is the Mortgagee usually sends  
8 you a written notice of default, which occurs after  
9 you are past due on your mortgage payment. The  
10 Mortgagee will tell you in the notice how much time  
11 you have to pay the required amount that is past due  
12 and, by paying, will return your loan to good  
13 standing.

14 STEP TWO: PROCEEDING TO FORECLOSURE. If you do  
15 not pay the required amount past due by the deadline  
16 in the notice of default, the Mortgagee may elect to  
17 proceed to collect the balance due on your loan  
18 through foreclosure. In Hawaii, there are two types  
19 of foreclosures: judicial and nonjudicial.

20 In a JUDICIAL FORECLOSURE, the Mortgagee files a  
21 lawsuit against you in order to obtain a court  
22 judgment that you owe the balance due under your loan

1 and to obtain an order to sell the property. The  
2 initial legal document you will receive in the lawsuit  
3 is called the complaint. You should consult an  
4 attorney of your choice who can advise you as to the  
5 steps needed to protect your rights. Judicial  
6 foreclosure involves the sale of the mortgaged  
7 property under the supervision of the court. You will  
8 receive notice of the foreclosure case hearings and  
9 the sale date and the judicial decision is announced  
10 after a hearing in court. The sale of the property  
11 must be approved by the court before it can be  
12 completed.

13 In a NONJUDICIAL FORECLOSURE, the process follows  
14 the procedures spelled out in Chapter 667 of the  
15 Hawaii Revised Statutes and in your mortgage. The  
16 nonjudicial procedures allow a Mortgagee to foreclose  
17 on and sell the property identified in the mortgage  
18 without filing a lawsuit or court supervision. This  
19 nonjudicial foreclosure is also called a power of sale  
20 foreclosure. The Mortgagee starts the process by  
21 giving you a written notice of default and of the  
22 Mortgagee's intent to sell the property.



1           After the required time has elapsed, you will be  
2           sent a notice of nonjudicial foreclosure sale, which  
3           will tell you the date and location of the sale.

4           In a NONJUDICIAL foreclosure, if you own an  
5           interest in the property you may have the right to  
6           participate in the Mortgage Foreclosure Dispute  
7           Resolution Program or to convert the nonjudicial  
8           foreclosure into a judicial foreclosure. The  
9           nonjudicial foreclosure may not proceed during the  
10          dispute resolution process or after it has been  
11          converted to a judicial foreclosure.

12          PLEASE NOTE: Even if a judicial or nonjudicial  
13          foreclosure has commenced, you may be able to  
14          reinstate the loan and keep your home if you pay the  
15          delinquent amount then due and the foreclosure  
16          expenses that your Mortgagee has incurred. You must  
17          contact the Mortgagee as soon as possible to determine  
18          whether reinstatement is possible.

19          STEP THREE: PUBLIC SALE. The sale of a  
20          foreclosed home is usually made through a public  
21          auction, where the highest bidder who can make a cash  
22          deposit of up to 10% of the bid can buy the property.



1 In a judicial foreclosure, the court appoints a third  
2 party commissioner to advertise and conduct the sale.  
3 In a nonjudicial foreclosure, the Mortgagee advertises  
4 and conducts the sale. In both types of sales, the  
5 Mortgagee has the right to buy the property by  
6 submitting a credit bid based upon the balance owed on  
7 the mortgage, so long as its bid is higher than any  
8 other bids. If the Mortgagee buys the property, the  
9 Mortgagee has the right to re-sell it in a private  
10 sale at a later date.

11 STEP FOUR: DISBURSEMENT OF PROCEEDS; POTENTIAL  
12 DEFICIENCY JUDGMENT. After the foreclosure sale is  
13 completed, the proceeds are paid out to lien holders,  
14 including the Mortgagee, in the order set by law and  
15 lastly to you if there are any proceeds left.

16 In a JUDICIAL FORECLOSURE, the court tells the  
17 commissioner whom to pay and how much. If the  
18 property did not sell for enough to pay off the  
19 balance due under your loan, the Mortgagee has the  
20 right to ask the court for a deficiency judgment  
21 against you for the difference.





1           In a NONJUDICIAL FORECLOSURE, the Mortgagee  
2           distributes the proceeds from the sale. Unless the  
3           debt is secured by other collateral, or except as  
4           otherwise provided by the law, the recordation of both  
5           the conveyance document and affidavit shall operate as  
6           full satisfaction of the debt.

7           READ THE NOTE AND MORTGAGE CAREFULLY TO  
8           UNDERSTAND WHAT IS REQUIRED AND HOW TO AVOID  
9           FORECLOSURE, AND CONSULT WITH AN ATTORNEY REGARDING  
10          YOUR LEGAL RIGHTS.

11          (c) The requirements of this section shall apply only to  
12          written loan applications submitted, or to loans where  
13          residential property is required to be used as security, after  
14          August 31, 2012."

15          SECTION 26. Section 667-53, Hawaii Revised Statutes, is  
16          amended by amending subsections (a) and (b) to read as follows:

17          "(a) An owner-occupant of a residential property that is  
18          subject to nonjudicial foreclosure under part [~~I~~ II] may  
19          convert the action to a judicial foreclosure provided that:

20                 (1) A petition conforming to section 667-54 shall be filed  
21                         with the circuit court in the circuit where the  
22                         residential property is located, stating that the



1 owner-occupant of the property elects to convert the  
2 nonjudicial foreclosure to a judicial foreclosure  
3 proceeding no later than thirty days after the  
4 foreclosure notice is served on the owner-occupant as  
5 required by section [~~667-5-01~~] 667-22;

- 6 (2) Within forty-five days of the filing of the petition,  
7 all owner-occupants and mortgagors of an interest in  
8 the residential property whose interests are pledged  
9 or otherwise encumbered by the mortgage that is being  
10 foreclosed and all persons who have signed the  
11 promissory note or other instrument evidencing the  
12 debt secured by the mortgage that is being foreclosed,  
13 including without limitation co-obligors and  
14 guarantors, shall file a statement in the circuit  
15 court action that they agree to submit themselves to  
16 the judicial process and the jurisdiction of the  
17 circuit court; provided further that if this condition  
18 is not satisfied, the circuit court action may be  
19 dismissed with prejudice as to the right of any owner-  
20 occupant to convert the action to a judicial  
21 proceeding, and the mortgagee may proceed  
22 nonjudicially;



1 (3) Filing a petition pursuant to paragraph (1) shall  
2 automatically stay the nonjudicial foreclosure action  
3 unless and until the judicial proceeding has been  
4 dismissed;

5 (4) The person filing the petition pursuant to paragraph  
6 (1) shall have an affirmative duty to promptly notify  
7 the Hawaii attorney who is handling the nonjudicial  
8 foreclosure about the filing of the complaint for  
9 conversion;

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

15 (6) [~~Notwithstanding chapter 607, the~~] The fee for filing  
16 the petition shall be [~~not more than \$525, of which~~]  
17 \$250, which shall be deposited into the mortgage  
18 foreclosure dispute resolution special fund  
19 established under section 667-86[~~, provided that if~~  
20 ~~the mortgage foreclosure dispute resolution program~~  
21 ~~under part V has not yet been implemented, the filing~~  
22 ~~fee shall be not more than \$300].~~



1 (b) This section shall not apply to foreclosures of  
2 association liens that arise under a declaration filed pursuant  
3 to chapter 421J, 514A, or 514B."

4 SECTION 27. Section 667-54, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6 "[+](a)[+] A petition filed pursuant to section 667-53  
7 shall contain at a minimum:

- 8 (1) A caption setting forth the name of the court, the  
9 title of the action, and the file number; provided  
10 that the title of the action shall include the names  
11 of the filing party as petitioner and the foreclosing  
12 party as the respondent;
- 13 (2) The name, mailing address, and telephone number of the  
14 filing party;
- 15 (3) The address or tax map key number, and the certificate  
16 of title or transfer certificate of title number if  
17 ~~[within the land court's jurisdiction,]~~ registered in  
18 the land court, of the property subject to the  
19 foreclosure action;
- 20 (4) A statement identifying all other owner-occupants and  
21 mortgagors of the property whose interests are pledged  
22 or otherwise encumbered by the mortgage that is being



1 foreclosed and all persons who have signed the  
2 promissory note or other instrument evidencing the  
3 debt secured by the mortgage that is being foreclosed,  
4 including without limitation co-obligors and  
5 guarantors;

6 (5) A certification under penalty of perjury that the  
7 filing party is an owner-occupant of the subject  
8 property and seeks to convert the nonjudicial  
9 foreclosure to a judicial proceeding;

10 (6) A statement certifying that the filing party served a  
11 copy of the petition on the attorney identified in the  
12 foreclosure notice under section [~~667-5-0x~~] 667-22  
13 either by personal delivery at, or by postage prepaid  
14 United States mail to, the address of the attorney as  
15 set forth in the foreclosure notice under section  
16 [~~667-5-0x~~] 667-22; and

17 (7) A copy of the foreclosure notice that was served on  
18 the filing party pursuant to section [~~667-5-0x~~] 667-22  
19 and for which the filing party is seeking to convert  
20 to a judicial proceeding."

21 SECTION 28. Section 667-55, Hawaii Revised Statutes, is  
22 amended to read as follows:



1           " ~~[+]§667-55[+]~~ Notice of default and intention to  
 2 foreclose; residential property; required statement on  
 3 conversion. (a) The foreclosure notice that is served as  
 4 required under section [~~667-5-0x~~] 667-22 shall include, in  
 5 addition to the contents required under section [~~667-5-0x~~] 667-  
 6 22, a statement printed in not less than fourteen-point font as  
 7 follows:

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



1           CIRCUIT WHERE THE PROPERTY IS LOCATED WITHIN  
2           THIRTY DAYS AFTER SERVICE OF THIS NOTICE.

3                   IN ADDITION, ALL OWNER-OCCUPANTS AND  
4           MORTGAGORS OF THE RESIDENTIAL PROPERTY WHOSE  
5           INTERESTS HAVE BEEN PLEDGED OR OTHERWISE  
6           ENCUMBERED BY THE MORTGAGE THAT IS BEING  
7           FORECLOSED AND ALL PERSONS WHO HAVE SIGNED THE  
8           PROMISSORY NOTE OR OTHER INSTRUMENT EVIDENCING  
9           THE DEBT SECURED BY THE MORTGAGE THAT IS BEING  
10          FORECLOSED, INCLUDING, WITHOUT LIMITATION, CO-  
11          OBLIGORS AND GUARANTORS, SHALL FILE A STATEMENT  
12          IN THE CIRCUIT COURT ACTION THAT THEY AGREE TO  
13          SUBMIT TO THE JUDICIAL PROCESS AND THE  
14          JURISDICTION OF THE CIRCUIT COURT WITHIN FORTY-  
15          FIVE DAYS OF THE FILING OF THE ATTACHED FORM.  
16          FAILURE TO SATISFY THIS CONDITION MAY RESULT IN  
17          DISMISSAL OF THE CIRCUIT COURT ACTION WITH  
18          PREJUDICE.

19                   AN OWNER-OCCUPANT SHALL PROMPTLY NOTIFY THE  
20          HAWAII ATTORNEY LISTED IN THIS NOTICE ABOUT THE  
21          FILING OF THE CONVERSION FORM.

22                   MORTGAGE FORECLOSURE DISPUTE RESOLUTION MAY



1 BE AVAILABLE IN NONJUDICIAL FORECLOSURE ACTIONS  
2 AS AN ALTERNATIVE FOR OWNER-OCCUPANTS ATTEMPTING  
3 TO AVOID FORECLOSURE OR TO MITIGATE THE EFFECTS  
4 OF FORECLOSURE ON AN OWNER-OCCUPANT. HOWEVER, IF  
5 AN OWNER-OCCUPANT FILES FOR CONVERSION, DISPUTE  
6 RESOLUTION MAY NOT BE AVAILABLE UNLESS ORDERED BY  
7 A JUDGE.

8 A FORECLOSING LENDER WHO COMPLETES A  
9 NONJUDICIAL FORECLOSURE OF RESIDENTIAL PROPERTY  
10 [~~SHALL~~] COULD BE PROHIBITED UNDER HAWAII LAW FROM  
11 PURSUING A DEFICIENCY JUDGMENT AGAINST A  
12 MORTGAGOR [~~UNLESS THE DEBT IS SECURED BY OTHER~~  
13 ~~COLLATERAL, OR AS OTHERWISE PROVIDED BY LAW~~]. IF  
14 THIS ACTION IS CONVERTED TO A JUDICIAL  
15 PROCEEDING, HOWEVER, THEN ALL REMEDIES AVAILABLE  
16 TO A LENDER MAY BE ASSERTED, INCLUDING THE RIGHT  
17 TO SEEK A DEFICIENCY JUDGMENT.

18 (b) The statement required by this section shall not be  
19 required to be included in [~~the notice of sale published~~  
20 ~~pursuant to 667-5(a)(1) or~~] the public notice of public sale  
21 published pursuant to section 667-27."





1 SECTION 29. Section 667-56, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[~~§~~]**§667-56**[~~§~~] **Prohibited conduct.** It shall be a  
4 prohibited practice for any foreclosing mortgagee to engage in  
5 any of the following practices:

- 6 (1) Holding a public sale on a date, at a time, or at a  
7 place other than that described in the public notice  
8 of the public sale or a properly noticed postponement;
- 9 (2) Specifying a fictitious place in the public notice of  
10 the public sale;
- 11 (3) Conducting a postponed public sale on a date other  
12 than the date described in the new public notice of  
13 the public sale;
- 14 (4) Delaying the delivery of the recorded, conformed copy  
15 of the conveyance document to a bona fide purchaser  
16 who purchases in good faith for more than [~~forty-five~~]  
17 sixty days after the completion of the public sale;
- 18 (5) Completing nonjudicial foreclosure proceedings during  
19 short sale escrows with a bona fide purchaser if the  
20 short sale offer is at least [~~five~~] ten per cent  
21 greater than the public sale price; provided that  
22 escrow is opened within ten days and closed within



- 1           forty-five days of the public sale; and provided  
2           further that a bona fide short sale purchaser shall  
3           have priority over any other purchaser;
- 4           (6) Completing nonjudicial foreclosure proceedings during  
5           bona fide loan modification negotiations with the  
6           mortgagor; or
- 7           (7) Completing nonjudicial foreclosure proceedings against  
8           a mortgagor who has been accepted or is being  
9           evaluated for consideration for entry into a federal  
10          loan modification program before obtaining a  
11          certificate or other documentation confirming that the  
12          mortgagor is no longer eligible for, or an active  
13          participant of, that federal program."

14          SECTION 30. Section 667-57, Hawaii Revised Statutes, is  
15          amended to read as follows:

16          "~~+~~§667-57~~+~~ **Suspension of foreclosure actions by junior**  
17          **lienholders.** (a) Upon initiation of a foreclosure action  
18          pursuant to part ~~+~~ IA or part II by a foreclosing mortgagee  
19          ~~[as defined in section 667-21(b)]~~, no junior lienholder shall be  
20          permitted to initiate or continue a nonjudicial foreclosure  
21          pursuant to part ~~+~~ II until the foreclosure initiated by the  
22          foreclosing mortgagee has been concluded by a judgment issued by



1 a court pursuant to section [~~667-1,~~] 667-1.5, the recording of  
2 an affidavit after public sale pursuant to section [~~667-5 or~~]  
3 667-33, or the filing of [~~a settlement document~~] an agreement  
4 under the mortgage foreclosure dispute resolution provisions of  
5 section 667-81.

6 (b) Upon initiation of a foreclosure action pursuant to  
7 part [~~I~~] IA or part II by a foreclosing mortgagee [~~as defined in~~  
8 ~~section 667-21(b)~~], no junior lienholder shall be permitted to  
9 initiate a nonjudicial foreclosure pursuant to part II during  
10 the pendency of a stay pursuant to section 667-83; provided that  
11 a junior lienholder may initiate or continue with a nonjudicial  
12 foreclosure pursuant to part II if [~~the~~]:

13 (1) The junior lien foreclosure was initiated before the  
14 foreclosure action by the foreclosing mortgagee[~~-~~]; or

15 (2) The junior lienholder is an association and has not  
16 been provided notice of the foreclosure action,  
17 pursuant to section 667-21.5, or has not received  
18 written notification of a case opening pursuant to  
19 section 667-79."

20 SECTION 31. Section 667-58, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           " ~~[+]~~§667-58~~[+]~~ Valid notice[-]; affiliate statement. (a)

2 Any notices made pursuant to this chapter may be issued only by  
3 persons authorized by a foreclosing mortgagee or lender pursuant  
4 to an affiliate statement signed by that foreclosing mortgagee  
5 or lender and recorded at the bureau of conveyances identifying  
6 the agency or affiliate relationship and the authority granted  
7 or conferred to that agent or representative.

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

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



1        (d) No attorney of a mortgage servicer, foreclosing  
2 mortgagee, or lender shall be required to be included in any  
3 affiliate statement of a foreclosing mortgagee or lender. No  
4 notice or other correspondence made by any attorney for the  
5 foreclosing mortgagee or lender shall be required to reference  
6 any affiliate statement made by the foreclosing mortgagee or  
7 lender. Any notice or other correspondence made by any attorney  
8 for a mortgage servicer shall reference, in accordance with  
9 subsection (b), the appropriate affiliate statement of the  
10 foreclosing mortgagee or lender authorizing the mortgage  
11 servicer to act."

12        SECTION 32. Section 667-59, Hawaii Revised Statutes, is  
13 amended to read as follows:

14        "[+]§667-59[+] **Actions and communications with the**  
15 **mortgagor in connection with a foreclosure.** A foreclosing  
16 mortgagee shall be bound by all agreements, obligations,  
17 representations, or inducements made on its behalf by its  
18 agents, including but not limited to its employees,  
19 representatives, mortgage servicers, or persons authorized by a  
20 foreclosing mortgagee or lender pursuant to an affiliate  
21 statement recorded in the bureau of conveyances pursuant to  
22 section 667-58.



1           ~~[For purposes of this section, "foreclosing mortgagee" has~~  
2 ~~the same meaning as in section 667-21.]"~~

3           SECTION 33. Section 667-63, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5           "(a) A mortgage creditor having a mortgage lien on a time  
6 share interest who desires notice that another mortgage creditor  
7 having a mortgage lien on the time share interest intends to  
8 foreclose and sell the mortgaged time share interest, pursuant  
9 to the power of sale under section 667-62, may submit a written  
10 request to the mortgagee who is foreclosing or who may foreclose  
11 the mortgage by power of sale, asking to receive notice of the  
12 mortgagee's intention to foreclose the mortgage under section  
13 667-62. The request for notice:

14           (1) May be submitted any time after the recordation [~~er~~  
15 ~~filing~~] of the subject mortgage [~~at the bureau of~~  
16 ~~conveyances or the land court, but shall be~~]; provided  
17 that the request is submitted prior to completion of  
18 publication of notice of the intention to foreclose  
19 the mortgage and of the sale of the mortgaged time  
20 share interest;

21           (2) Shall be signed by the mortgage creditor desiring to  
22 receive notice, or its authorized representative; and



1           (3) Shall specify the name and address of the person to  
2           whom the notice is to be mailed."

3           SECTION 34. Section 667-71, Hawaii Revised Statutes, is  
4 amended by amending subsections (a) and (b) to read as follows:

5           "(a) This part shall apply to nonjudicial foreclosures  
6 conducted by power of sale under [~~parts I and~~] part II, of  
7 residential real property that is occupied by one or more  
8 mortgagors who are owner-occupants.

9           (b) This part shall not apply to actions by an association  
10 to foreclose on a lien for amounts owed to the association that  
11 arise under a declaration filed pursuant to chapter 421J, 514A,  
12 or 514B, or to a mortgagor who has previously participated in  
13 dispute resolution under this part for the same property on the  
14 same mortgage loan."

15           SECTION 35. Section 667-73, Hawaii Revised Statutes, is  
16 amended as follows by amending subsection (c) to read as  
17 follows:

18           "(c) The department is authorized to contract with county,  
19 state, or federal agencies, and with private organizations,  
20 approved housing counselors, and approved budget and credit  
21 counselors for the performance of any of the functions of this



1 part. These contracts shall not be subject to chapter 103D or  
2 103F."

3 SECTION 36. Section 667-74, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "~~[+]§667-74[+]~~ **Availability of dispute resolution required**  
6 **before foreclosure.** Before a public sale may be conducted  
7 pursuant to section ~~[667-5-~~ex~~]~~ 667-25 for a residential property  
8 that is occupied by an owner-occupant ~~[as a primary residence]~~,  
9 the foreclosing mortgagee ~~[shall]~~, at the election of the owner-  
10 occupant, shall participate in the mortgage foreclosure dispute  
11 resolution program under this part to attempt to negotiate an  
12 agreement that avoids foreclosure or mitigates damages in cases  
13 where foreclosure is unavoidable."

14 SECTION 37. Section 667-75, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "~~[+]§667-75[+]~~ **Notice of dispute resolution availability**  
17 **required.** (a) A foreclosure notice served pursuant to section  
18 ~~[667-5-~~ex~~]~~ 667-22(e) shall include notice that the mortgagee is  
19 required, at the election of an owner-occupant, to participate  
20 in the mortgage foreclosure dispute resolution program pursuant  
21 to this part to attempt to avoid foreclosure or to mitigate  
22 damages where foreclosure is unavoidable.





1 (b) The notice required by subsection (a) shall be printed  
2 in not less than fourteen-point font and include:

3 (1) The name and contact information of the mortgagor and  
4 the mortgagee;

5 (2) The subject property address and legal description,  
6 including tax map key number and the certificate of  
7 title or transfer certificate of title number if  
8 [within the land court's jurisdiction;] registered in  
9 the land court;

10 (3) The name and contact information of a person or entity  
11 authorized to negotiate a loan modification on behalf  
12 of the mortgagee;

13 (4) A statement that the mortgagor shall consult with an  
14 approved housing counselor or an approved budget and  
15 credit counselor at least thirty days prior to the  
16 first day of a scheduled dispute resolution session;

17 (5) Contact information for all [~~local~~] approved housing  
18 counselors;

19 (6) Contact information for all [~~local~~] approved budget  
20 and credit counselors;

21 (7) A statement that the mortgagor electing to participate  
22 in the mortgage foreclosure dispute resolution program



1 shall provide a certification under penalty of perjury  
2 to the department that the mortgagor is an owner-  
3 occupant of the subject property, including supporting  
4 documentation;

5 (8) A general description of the information that an  
6 owner-occupant electing to participate in the mortgage  
7 foreclosure dispute resolution program is required to  
8 provide to participate in the program as described  
9 under section 667-80(c)(2);

10 (9) A statement that the owner-occupant shall elect to  
11 participate in the mortgage foreclosure dispute  
12 resolution program pursuant to this part no later than  
13 thirty days after the department's mailing of the  
14 notice or the right shall be waived."

15 SECTION 38. Section 667-76, Hawaii Revised Statutes, is  
16 amended by amending subsection (a) to read as follows:

17 "(a) Within three days after a mortgagee serves a  
18 foreclosure notice on an owner-occupant pursuant to section  
19 [~~667-5-02~~] 667-22, the mortgagee shall file the foreclosure  
20 notice with the department and pay a filing fee of \$250, which  
21 shall be deposited into the mortgage foreclosure dispute  
22 resolution special fund established under section 667-86."



1 SECTION 39. Section 667-77, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[+]§667-77[+] **Notification to mortgagor by department.**

4 Within ten days after the mortgagee's filing of a notice of  
5 default and intention to foreclose with the department, the  
6 department shall mail a written notification by registered or  
7 certified mail to the mortgagor that a notice of default and  
8 intention to foreclose has been filed with the department. The  
9 notification shall inform the mortgagor of an owner-occupant's  
10 right to elect to participate in the foreclosure dispute  
11 resolution program and shall include:

- 12 (1) Information about the mortgage foreclosure dispute  
13 resolution program;
- 14 (2) A form for an owner-occupant to elect or to waive  
15 participation in the mortgage foreclosure dispute  
16 resolution program pursuant to this part that shall  
17 contain instructions for the completion and return of  
18 the form to the department and the department's  
19 mailing address;
- 20 (3) A statement that the mortgagor electing to participate  
21 in the mortgage foreclosure dispute resolution program  
22 shall provide a certification under penalty of perjury



- 1 to the department that the mortgagor is an owner-  
2 occupant of the subject property, including a  
3 description of acceptable supporting documentation as  
4 required by section 667-78(a)(2);
- 5 (4) A statement that the owner-occupant shall elect to  
6 participate in the mortgage foreclosure dispute  
7 resolution program pursuant to this part no later than  
8 thirty days after the department's mailing of the  
9 notice or the owner-occupant shall be deemed to have  
10 waived the option to participate in the mortgage  
11 foreclosure dispute resolution program;
- 12 (5) A description of the information required under  
13 section 667-80(c)(2) that the owner-occupant shall  
14 provide to the mortgagee and the neutral assigned to  
15 the dispute resolution;
- 16 (6) A statement that the owner-occupant shall consult with  
17 an approved housing counselor or approved budget and  
18 credit counselor at least thirty days prior to the  
19 first day of a scheduled dispute resolution session;
- 20 (7) Contact information for all [~~local~~] approved housing  
21 counselors;
- 22



- 1 (8) Contact information for all [~~leea~~] approved budget
- 2 and credit counselors; and
- 3 (9) Contact information for the department.

4 The notification shall be mailed to the subject property address  
 5 and any other addresses for the mortgagor as provided in the  
 6 mortgagee's notice of dispute resolution under [+]section[+] 667-  
 7 667-75 and the foreclosure notice under section [~~667-5-ex~~] 667-  
 8 22(a)."

9 SECTION 40. Section 667-78, Hawaii Revised Statutes, is  
 10 amended as follows:

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

12 "(a) An owner-occupant elects to participate in the  
 13 mortgage foreclosure dispute resolution program by returning to  
 14 the department:

15 (1) The completed program election form provided  
 16 [~~pursuant~~]:

17 (A) Pursuant to section 667-77(2); or

18 (B) On a website maintained by the department;

19 (2) Certification under penalty of perjury that the  
 20 mortgagor is an owner-occupant, accompanied with any  
 21 supporting documentation, including copies of recent  
 22 utility billing statements, voter registration



1 records, real estate property tax records, or state  
2 identification forms; and

3 (3) A program fee of \$300.

4 The completed form and fees shall be received by the department  
5 no later than thirty days after mailing of the department's  
6 notification pursuant to section 667-77."

7 2. By amending subsection (c) to read:

8 "(c) If the owner-occupant does not elect to participate  
9 in dispute resolution pursuant to this part, the department  
10 shall notify the mortgagee within ten days of receiving an  
11 election form indicating nonelection or the termination of the  
12 thirty-day time period for election. After receiving the  
13 department's notification, the mortgagee may proceed with the  
14 nonjudicial foreclosure process according to the process  
15 provided in [~~part I or~~] part II of this chapter[~~, as~~  
16 ~~applicable~~]."

17 SECTION 41. Section 667-79, Hawaii Revised Statutes, is  
18 amended as follows:

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

20 "(a) If an owner-occupant elects to participate in the  
21 mortgage foreclosure dispute resolution program, the department  
22 shall open a dispute resolution case. Within twenty days of



1 receipt of the owner-occupant's election form and fee in  
2 accordance with section 667-78, the department shall mail  
3 written notification of the case opening to the parties and, if  
4 applicable, the condominium or other homeowner association of  
5 the project where the owner-occupant's property is located, by  
6 registered mail, return receipt requested, which shall include:

- 7 (1) Notification of the date, time, and location of the  
8 dispute resolution session;
- 9 (2) An explanation of the dispute resolution process;
- 10 (3) Information about the dispute resolution program  
11 requirements; and
- 12 (4) Consequences and penalties for noncompliance.

13 The dispute resolution session shall be scheduled for a date no  
14 less than [~~thirty~~] forty and no more than [~~sixty~~] seventy days  
15 from the date of the notification of case opening, unless  
16 mutually agreed to by the parties and the neutral."

17 2. By amending subsection (c) to read:

18 "(c) The written notification of a case opening under this  
19 section shall operate as a stay of the foreclosure proceeding in  
20 accordance with section 667-83[7] and may be [~~filed or~~]  
21 recorded[~~, as appropriate, at the land court or bureau of~~  
22 conveyances]."



1 SECTION 42. Section 667-80, Hawaii Revised Statutes, is  
2 amended as follows:

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

4 "(a) The parties to a dispute resolution process conducted  
5 under this part shall consist of the owner-occupant or the  
6 owner-occupant's representative, and the mortgagee or the  
7 mortgagee's representative; provided that:

8 (1) A representative of the mortgagee who participates in  
9 the dispute resolution shall be authorized to  
10 negotiate a loan modification on behalf of the  
11 mortgagee or shall have, at all stages of the dispute  
12 resolution process, direct access by telephone,  
13 videoconference, or other immediately available  
14 contemporaneous telecommunications medium to a person  
15 who is so authorized;

16 (2) The mortgagee and owner-occupant may be represented by  
17 [~~counsel;~~] an attorney; and

18 (3) The owner-occupant may be assisted by an approved  
19 housing counselor or approved budget and credit  
20 counselor."





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

2           "(c) The parties shall comply with all information  
3 requests from the department or neutral. No less than fifteen  
4 days prior to the first day of the scheduled dispute resolution  
5 session:

6           (1) The mortgagee shall provide to the department and the  
7 mortgagor:

8           (A) A copy of the promissory note, signed by the  
9 mortgagor, including any endorsements, allonges,  
10 amendments, or riders to the note evidencing the  
11 mortgage debt;

12           (B) A copy of the mortgage document and any  
13 amendments, riders, or other documentation  
14 evidencing the mortgagee's right of nonjudicial  
15 foreclosure and interest in the property  
16 including any interest as a successor or  
17 assignee; and

18           (C) Financial records and correspondence that confirm  
19 the mortgage loan is in default.

20           (2) The owner-occupant shall provide to the department and  
21 the mortgagee:

- 1 (A) Documentation showing income qualification for a  
2 loan modification, including any copies of pay  
3 stubs, W-2 forms, social security or disability  
4 income, retirement income, child support income,  
5 or any other income that the owner-occupant deems  
6 relevant to the owner-occupant's financial  
7 ability to repay the mortgage;
- 8 (B) Any records or correspondence available which may  
9 dispute that the mortgage loan is in default;
- 10 (C) Any records or correspondence available  
11 evidencing a loan modification or amendment;
- 12 (D) Any records or correspondence available that  
13 indicate the parties are currently engaged in  
14 bona fide negotiations to modify the loan or  
15 negotiate a settlement of the delinquency;
- 16 (E) Names and contact information for approved  
17 housing counselors, approved budget and credit  
18 counselors, or representatives of the mortgagee,  
19 with whom the owner-occupant may have or is  
20 currently working with to address the  
21 delinquency; and



1 (F) Verification of counseling by an approved housing  
2 counselor or approved budget and credit  
3 counselor."

4 SECTION 43. Section 667-81, Hawaii Revised Statutes, is  
5 amended by amending subsections (b), (c), and (d) to read as  
6 follows:

7 "(b) If, despite the parties' participation in the dispute  
8 resolution process and compliance with the requirements of this  
9 part, the parties are not able to come to an agreement, the  
10 neutral shall file a closing report with the department that the  
11 parties met the program requirements. The mortgagee may [~~file~~  
12 ~~or~~] record the report [~~at the bureau of conveyances or the land~~  
13 ~~court, as appropriate~~]. Upon recording of the report pursuant  
14 to this subsection, the foreclosure process shall resume along  
15 the timeline as it existed on the date before the mortgagor  
16 elected dispute resolution, and may proceed as otherwise  
17 provided by law. The mortgagee shall notify the mortgagor of  
18 the recording date and document number of this report and the  
19 deadline date to cure default in an amended foreclosure notice.  
20 Nothing in this subsection shall be construed to require the  
21 neutral to wait the full sixty days allotted for dispute



1 resolution to determine that the parties were unable to reach an  
2 agreement and file a report.

3 (c) If the parties have complied with the requirements of  
4 this part and have reached an agreement, the agreement shall be  
5 memorialized in [~~a settlement document~~] writing and signed by  
6 the parties or their authorized representatives. [~~If the~~  
7 ~~parties or their authorized representatives participate in the~~  
8 ~~dispute resolution session in person, the settlement document~~  
9 ~~shall be signed in the presence of the neutral. If any of the~~  
10 ~~parties or their authorized representatives participate in the~~  
11 ~~dispute resolution through telephone, videoconference, or other~~  
12 ~~immediately available contemporaneous telecommunications medium,~~  
13 ~~the settlement document shall be signed and returned to the~~  
14 ~~neutral no later than ten days after the conclusion of the~~  
15 ~~dispute resolution session.] The parties shall be responsible  
16 for drafting any agreement reached[, and for filing or recording  
17 with the land court or the bureau of conveyances, as  
18 appropriate,] and enforcing the [~~settlement document.~~]  
19 agreement. [~~The neutral shall file the settlement document with~~  
20 ~~the neutral's closing report.] The [~~settlement document~~]  
21 agreement shall be a contract between the parties and shall be  
22 enforceable in a private contract action in a court of~~~~



1 appropriate jurisdiction in the event of breach by either party.  
2 If the [~~settlement document~~] agreement allows for foreclosure or  
3 other transfer of the subject property, the stay of the  
4 foreclosure under section 667-83 shall be released upon [~~filing~~  
5 ~~or recording~~] the [~~settlement document~~] recordation of the  
6 neutral's closing report [~~with the land court or bureau of~~  
7 ~~conveyances, as appropriate~~]. Thereafter, the office of the  
8 assistant registrar of the land court or bureau of conveyances  
9 may record a notice of sale or other conveyance document, as  
10 appropriate.

11 (d) If the parties to a dispute resolution process reach  
12 an agreement which resolves the matters at issue in the dispute  
13 resolution before the first day of the scheduled dispute  
14 resolution session pursuant to this section, the  
15 parties shall notify the neutral by that date. The neutral  
16 shall thereafter issue a closing report that the parties have  
17 reached an agreement prior to the commencement of a dispute  
18 resolution session. If the agreement provides for foreclosure,  
19 the parties shall memorialize the agreement in a writing signed  
20 by both parties [~~and provided to the neutral. Any agreement~~  
21 ~~authorizing foreclosure shall be attached to the neutral's~~  
22 ~~closing report~~]. The parties may [~~file or~~] record the report



1 ~~[at the bureau of conveyances or the land court, as~~  
2 ~~appropriate].~~ If the agreement authorizes foreclosure, the stay  
3 of the foreclosure under section 667-83 shall be released upon  
4 ~~[filing or recording with the land court or bureau of~~  
5 ~~conveyances, as appropriate.]~~ the recordation of the report.  
6 Thereafter, the land court or bureau of conveyances may record a  
7 notice of sale or other conveyance document, as appropriate. No  
8 fees shall be refunded if the parties come to an agreement prior  
9 to a dispute resolution session conducted pursuant to this  
10 part."

11 SECTION 44. Section 667-82, Hawaii Revised Statutes, is  
12 amended by amending subsection (a) to read as follows:

13 "(a) The neutral's closing report shall indicate if the  
14 mortgagee or the owner-occupant failed to comply with  
15 requirements of the mortgage foreclosure dispute resolution  
16 program.

17 (1) In the case of the mortgagee, failure to comply with  
18 the requirements of the program may consist of:

19 (A) Participation in dispute resolution without the  
20 authority to negotiate a loan modification or  
21 without access at all stages of the dispute



- 1 resolution process to a person who is so
- 2 authorized;
- 3 (B) Failure to provide the required information or
- 4 documents;
- 5 (C) Refusal to cooperate or participate in dispute
- 6 resolution; or
- 7 (D) Refusal or failure to pay program fees under
- 8 section 667-79 in a timely manner.

9 (2) In the case of the owner-occupant, failure to comply  
 10 with the requirements of the program may consist of:

- 11 (A) Failure to provide the required information or
- 12 documents; or
- 13 (B) Refusal to cooperate or participate in dispute
- 14 resolution[~~-~~];

15 provided that failure by the mortgagee and the owner-  
 16 occupant to reach an agreement to resolve the dispute  
 17 shall not constitute failure by the mortgagee or the  
 18 owner-occupant to comply with the requirements of the  
 19 mortgage foreclosure dispute resolution program."

20 SECTION 45. Section 667-83, Hawaii Revised Statutes, is  
 21 amended by amending subsection (a) to read as follows:



1           "(a) The written notification of a case opening under  
2 section 667-79 shall operate as a stay of the foreclosure  
3 proceeding[7] and may be [~~filed or~~] recorded[~~, as appropriate,~~  
4 ~~at the land court or bureau of conveyances.~~]; provided that:

5           (1) The written notification shall not act as a stay on a  
6           foreclosure proceeding by an association unless the  
7           association has been provided notice pursuant to  
8           sections 667-5.5, 667-21.5, or 667-79; and

9           (2) The written notification shall not act as a stay on a  
10           foreclosure proceeding for the purpose of the date by  
11           which the default must be cured pursuant to section  
12           667-22(a)(6)."

13           SECTION 46. Section 667-86, Hawaii Revised Statutes, is  
14 amended by amending subsection (b) to read as follows:

15           "(b) All persons who record an affidavit in the office of  
16 the assistant registrar of the land court, pursuant to section  
17 501-118, or who record a conveyance document in the bureau of  
18 conveyances for an owner-occupied property subject to a  
19 nonjudicial power of sale foreclosure shall pay a fee of \$100,  
20 which shall be deposited into the mortgage foreclosure dispute  
21 resolution special fund on a quarterly basis."





1 PART IV

2 SECTION 47. Section 421J-A, Hawaii Revised Statutes, is  
3 amended by amending subsection (h) to read as follows:

4 "(h) The amount of the special assessment assessed under  
5 subsection (g) shall not exceed the total amount of unpaid  
6 regular monthly common assessments that were assessed during the  
7 [~~twelve~~] six months immediately preceding the completion of the  
8 judicial or nonjudicial power of sale foreclosure."

9 SECTION 48. Section 454M-10, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "~~§454M-10~~ **Penalty.** Any person who violates any provision  
12 of this chapter may be subject to an administrative fine of not  
13 more than \$7,000 for each violation[~~; provided that \$1,000 of~~  
14 ~~the aggregate fine amount shall be deposited into the mortgage~~  
15 ~~foreclosure dispute resolution special fund established pursuant~~  
16 ~~to section 667-86]."~~

17 SECTION 49. Section 514A-90, Hawaii Revised Statutes, is  
18 amended by amending subsection (h) to read as follows:

19 "(h) The amount of the special assessment assessed under  
20 subsection (g) shall not exceed the total amount of unpaid  
21 regular monthly common assessments that were assessed during the



1 [~~twelve~~] six months immediately preceding the completion of the  
2 judicial or nonjudicial power of sale foreclosure."

3 SECTION 50. 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 [~~twelve~~] six months immediately preceding the completion of the  
9 judicial or nonjudicial power of sale foreclosure."

10 SECTION 51. Section 667-53, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

12 "(a) An owner-occupant of a residential property that is  
13 subject to nonjudicial foreclosure under part II may convert the  
14 action to a judicial foreclosure provided that:

15 (1) A petition conforming to section 667-54 shall be filed  
16 with the circuit court in the circuit where the  
17 residential property is located, stating that the  
18 owner-occupant of the property elects to convert the  
19 nonjudicial foreclosure to a judicial foreclosure  
20 proceeding no later than thirty days after the  
21 foreclosure notice is served on the owner-occupant as  
22 required by section 667-22;



- 1           (2) Within forty-five days of the filing of the petition,  
2           all owner-occupants and mortgagors of an interest in  
3           the residential property whose interests are pledged  
4           or otherwise encumbered by the mortgage that is being  
5           foreclosed and all persons who have signed the  
6           promissory note or other instrument evidencing the  
7           debt secured by the mortgage that is being foreclosed,  
8           including without limitation co-obligors and  
9           guarantors, shall file a statement in the circuit  
10          court action that they agree to submit themselves to  
11          the judicial process and the jurisdiction of the  
12          circuit court; provided further that if this condition  
13          is not satisfied, the circuit court action may be  
14          dismissed with prejudice as to the right of any owner-  
15          occupant to convert the action to a judicial  
16          proceeding, and the mortgagee may proceed  
17          nonjudicially;
- 18          (3) Filing a petition pursuant to paragraph (1) shall  
19          automatically stay the nonjudicial foreclosure action  
20          unless and until the judicial proceeding has been  
21          dismissed;



1 (4) The person filing the petition pursuant to paragraph  
 2 (1) shall have an affirmative duty to promptly notify  
 3 the Hawaii attorney who is handling the nonjudicial  
 4 foreclosure about the filing of the complaint for  
 5 conversion;

6 (5) All parties joined in the converted judicial  
 7 proceeding may assert therein any claims and defenses  
 8 that they could have asserted had the action  
 9 originally been commenced as a judicial foreclosure  
 10 action; and

11 (6) The fee for filing the petition shall be \$250, which  
 12 shall be deposited into the [~~mortgage foreclosure~~  
 13 ~~dispute resolution special fund established under~~  
 14 ~~section 667-86.] compliance resolution fund."~~

PART V

16 SECTION 52. Act 48, Session Laws of Hawaii 2011, is  
 17 amended as follows:

18 1. By amending section 10 to read:

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

21 "(a) A mortgage servicer licensed or acting under this  
 22 chapter, in addition to any other duties imposed by law, shall:



- 1           (1) Safeguard and account for any money handled for the  
2           borrower;
- 3           (2) Act with reasonable skill, care, timeliness,  
4           promptness, and diligence;
- 5           (3) Disclose to the commissioner in the servicer's license  
6           application and each yearly renewal a complete,  
7           current schedule of the ranges of costs and fees it  
8           charges borrowers for its servicing-related  
9           activities;
- 10          (4) File a report with each yearly renewal statement in a  
11          form and format acceptable to the director detailing  
12          the servicer's activities in this State, including:
  - 13           (A) The number of mortgage loans the servicer is  
14           servicing;
  - 15           (B) The type and characteristics of loans serviced in  
16           this State;
  - 17           (C) The number of serviced loans in default, along  
18           with a breakdown of thirty-, sixty-, and ninety-  
19           day delinquencies;
  - 20           (D) Information on loss mitigation activities,  
21           including details on workout arrangements  
22           undertaken;



- 1 (E) Information on foreclosures commenced in this  
2 State;
- 3 (F) The affiliations of the mortgage servicer,  
4 including any lenders or mortgagees for which the  
5 mortgage servicer provides service, any  
6 subsidiary or parent entities of the mortgage  
7 servicer, and a description of the authority held  
8 by the mortgage servicer through its  
9 affiliations; and
- 10 (G) Any other information that the commissioner may  
11 require; and
- 12 (5) Maintain an office in the State that is staffed by at  
13 least one agent or employee for the purposes of  
14 addressing consumer inquiries or complaints and  
15 accepting service of process; provided that the  
16 mortgage servicer's business constitutes at least a  
17 twenty per cent share of the portion of the total  
18 mortgage loan service market in the State that was  
19 serviced by mortgage servicers licensed under this  
20 chapter within the previous calendar year; and  
21 provided further that nothing in this section shall  
22 prohibit a mortgagee as defined by section [~~667-21~~]



1            667-1 or a mortgage servicer from contracting with a  
2            licensee that maintains an office in this State in  
3            conformity with this section for the purposes of  
4            addressing consumer inquiries or complaints and  
5            accepting service of process."

6            2. By amending section 45 to read:

7            "SECTION 45. This Act shall take effect upon its approval;  
8            provided that:

9            (1) The mortgage foreclosure dispute resolution program  
10            established by section 1 of this Act shall be  
11            operative no later than October 1, 2011;

12            (2) [~~Sections~~] Section 1[~~, 13, and 14~~] shall be repealed  
13            on September 30, 2014[~~, and sections 514A-90(h) and~~  
14            ~~514B-146(h), Hawaii Revised Statutes, shall be~~  
15            ~~reenacted in the form in which they read on the day~~  
16            ~~before the effective date of this Act)];~~

17            (3) Section 10 shall take effect on July 1, 2012;

18            [~~(4) Section 5 shall be repealed on December 31, 2012;~~

19            ~~(5)] (4) Section 7 shall be repealed on September 30,~~  
20            2014, and section 26-9(o), Hawaii Revised Statutes,  
21            shall be reenacted in the form in which it read on the  
22            day before the effective date of this Act; and



1       ~~[(6)]~~ (5) Upon the repeal of section 1, all moneys  
2                   remaining in the mortgage foreclosure dispute  
3                   resolution special fund established under section 667-  
4                   P, Hawaii Revised Statutes, shall be transferred to  
5                   the compliance resolution fund established under  
6                   section 26-9(o), Hawaii Revised Statutes."

## PART VI

8           SECTION 53. Section 667-5, Hawaii Revised Statutes, is  
9 repealed.

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

19           ~~(1) Give notice of the mortgagee's, successor's, or  
20 person's intention to foreclose the mortgage and of  
21 the sale of the mortgaged property as follows:~~

22           ~~(A) By serving, not less than twenty one days before~~





1 ~~the date of sale, written notice of intent to~~  
2 ~~foreclose on all persons entitled to notice under~~  
3 ~~this part in the same manner as service of a~~  
4 ~~civil complaint under chapter 634 and the Hawaii~~  
5 ~~rules of civil procedure, provided that in the~~  
6 ~~case of nonjudicial foreclosure of a lien by an~~  
7 ~~association against a mortgagor who is not an~~  
8 ~~owner-occupant, the association shall mail the~~  
9 ~~notice by certified or registered mail, not less~~  
10 ~~than twenty one days before the date of sale, to:~~  
11 ~~(i) The unit owner at the address shown in the~~  
12 ~~records of the association and, if~~  
13 ~~different, at the address of the unit being~~  
14 ~~foreclosed; and~~  
15 ~~(ii) All mortgage creditors whose names are known~~  
16 ~~or can be discovered by the association; and~~  
17 ~~(B) By publication of the notice once in each of~~  
18 ~~three successive weeks, constituting three~~  
19 ~~publications with the last publication to be not~~  
20 ~~less than fourteen days before the day of sale,~~  
21 ~~in a daily newspaper having the largest general~~  
22 ~~circulation in the specific county in which the~~



1 ~~mortgaged property lies; provided that for~~  
2 ~~property located in a county with a population of~~  
3 ~~more than one hundred thousand but less than~~  
4 ~~three hundred thousand, the public notice shall~~  
5 ~~be published in the newspaper having the largest~~  
6 ~~circulation expressly in the eastern or western~~  
7 ~~half of the county, corresponding to the location~~  
8 ~~of the subject property;~~

9 ~~(2) Give notice of the mortgagor's right to elect to~~  
10 ~~participate in the mortgage foreclosure dispute~~  
11 ~~resolution program pursuant to section 667 75 or to~~  
12 ~~convert the nonjudicial power of sale foreclosure to a~~  
13 ~~judicial foreclosure pursuant to section 667 53; and~~

14 ~~(3) Give any notices and do all acts as authorized or~~  
15 ~~required by the power contained in the mortgage.~~

16 ~~(b) Copies of the notice required under subsection (a)~~  
17 ~~shall be:~~

18 ~~(1) Filed with the state director of taxation; and~~

19 ~~(2) Posted on the premises not less than twenty one days~~  
20 ~~before the day of sale.~~

21 ~~(c) Upon the request of any person entitled to notice~~  
22 ~~pursuant to this section and sections 667 5.5 and 667 6, the~~



1 ~~attorney, the mortgagee, successor, or person represented by the~~  
2 ~~attorney shall disclose to the requestor the following~~  
3 ~~information:~~

4       ~~(1) The amount to cure the default, together with the~~  
5             ~~estimated amount of the foreclosing mortgagee's~~  
6             ~~attorneys' fees and costs, and all other fees and~~  
7             ~~costs estimated to be incurred by the foreclosing~~  
8             ~~mortgagee related to the default prior to the auction~~  
9             ~~within five business days of the request; and~~

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

12       ~~(d) Any sale, of which notice has been given pursuant to~~  
13 ~~subsections (a) and (b) may be postponed from time to time by~~  
14 ~~public announcement made by the mortgagee or by a person acting~~  
15 ~~on the mortgagee's behalf. Upon request made by any person who~~  
16 ~~is entitled to notice pursuant to section 667 5.5 or 667 6, or~~  
17 ~~this section, the mortgagee or person acting on the mortgagee's~~  
18 ~~behalf shall provide the date and time of a postponed auction,~~  
19 ~~or if the auction is canceled, information that the auction was~~  
20 ~~canceled. The mortgagee, within thirty days after selling the~~  
21 ~~property in pursuance of the power, shall file a copy of the~~  
22 ~~notice of sale and the mortgagee's affidavit, setting forth the~~



1 ~~mortgagee's acts in the premises fully and particularly, in the~~  
2 ~~bureau of conveyances.~~

3 ~~(e) The mortgagee or other person, excluding an~~  
4 ~~association, who completes the nonjudicial foreclosure of a~~  
5 ~~mortgage or other lien on residential property pursuant to this~~  
6 ~~part shall not be entitled to pursue or obtain a deficiency~~  
7 ~~judgment against an owner occupant of the residential property~~  
8 ~~who, at the time the notice of intent to foreclose is served,~~  
9 ~~does not have a fee simple or leasehold ownership interest in any~~  
10 ~~other real property.~~

11 ~~Nothing in this section shall prohibit any other mortgagee~~  
12 ~~or person who holds a lien on the residential property subject to~~  
13 ~~the nonjudicial foreclosure, whose lien is subordinate to the~~  
14 ~~mortgage being foreclosed and is extinguished by the nonjudicial~~  
15 ~~foreclosure sale, from pursuing a monetary judgment against an~~  
16 ~~owner occupant.~~

17 ~~(f) Subject to the requirements of part V, the affidavit and~~  
18 ~~copy of the notice shall be recorded and indexed by the~~  
19 ~~registrar, in the manner provided in chapter 501 or 502, as the~~  
20 ~~case may be.~~

21 ~~(g) This section is inapplicable if the mortgagee is~~  
22 ~~foreclosing as to personal property only." ]~~



1 SECTION 54. Section 667-5.7, Hawaii Revised Statutes, is  
2 repealed.

3 [~~"§667-5.7 Public sale. At any public sale pursuant to~~  
4 ~~section 667-5, the successful bidder at the public sale, as the~~  
5 ~~purchaser, shall not be required to make a downpayment to the~~  
6 ~~foreclosing mortgagee of more than ten per cent of the highest~~  
7 ~~successful bid price." ]~~

8 SECTION 55. Section 667-6, Hawaii Revised Statutes, is  
9 repealed.

10 [~~"§667-6 Notice to mortgage creditors. Whenever a~~  
11 ~~mortgage creditor having a mortgage lien on certain premises~~  
12 ~~desires notice that another mortgage creditor having a mortgage~~  
13 ~~lien on the same premises intends to foreclose the mortgage and~~  
14 ~~sell the mortgaged property pursuant to a power of sale under~~  
15 ~~section 667-5, the mortgage creditor may submit a written~~  
16 ~~request to the mortgagee foreclosing or who may foreclose the~~  
17 ~~mortgage by power of sale, to receive notice of the mortgagee's~~  
18 ~~intention to foreclose the mortgage under power of sale. This~~  
19 ~~request for notice may be submitted any time after the~~  
20 ~~recordation or filing of the subject mortgage at the bureau of~~  
21 ~~conveyances or the land court, but must be submitted prior to~~  
22 ~~the completion of the publication of the mortgagee's notice of~~



1 ~~intention to foreclose the mortgage and of the sale of the~~  
 2 ~~mortgaged property. This request shall be signed by the~~  
 3 ~~mortgage creditor, or its authorized representative, desiring to~~  
 4 ~~receieve notice, specifying the name and address of the person to~~  
 5 ~~whom the notice is to be mailed. The mortgagee receiving the~~  
 6 ~~request shall thereafter give notice to all mortgage creditors~~  
 7 ~~who have timely submitted their request. The notice shall be~~  
 8 ~~sent by mail or otherwise communicated to the mortgage~~  
 9 ~~creditors, not less than seven calendar days prior to the date~~  
 10 ~~of sale.~~

11 ~~No request for copy of any notice pursuant to this section~~  
 12 ~~nor any statement or allegation in any such request nor any~~  
 13 ~~record thereof shall affect the title to real property or be~~  
 14 ~~deemed notice to any person that any party requesting copy of~~  
 15 ~~the notice has or claims any right, title, or interest in, or~~  
 16 ~~lien or charge upon the property described in the mortgage~~  
 17 ~~referred to therein." ]~~

18 SECTION 56. Section 667-7, Hawaii Revised Statutes, is  
 19 repealed.

20 [ "~~§667-7 Notice, contents, affidavit.~~ (a) ~~The notice of~~  
 21 ~~intention of foreclosure shall contain:~~

22 ~~(1) A description of the mortgaged property, and~~



1       ~~(2) A statement of the time and place proposed for the~~  
2           ~~sale thereof at any time after the expiration of four~~  
3           ~~weeks from the date when first advertised.~~

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

7       SECTION 57. Section 667-8, Hawaii Revised Statutes, is  
8       repealed.

9       ~~[ "**§667-8 Affidavit as evidence, when.** If it appears by~~  
10       ~~the affidavit that the affiant has in all respects complied with~~  
11       ~~the requirements of the power of sale and the statute, in~~  
12       ~~relation to all things to be done by the affiant before selling~~  
13       ~~the property, and has sold the same in the manner required by~~  
14       ~~the power, the affidavit, or a duly certified copy of the record~~  
15       ~~thereof, shall be admitted as evidence that the power of sale~~  
16       ~~was duly executed." ]~~

17       SECTION 58. Section 667-14, Hawaii Revised Statutes, is  
18       repealed.

19       ~~[ "**§667-14 Recordation of foreclosure notice.** The~~  
20       ~~foreclosing mortgagee may record a copy of the foreclosure~~  
21       ~~notice with the assistant registrar of the land court or the~~  
22       ~~bureau of conveyances, as appropriate, in a manner similar to~~



1 ~~recording of notices of pendency of action under section 501-~~  
 2 ~~151 or section 634-51, as applicable. The recorded notice shall~~  
 3 ~~have the same effect as a notice of pendency of action. From~~  
 4 ~~and after the recording of the notice, any person who becomes~~  
 5 ~~a purchaser or encumbrancer of the mortgaged property shall be~~  
 6 ~~deemed to have constructive notice of the power of sale~~  
 7 ~~foreclosure and shall be bound by the foreclosure." ]~~

8 SECTION 59. Section 667-15, Hawaii Revised Statutes, is  
 9 repealed.

10 [ "~~§667-15~~ ~~Location of public sale following power of~~  
 11 ~~sale foreclosure.~~ The public sale of the mortgaged property  
 12 shall be held only on grounds or at facilities under the  
 13 administration of the State, as follows:

- 14 (1) ~~At the state capitol, for a public sale of mortgaged~~  
 15 ~~property located in the city and county of Honolulu;~~
- 16 (2) ~~At a state facility in Hilo, for a public sale of~~  
 17 ~~mortgaged property located in the eastern portion of~~  
 18 ~~the county of Hawaii;~~
- 19 (3) ~~At a state facility in Kailua Kona, for a public sale~~  
 20 ~~of mortgaged property located in the western portion~~  
 21 ~~of the county of Hawaii;~~





1       ~~(4) At a state facility in the county seat of Maui, for a~~  
2           ~~public sale of mortgaged property located in the~~  
3           ~~county of Maui, and~~

4       ~~(5) At a state facility in the county seat of Kauai, for a~~  
5           ~~public sale of mortgaged property located in the~~  
6           ~~county of Kauai,~~

7       ~~as designated by the department of accounting and general~~  
8       ~~services; provided that no public sale shall be held on grounds~~  
9       ~~or at facilities under the administration of the judiciary. The~~  
10       ~~public sale shall be held during business hours on a business~~  
11       ~~day." ]~~

12       SECTION 60. Section 667-21.6, Hawaii Revised Statutes, is  
13       repealed.

14       ~~["**~~§667-21.6~~** Foreclosure of association lien; cure of~~  
15       ~~default. If a unit owner notifies the association or its~~  
16       ~~attorney by certified mail return receipt requested or by hand-~~  
17       ~~delivery within five business days following a response to the~~  
18       ~~unit owner's request for the amount to cure a default, together~~  
19       ~~with an estimated amount of the foreclosing association's~~  
20       ~~attorneys' fees and costs, and all other fees and costs related~~  
21       ~~to the default estimated to be incurred by the foreclosing~~  
22       ~~association, that it intends to cure the default, the~~



1 ~~association shall allow sixty calendar days to the unit owner to~~  
2 ~~cure the default. The association shall not reject a reasonable~~  
3 ~~payment plan for cure of the default; provided that a reasonable~~  
4 ~~plan shall require the owner to pay at a minimum the current~~  
5 ~~maintenance fee and some amount owed on the past due balance.~~  
6 ~~From and after the date that the unit owner gives written notice~~  
7 ~~to the association of its intent to cure the delinquency, any~~  
8 ~~nonjudicial foreclosure of the lien shall be stayed pending the~~  
9 ~~sixty day period or a longer period that is agreed upon by the~~  
10 ~~parties." ]~~

11 SECTION 61. Section 667-50, Hawaii Revised Statutes, is  
12 repealed.

13 [~~"§667-50 Definitions. For purposes of this chapter,~~  
14 ~~"foreclosure notice" shall mean notice of intention to foreclose~~  
15 ~~given pursuant to section 667-5 or notice of default and~~  
16 ~~intention to foreclose prepared pursuant to section 667-22." ]~~

17 SECTION 62. Section 667-60, Hawaii Revised Statutes, is  
18 repealed.

19 [~~"§667-60 Unfair or deceptive act or practice. Any~~  
20 ~~foreclosing mortgagee who violates this chapter shall have~~  
21 ~~committed an unfair or deceptive act or practice under section~~  
22 ~~480-2." ]~~



1 SECTION 63. Section 667-61, Hawaii Revised Statutes, is  
2 repealed.

3 [~~"§667-61 Definitions. For the purposes of sections  
4 667-62 to 667-65, "time share interest" shall have the same  
5 meaning as in section 514E-1."~~]

6 SECTION 64. Section 667-72, Hawaii Revised Statutes, is  
7 repealed.

8 [~~"§667-72 Definitions. As used in this part:~~

9 ~~"Approved budget and credit counselor" means a budget and  
10 credit counseling agency that has received approval from a  
11 United States trustee or bankruptcy administrator to provide  
12 instructional courses concerning personal financial management  
13 pursuant to Title 11 United States Code section 111.~~

14 ~~"Approved housing counselor" means a housing counseling  
15 agency that has received approval from the United States  
16 Department of Housing and Urban Development to provide housing  
17 counseling services pursuant to section 106(a)(2) of the Housing  
18 and Urban Development Act of 1968, Title 12 United States Code  
19 section 1701x.~~

20 ~~"Association" has the same meaning as in sections 514B-3  
21 and 421J-2.~~



1       ~~"Department" means the department of commerce and consumer~~  
2 ~~affairs.~~

3       ~~"Director" means the director of commerce and consumer~~  
4 ~~affairs.~~

5       ~~"Dispute resolution" means a facilitated negotiation~~  
6 ~~between a mortgagor and mortgagee for the purpose of reaching an~~  
7 ~~agreement for mortgage loan modification or other agreement in~~  
8 ~~an attempt to avoid foreclosure or to mitigate damages if~~  
9 ~~foreclosure is unavoidable.~~

10       ~~"Mortgagee" has the same meaning as the term is defined in~~  
11 ~~section 667-21.~~

12       ~~"Mortgagor" has the same meaning as the term is defined in~~  
13 ~~section 667-21.~~

14       ~~"Neutral" means a person who is a dispute resolution~~  
15 ~~specialist assigned to facilitate the dispute resolution process~~  
16 ~~required by this part.~~

17       ~~"Owner-occupant" means a person, at the time that a notice~~  
18 ~~of default and intention to foreclose is served on the mortgagor~~  
19 ~~under the power of sale:~~

20       ~~(1) Who owns an interest in the residential property, and~~  
21       ~~the interest is encumbered by the mortgage being~~  
22       ~~foreclosed, and~~



1       ~~(2) For whom the residential property is and has been the~~  
2           ~~person's primary residence for a continuous period of~~  
3           ~~not less than two hundred days immediately preceding~~  
4           ~~the date on which the notice is served." ]~~

5           SECTION 65. In codifying the new sections added by  
6 sections 2 and 3 of this Act, the revisor of statutes shall  
7 substitute appropriate section numbers for the letters used in  
8 designating the new sections in this Act.

9           SECTION 66. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11          SECTION 67. This Act shall take effect upon its approval;  
12 provided that:

13          (1) Section 667- , Hawaii Revised Statutes, in section 3  
14 of this Act, shall take effect on October 1, 2014;

15          (2) Section 10 of this Act, amending section 607-5(a) and  
16 (b), Hawaii Revised Statutes, and the amendments made  
17 to section 667-53(a)(6), Hawaii Revised Statutes, in  
18 section 26 of this Act, shall take effect on August  
19 15, 2012;

20          (3) Section 25 of this Act, amending section 667-41,  
21 Hawaii Revised Statutes, shall take effect on  
22 September 1, 2012;



- 1           (4) Sections 47, 48, 49, 50, and 51 in part IV of this  
2           Act, amending sections 421J-A(h), 454M-10, 514A-90,  
3           514B-146, and 667-53(a)(6), Hawaii Revised Statutes,  
4           shall take effect on September 30, 2014; and
- 5           (5) The amendments made to section 10 of Act 48, Session  
6           Laws of Hawaii 2011, in section 52 of this Act, shall  
7           take effect on June 30, 2012.



**Report Title:**

Mortgage Foreclosures; Homeowner Association Liens and Assessments

**Description:**

Implements the 2011 recommendations of the mortgage foreclosure task force to address various issues relating to the mortgage foreclosures law and related issues affecting homeowner association liens and the collection of unpaid assessments. Repeals the nonjudicial foreclosure process under part I of chapter 667, Hawaii Revised Statutes. Repeals the provision automatically making all violations of the mortgage foreclosure law an unfair or deceptive act or practice. Following the expiration of the mortgage foreclosure dispute resolution program in 2014, specifies certain foreclosure violations as unfair or deceptive acts or practices, limits the types of violations that may void a title transfer of foreclosed property, and establishes a time limit for filing actions to void title transfers of foreclosed property. (HB1875 HD2)

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

