
A BILL FOR AN ACT

RELATING TO MORTGAGES.

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

1 SECTION 1. Chapter 506, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§506- Deficiency judgment prohibited for short sales
5 and deeds in lieu of foreclosure of certain mortgaged
6 residential property. (a) No deficiency shall be owed or
7 collected, and no deficiency judgment shall be requested or
8 rendered, for any deficiency upon a note secured by a mortgage
9 for a residential property of not more than four units, in any
10 case in which:

11 (1) The mortgagor sells the property for a sale price less
12 than the remaining amount of the indebtedness
13 outstanding at the time of sale, in accordance with
14 the written consent of the mortgage holder; or

15 (2) The mortgagor conveys all interest in the property to
16 the mortgagee;



1 provided that on the date a letter or notice of default on the
2 mortgage indebtedness was delivered to the mortgagor, the
3 mortgagor occupied the property as a principal residence.

4 (b) Following:

5 (1) The sale of the property;

6 (2) The voluntary transfer of title to a buyer by grant
7 deed or by other document of conveyance recorded or
8 filed pursuant to chapter 501 or 502, as applicable;
9 and

10 (3) The tender to the mortgagee, beneficiary, or the agent
11 of the mortgagee or beneficiary of the sale proceeds,
12 as agreed,

13 the rights, remedies, and obligations of any holder,
14 beneficiary, mortgagee, trustor, mortgagor, obligor, obligee, or
15 guarantor of the note or mortgage, and with respect to any other
16 property that secures the note, shall be treated and determined
17 as if the property had been sold through foreclosure sale for a
18 price equal to the sale proceeds received by the holder, in the
19 manner prescribed by chapter 667.

20 (c) In the case of a short sale subject to subsection (a),
21 a holder of a note shall not require the mortgagor or the maker
22 of the note to pay any additional compensation other than the



1 proceeds of the property sale, in exchange for the written
2 consent to the sale.

3 (d) If the mortgagor commits either fraud with respect to
4 the sale of, or waste with respect to, the real property that
5 secures the mortgage, this section shall not limit the ability
6 of the mortgage holder to seek damages and use existing rights
7 and remedies against the mortgagor or any third party for fraud
8 or waste.

9 (e) Any purported waiver of this section shall be void."

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

13 **"§667- Deficiency judgment on foreclosure action**
14 **prohibited for certain mortgaged residential property. A court**
15 **shall not award a deficiency judgment against the mortgagor in a**
16 **foreclosure action conducted pursuant to this part,**
17 **notwithstanding any deficiency of the proceeds collected in the**
18 **public sale and a balance remaining due on the indebtedness;**
19 **provided that:**

20 (1) The mortgagee is a financial institution as defined in
21 section 37D-1; and



1 (2) On the date a letter or notice of default on the
2 mortgage indebtedness was delivered to the mortgagor,
3 the mortgagor occupied the property as a principal
4 residence."

5 SECTION 3. New statutory material is underscored.

6 SECTION 4. This Act shall take effect upon its approval.



Report Title:

Mortgages; Deficiency Judgments; Foreclosure by Action; Short Sales; Deeds in Lien of Foreclosure

Description:

Prohibits deficiency judgments to recover the remaining balance on mortgage loans for certain residential property sold in a foreclosure action or short sale. (HB2019 HD1)

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

