

JAN 20 2012

A BILL FOR AN ACT

RELATING TO MORTGAGE FORECLOSURES.

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

1 SECTION 1. Section 514A-90, Hawaii Revised Statutes, is
2 amended as follows:
3 1. By amending subsection (b) to read:
4 "(b) Except as provided in subsection (g), when the
5 mortgagee of a mortgage of record or other purchaser of an
6 apartment obtains title to the apartment as a result of
7 foreclosure of the mortgage, the acquirer of title and the
8 acquirer's successors and assigns shall not be liable for the
9 share of the common expenses or assessments by the association of
10 apartment owners chargeable to the apartment which became due
11 prior to the acquisition of title to the apartment by the
12 acquirer. The unpaid share of common expenses or assessments
13 shall be deemed to be common expenses collectible from all of the
14 apartment owners, including the acquirer and the acquirer's
15 successors and assigns. The mortgagee of record or other
16 purchaser of the apartment shall be deemed to acquire title and
17 shall be required to pay the apartment's share of common expenses
18 and assessments beginning:



1 (1) Thirty-six days after the order confirming the sale to
2 the purchaser has been filed with the court;
3 (2) Sixty days after the hearing at which the court grants
4 the motion to confirm the sale to the purchaser; or
5 ~~[(3) Thirty days after the public sale in a nonjudicial~~
6 ~~power of sale foreclosure pursuant to section 667-5,~~
7 ~~or~~
8 ~~(4)]~~ (3) Upon the recording of the instrument of
9 conveyance,
10 whichever occurs first; provided that the mortgagee of record or
11 other purchaser of the apartment shall not be deemed to acquire
12 title under paragraph (1) [~~7~~] or (2) [~~7~~ ~~or~~ ~~(3)~~], if transfer of
13 title is delayed past the thirty-six days specified in paragraph
14 (1) [~~7~~] or the sixty days specified in paragraph (2) [~~7~~ ~~or~~ ~~the~~
15 ~~thirty days specified in paragraph (3)~~], when a person who
16 appears at the hearing on the motion or a party to the
17 foreclosure action requests reconsideration of the motion or
18 order to confirm sale, objects to the form of the proposed order
19 to confirm sale, appeals the decision of the court to grant the
20 motion to confirm sale, or the debtor or mortgagor declares
21 bankruptcy or is involuntarily placed into bankruptcy. In any
22 such case, the mortgagee of record or other purchaser of the



1 apartment shall be deemed to acquire title upon recordation of
2 the instrument of conveyance."

3 2. By amending subsection (i) to read:

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

6 "Completion" means:

7 (1) In a nonjudicial power of sale foreclosure, when the
8 affidavit [~~required under section 667-5~~] is filed; and

9 (2) In a judicial foreclosure, when a purchaser is deemed
10 to acquire title pursuant to subsection (b)."

11 SECTION 2. Section 514B-146, Hawaii Revised Statutes, is
12 amended as follows:

13 1. By amending subsection (b) to read:

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



1 from all of the unit owners, including the acquirer and the
2 acquirer's successors and assigns. The mortgagee of record or
3 other purchaser of the unit shall be deemed to acquire title and
4 shall be required to pay the unit's share of common expenses and
5 assessments beginning:

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

8 (2) Sixty days after the hearing at which the court grants
9 the motion to confirm the sale to the purchaser; or

10 [~~(3)~~] ~~Thirty days after the public sale in a nonjudicial~~
11 ~~power of sale foreclosure pursuant to section 667-5;~~

12 ~~or~~

13 ~~(4)]~~ (3) Upon the recording of the instrument of
14 conveyance;

15 whichever occurs first; provided that the mortgagee of record or

16 other purchaser of the unit shall not be deemed to acquire title

17 under paragraph (1) [~~7~~] or (2) [~~7~~ ~~or~~ ~~(3)~~], if transfer of title is

18 delayed past the thirty-six days specified in paragraph (1) [~~7~~]

19 or the sixty days specified in paragraph (2) [~~7~~ ~~or~~ ~~the thirty~~

20 ~~days specified in paragraph (3)]~~, when a person who appears at

21 the hearing on the motion or a party to the foreclosure action

22 requests reconsideration of the motion or order to confirm sale,



1 objects to the form of the proposed order to confirm sale,
2 appeals the decision of the court to grant the motion to confirm
3 sale, or the debtor or mortgagor declares bankruptcy or is
4 involuntarily placed into bankruptcy. In any such case, the
5 mortgagee of record or other purchaser of the unit shall be
6 deemed to acquire title upon recordation of the instrument of
7 conveyance."

8 2. By amending subsection (i) to read:

9 "(i) For purposes of subsections (g) and (h), the
10 following definitions shall apply:

11 "Completion" means:

- 12 (1) In a nonjudicial power of sale foreclosure, when the
13 affidavit [~~required under section 667-5~~] is filed; and
14 (2) In a judicial foreclosure, when a purchaser is deemed
15 to acquire title pursuant to subsection (b)."

16 SECTION 3. Chapter 667, part II, Hawaii Revised Statutes,
17 is amended by amending the title to read as follows:

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

19 SECTION 4. Section 667-21, Hawaii Revised Statutes, is
20 amended to read as follows:

21 §667-21 [~~Alternate power~~] Power of sale process;

22 definitions. [~~(a) The process in this part is an alternative~~



1 ~~power of sale process to the foreclosure by action and the~~
2 ~~foreclosure by power of sale in part I.~~

3 (b)] As used in this part:

4 "Approved budget and credit counselor" means a budget and
5 credit counseling agency that has received approval from a
6 United States trustee or bankruptcy administrator to provide
7 instructional courses concerning personal financial management
8 pursuant to Title 11 United States Code, section 111.

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

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

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

19 "Foreclosing mortgagee" means the mortgagee that intends to
20 conduct a power of sale foreclosure; provided that the mortgagee
21 is a federally insured bank, a federally insured savings and
22 loan association, a federally insured savings bank, a depository



1 financial services loan company, a nondepository financial
2 services loan company, a credit union insured by the National
3 Credit Union Administration, a bank holding company, a foreign
4 lender as defined in section 207-11, or an institutional
5 investor as defined in section 454-1.

6 Unless the context clearly indicates otherwise, as used in
7 this part, a "foreclosing mortgagee" shall encompass all of the
8 following entities:

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

19 "Mailed" means to be sent by regular mail, postage prepaid,
20 and by certified, registered, or express mail, postage prepaid
21 and return receipt requested.

22 "Mortgage" means a mortgage, security agreement, or other



1 document under which property is mortgaged, encumbered, pledged,
2 or otherwise rendered subject to a lien for the purpose of
3 securing the payment of money or the performance of an
4 obligation.

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

7 "Mortgaged property" means the property that is subject to
8 the lien of the mortgage.

9 "Mortgagee" means the current holder of record of the
10 mortgagee's or the lender's interest under the mortgage, or the
11 current mortgagee's or lender's duly authorized agent.

12 "Mortgagor" means the mortgagor or borrower named in the
13 mortgage and, unless the context otherwise indicates, includes
14 the current owner of record of the mortgaged property whose
15 interest is subject to the mortgage.

16 "Nonjudicial foreclosure" means foreclosure under power of
17 sale.

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

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



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

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

8 "Power of sale" or "power of sale foreclosure" means a
9 nonjudicial foreclosure under this part when the mortgage
10 contains, authorizes, permits, or provides for a power of sale,
11 a power of sale foreclosure, a power of sale remedy, or a
12 nonjudicial foreclosure.

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

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

22 "Residential property" means real property that is improved



1 and used for residential purposes.

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

6 SECTION 5. Section 667-50, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "[~~§~~§667-50[~~§~~] **Definitions.** For purposes of this chapter,
9 "foreclosure notice" shall mean [~~notice of intention to~~
10 ~~foreclose given pursuant to section 667-5 or~~] notice of default
11 and intention to foreclose prepared pursuant to section 667-22."

12 SECTION 6. Section 667-53, Hawaii Revised Statutes, is
13 amended by amending the title and subsection (a) to read as
14 follows:

15 "[~~§~~§667-53[~~§~~] **Conversion to judicial foreclosure;**
16 **residential property; conditions.** (a) An owner-occupant of a
17 residential property that is subject to nonjudicial foreclosure
18 under part [~~I~~ II] may convert the action to a judicial
19 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 fee for filing the
16 petition shall be not more than \$525, of which \$250
17 shall be deposited into the mortgage foreclosure
18 dispute resolution special fund established under
19 section 667-86; provided that if the mortgage
20 foreclosure dispute resolution program under part V
21 has not yet been implemented, the filing fee shall be
22 not more than \$300."



1 SECTION 7. Section 667-54, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~§~~667-54~~]~~ **Petition for conversion; residential**
4 **property; required contents.** (a) A petition filed pursuant to
5 section 667-53 shall contain at a minimum:

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



1 including without limitation co-obligors and
2 guarantors;

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

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

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

18 (b) The assignment of parties in the petition for
19 conversion pursuant to subsection (a) shall relate to the
20 petition for conversion only and shall not be construed to
21 affect the assignment of parties in a nonjudicial power of sale



1 foreclosure converted to a judicial foreclosure pursuant to this
2 part."

3 SECTION 8. Section 667-55, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[+]§667-55[+] Notice of default and intention to
6 foreclose; residential property; required statement on
7 conversion. (a) The foreclosure notice that is served as
8 required under section [~~667-5-0x~~] 667-22 shall include, in
9 addition to the contents required under section [~~667-5-0x~~] 667-
10 22, a statement printed in not less than fourteen-point font as
11 follows:

12 "IF THE PROPERTY BEING FORECLOSED IS
13 IMPROVED AND USED FOR RESIDENTIAL PURPOSES, AN
14 OWNER-OCCUPANT OF THE PROPERTY (DEFINED IN
15 CHAPTER 667 OF THE HAWAII REVISED STATUTES AS A
16 PERSON WHO, AT THE TIME THIS NOTICE IS SERVED,
17 OWNS AN INTEREST IN THE RESIDENTIAL PROPERTY THAT
18 IS SUBJECT TO THE MORTGAGE BEING FORECLOSED AND
19 THE RESIDENTIAL PROPERTY HAS BEEN THE PRIMARY
20 RESIDENCE CONTINUOUSLY FOR NOT LESS THAN TWO
21 HUNDRED DAYS) HAS THE RIGHT TO CONVERT A
22 NONJUDICIAL FORECLOSURE PROCEEDING TO A JUDICIAL



1 FORECLOSURE WHERE CLAIMS AND DEFENSES MAY BE
2 CONSIDERED BY A COURT OF LAW. TO EXERCISE THIS
3 RIGHT, THE OWNER-OCCUPANT SHALL COMPLETE AND FILE
4 THE ATTACHED FORM WITH THE CIRCUIT COURT IN THE
5 CIRCUIT WHERE THE PROPERTY IS LOCATED WITHIN
6 THIRTY DAYS AFTER SERVICE OF THIS NOTICE.

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



1 AN OWNER-OCCUPANT SHALL PROMPTLY NOTIFY THE
2 HAWAII ATTORNEY LISTED IN THIS NOTICE ABOUT THE
3 FILING OF THE CONVERSION FORM.

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

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

22 (b) The statement required by this section shall not be



1 required to be included in the ~~[notice of sale published~~
2 ~~pursuant to 667-5(a)(1) or the]~~ public notice of public sale
3 published pursuant to section 667-27."

4 SECTION 9. Section 667-57, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "[~~§~~667-57] **Suspension of foreclosure action by junior**
7 **lienholders.** (a) Upon initiation of a foreclosure action
8 pursuant to ~~[part I or]~~ part II by a foreclosing mortgagee as
9 defined in section 667-21(b), no junior lienholder shall be
10 permitted to initiate or continue a nonjudicial foreclosure
11 ~~[pursuant to part I]~~ until the foreclosure initiated by the
12 foreclosing mortgagee has been concluded by ~~[a judgment issued~~
13 ~~by a court pursuant to section 667-17,]~~ the recording of an
14 affidavit after public sale pursuant to section ~~[667-5 or]~~ 667-
15 33~~[7]~~ or the filing of a settlement document under the mortgage
16 foreclosure dispute resolution provisions of section 667-81.

17 (b) Upon initiation of a foreclosure action pursuant to
18 ~~[part I or]~~ part II by a foreclosing mortgagee as defined in
19 section 667-21(b), no junior lienholder shall be permitted to
20 initiate a nonjudicial foreclosure pursuant to part II during
21 the pendency of a stay pursuant to section 667-83; provided that
22 a junior lienholder may initiate or continue with a nonjudicial



1 foreclosure pursuant to part II if the junior lien foreclosure
2 was initiated before the foreclosure action by the foreclosing
3 mortgagee."

4 SECTION 10. Section 667-71, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

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

10 SECTION 11. Section 667-74, Hawaii Revised Statutes, is
11 amended to read as follows:

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

21 SECTION 12. Section 667-75, Hawaii Revised Statutes, is
22 amended by amending subsection (a) to read as follows:



1 "(a) A foreclosure notice served pursuant to section [~~667-~~
2 ~~5-0x~~] 667-22(e) shall include notice that the mortgagee is
3 required, at the election of an owner-occupant, to participate
4 in the mortgage foreclosure dispute resolution program pursuant
5 to this part to attempt to avoid foreclosure or to mitigate
6 damages where foreclosure is unavoidable."

7 SECTION 13. Section 667-76, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) Within three days after a mortgagee serves a
10 foreclosure notice on an owner-occupant pursuant to section
11 [~~667-5-0x~~] 667-22, the mortgagee shall file the foreclosure
12 notice with the department and pay a filing fee of \$250, which
13 shall be deposited into the mortgage foreclosure dispute
14 resolution special fund established under section 667-86."

15 SECTION 14. Section 667-77, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "~~[f]~~§667-77~~[+]~~ **Notification to mortgagor by department.**
18 Within ten days after the mortgagee's filing of a notice of
19 default and intention to foreclose with the department, the
20 department shall mail a written notification by registered or
21 certified mail to the mortgagor that a notice of default and
22 intention to foreclose has been filed with the department. The



1 notification shall inform the mortgagor of an owner-occupant's
2 right to elect to participate in the foreclosure dispute
3 resolution program and shall include:

4 (1) Information about the mortgage foreclosure dispute
5 resolution program;

6 (2) A form for an owner-occupant to elect or to waive
7 participation in the mortgage foreclosure dispute
8 resolution program pursuant to this part that shall
9 contain instructions for the completion and return of
10 the form to the department and the department's
11 mailing address;

12 (3) A statement that the mortgagor electing to participate
13 in the mortgage foreclosure dispute resolution program
14 shall provide a certification under penalty of perjury
15 to the department that the mortgagor is an owner-
16 occupant of the subject property, including a
17 description of acceptable supporting documentation as
18 required by section 667-78(a)(2);

19 (4) A statement that the owner-occupant shall elect to
20 participate in the mortgage foreclosure dispute
21 resolution program pursuant to this part no later than
22 thirty days after the department's mailing of the



1 notice or the owner-occupant shall be deemed to have
2 waived the option to participate in the mortgage
3 foreclosure dispute resolution program;

4 (5) A description of the information required under
5 section 667-80(c)(2) that the owner-occupant shall
6 provide to the mortgagee and the neutral assigned to
7 the dispute resolution;

8 (6) A statement that the owner-occupant shall consult with
9 an approved housing counselor or approved budget and
10 credit counselor at least thirty days prior to the
11 first day of a scheduled dispute resolution session;

12 (7) Contact information for all local approved housing
13 counselors;

14 (8) Contact information for all local approved budget and
15 credit counselors; and

16 (9) Contact information for the department.

17 The notification shall be mailed to the subject property address
18 and any other addresses for the mortgagor as provided in the
19 mortgagee's notice of dispute resolution under [†]section[†]
20 667-75 and the foreclosure notice under section [~~667-5-0x~~] 667-
21 22(a)."



1 SECTION 15. Section 667-78, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

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

12 SECTION 16. Chapter 667, part I, Hawaii Revised Statutes,
13 is repealed.

14 SECTION 17. Act 48, Session Laws of Hawaii 2011, is
15 amended by amending section 45 to read as follows:

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

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

21 (2) Sections 1, 13, and 14 shall be repealed on September
22 30, 2014, and sections 514A-90(h) and 514B-146(h),



1 Hawaii Revised Statutes, shall be reenacted in the
2 form in which they read on the day before the
3 effective date of this Act;

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

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

6 ~~+(5)]~~ (4) Section 7 shall be repealed on September 30,
7 2014, and section 26-9(o), Hawaii Revised Statutes,
8 shall be reenacted in the form in which it read on the
9 day before the effective date of this Act; and

10 ~~[(6)]~~ (5) Upon the repeal of section 1, all moneys
11 remaining in the mortgage foreclosure dispute
12 resolution special fund established under section 667-
13 P, Hawaii Revised Statutes, shall be transferred to
14 the compliance resolution fund established under
15 section 26-9(o), Hawaii Revised Statutes."

16 SECTION 18. Act 48, Session Laws of Hawaii 2011, is
17 amended by repealing section 40.

18 ~~["SECTION 40. There shall be a moratorium on all new~~
19 ~~nonjudicial foreclosure actions under part I of chapter 667,~~
20 ~~Hawaii Revised Statutes, for property located in this State to~~
21 ~~begin on the effective date of this Act and to end on July 1,~~
22 ~~2012. No foreclosure by power of sale pursuant to section~~



1 ~~667-5, Hawaii Revised Statutes, shall be initiated and the~~
 2 ~~registrar of the bureau of conveyances shall not record an~~
 3 ~~affidavit or notice of sale pursuant to section 667-5, Hawaii~~
 4 ~~Revised Statutes, for a power of sale foreclosure under section~~
 5 ~~667-5, Hawaii Revised Statutes, initiated during the moratorium~~
 6 ~~period established by this Act."]~~

7 SECTION 19. Statutory material to be repealed is bracketed
 8 and stricken. New statutory material is underscored.

9 SECTION 20. This Act shall take effect on July 1, 2012;
 10 provided that sections 6 to 8 shall be repealed on December 12,
 11 2012.

12

INTRODUCED BY:

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Report Title:

Mortgage Foreclosure

Description:

Repeals part I of chapter 667, HRS, relating to foreclosure by action or foreclosure by power of sale.

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

