
A BILL FOR AN ACT

RELATING TO FORECLOSURES.

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

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

4 "§667-60 Unfair or deceptive act or practice; transfer of
5 title. (a) Any foreclosing mortgagee who engages in any of the
6 following violations of this chapter shall have committed an
7 unfair or deceptive act or practice under section 480-2:

8 (1) Failing to provide a borrower or mortgagor with, or
9 failing to serve as required, the information required
10 by section 667-5, 667-22, or 667-55;

11 (2) Failing to publish, or to post, information on the
12 mortgaged property, as required by section 667-5, 667-
13 27, or 667-28;

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

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

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



- 1 (6) Failing to include the information required by section
2 667-27 or 667-28 in a public notice of public sale;
- 3 (7) Failing to provide the public information required by
4 section 667-41;
- 5 (8) Completing a nonjudicial foreclosure while a stay is
6 in effect under section 667-83, as that section read
7 at any time prior to its repeal on September 30, 2014,
8 pursuant to Act 48, Session Laws of Hawaii 2011;
- 9 (9) Failing to distribute sale proceeds as required by
10 section 667-31;
- 11 (10) Making any false statement in the affidavit of public
12 sale required by section 667-32; and
- 13 (11) Attempting to collect a deficiency in violation of
14 section 667-38;
- 15 (b) Notwithstanding subsection (a), the transfer of title
16 to the purchaser of the property as a result of a foreclosure
17 under this chapter shall only be subject to avoidance under
18 section 480-12 for violations described in subsection (a)(1) to
19 (8) if the violations are shown to be substantial and material;
20 provided that a foreclosure sale shall not be subject to
21 avoidance under section 480-12 for a violation of section 667-
22 56(5).



1 (c) Any action to void the transfer of title to the
2 purchaser of property under this chapter shall be filed in the
3 circuit court of the circuit within which the foreclosed
4 property is situated no later than one hundred eighty days
5 following the recording of the affidavit required by section
6 667-5 or 667-32, as applicable. If no such action is filed
7 within the one hundred eighty-day period, title to the property
8 shall be deemed conclusively vested in the purchaser free and
9 clear of any claim by the mortgagor or any person claiming by,
10 through, or under the mortgagor."

11 SECTION 2. Section 667-60, Hawaii Revised Statutes, is
12 repealed.

13 [~~§667-60] ~~Unfair or deceptive act or practice.~~ Any
14 ~~foreclosing mortgagee who violates this chapter shall have~~
15 ~~committed an unfair or deceptive act or practice under section~~
16 ~~480-2."~~]~~

17 SECTION 3. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 4. This Act shall take effect upon its approval;
20 provided that section 1 of this Act shall take effect on
21 October 1, 2014.



Report Title:

Foreclosures; Unfair or Deceptive Act or Practice; Title Transfers

Description:

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. (HD1)

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

