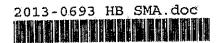
A BILL FOR AN ACT

RELATING TO SUSPENSION OF FORECLOSURE ACTIONS BY JUNIOR LIENHOLDERS.

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

- 1 SECTION 1. The legislature recognizes that once a
- 2 foreclosure action is initiated in the circuit courts, all
- 3 junior lienholders, including an association, are prohibited
- 4 from initiating or continuing with a nonjudicial foreclosure.
- 5 During the pendency of a judicial foreclosure action in
- 6 circuit court which can take years to resolve, and prior to the
- 7 appointment of a foreclosure commissioner, the property in an
- 8 association can fall into a state of disrepair and negatively
- 9 impact not only the neighboring properties but the community at
- 10 large. In addition, the association's fiscal solvency is
- 11 burdened by being unable to collect maintenance fees from the
- 12 empty and not foreclosed unit, a cost which is then shared by
- 13 the other homeowners.
- 14 In order to minimize property damage and allow associations
- 15 an opportunity to remain fiscally viable during a pending
- 16 foreclosure, this Act allows the associations to commence or

- 1 continue with a nonjudicial foreclosure until the circuit court
- 2 appoints a commissioner.
- 3 SECTION 2. Section 667-37, Hawaii Revised Statutes, is
- 4 amended to read as follows:
- 5 "§667-37 Judicial action of foreclosure before public
- 6 sale. This part shall not prohibit the foreclosing mortgagee,
- 7 or any other creditor having a recorded lien on the mortgaged
- 8 property before the recordation of the notice of default under
- 9 section 667-23, from filing an action for the judicial
- 10 foreclosure of the mortgaged property in the circuit court of
- 11 the circuit where the mortgaged property is located; provided
- 12 that the action is filed before the public sale is held. The
- 13 power of sale foreclosure, or nonjudicial foreclosure process,
- 14 process shall be stayed [during the pendency of] once a
- 15 commissioner is appointed by the circuit court in the judicial
- 16 foreclosure action."
- 17 SECTION 3. Section 667-57, Hawaii Revised Statutes, is
- 18 amended as follows:
- 19 "S667-57 Suspension of foreclosure actions by junior
- 20 lienholders. (a) Upon initiation of a foreclosure action
- 21 pursuant to part IA or part II by a foreclosing mortgagee, no
- 22 junior lienholder, except for an association, shall be permitted



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1	to initiate or continue a nonjudicial foreclosure until the
2	foreclosure initiated by the foreclosing mortgagee has been
3	concluded by a judgment issued by a court pursuant to section
4	667-1.5, the recording of an affidavit after public sale
5	pursuant to section 667-33, or the filing of an agreement under
6	the mortgage foreclosure dispute resolution provisions of
7	section 667-81.
8	(b) Upon initiation of a foreclosure action pursuant to
9	part II by a foreclosing mortgagee, no junior lienholder, except
10	for an association, shall be permitted to initiate or continue a
11	nonjudicial foreclosure during the pendency of a stay pursuant
12	to section 667-83; provided that a junior lienholder may
13	initiate or continue with a nonjudicial foreclosure if [+
14	(1) The the junior lien foreclosure was initiated before
15	the foreclosure action by the foreclosing mortgagee[+
16	or
17	(2) The junior lienholder is an association and has not
18	been provided notice of the foreclosure action,
19	pursuant to section 667-21.5, or has not received
20	written notification of a case opening pursuant to
21	gection 667 79]."

1.	SECTION 4. Section 667-83, Hawaii Revised Statutes, is
2	amended by amending subsection (a) as follows:
3	"(a) The written notification of a case opening under
.4	section 667-79 shall operate as a stay of the foreclosure
5	proceeding and may be recorded; provided that:
6	(1) The written notification shall not act as a stay on a
7	foreclosure proceeding by an association (unless the
8	association has been provided notice pursuant to
9	sections 667 5.5, 667 21.5, or 667 79]; and
10	(2) The written notification shall not act as a stay on a
11	foreclosure proceeding for the purpose of the date by
12	which the default must be cured pursuant to section
13	667-22(a)(6)."
14	SECTION 5. Statutory material to be repealed is bracketed
15	and stricken. New statutory material is underscored.
16	SECTION 6. This Act shall take effect upon its approval.
17	INTRODUCED BY: Quy Evan
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Report Title:

Foreclosure Actions; Junior Lienholders; Condominium Associations

Description:

Allows a condominium association, as a junior lienholder, to commence or continue a nonjudicial foreclosure action on a property subject to a judicial foreclosure until a foreclosure commissioner is appointed by the circuit court.

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