
A BILL FOR AN ACT

RELATING TO FORECLOSURES.

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

1 SECTION 1. The legislature finds that one little-known
2 problem of the national foreclosure crisis occurs when banks or
3 other mortgagees walk away from a foreclosure. This problem,
4 sometimes referred to as the "zombie title" problem, occurs when
5 homeowners move out after receiving notice of a foreclosure sale
6 but prior to a public sale, the bank, mortgagee, or other
7 financial institution walks away from the foreclosure process
8 and cancels the sale without notifying the homeowners.

9 The legislature further finds that homeowners legally own
10 their property and the homeowners' names remain on the title
11 until the date of public sale. Without a public sale, the
12 foreclosure process is left in limbo. Homeowners may be left
13 with all of the responsibilities for a property but none of the
14 rights that existed prior to the start of the foreclosure
15 process. Unfortunately for homeowners, there are no regulations
16 that require foreclosing mortgagees in a judicial foreclosure to
17 inform a homeowner when the mortgagee decides not to complete
18 the foreclosure. Unsuspecting homeowners may suffer severe



1 financial penalties as a result of canceled foreclosure sales
2 they knew nothing about.

3 Therefore, the purpose of this Act is to establish a notice
4 of postponement or cancellation of sale requirement under part
5 IA, chapter 667, Hawaii Revised Statutes, relating to judicial
6 foreclosures.

7 SECTION 2. Chapter 667, Hawaii Revised Statutes, is
8 amended by adding a new section to part IA to be appropriately
9 designated and to read as follows:

10 "§667- Postponement, cancellation of sale. (a) The
11 public sale may be either postponed or canceled by the court-
12 appointed commissioner. Notice of the postponement or the
13 cancellation of the public sale shall be:

14 (1) Announced by the court-appointed commissioner at the
15 date, time, and place of the last scheduled public
16 sale; and

17 (2) Provided to:

18 (A) The mortgagor, the borrower, and the foreclosing
19 mortgagee;

20 (B) Any prior or junior creditors who have a recorded
21 lien on the mortgaged property before the
22 commencement of the foreclosure action; and



1 (C) Any party named in the foreclosure action and any
2 prospective bidder who requested notice of the
3 public sale date or any change in the public sale
4 date.

5 (b) If there is a postponement of the public sale of the
6 mortgaged property, the court-appointed commissioner shall have
7 a new public notice of the public sale published once in the
8 format described in section 667-20. The new public notice shall
9 state that it is a notice of a postponed sale. The public sale
10 shall take place no sooner than fourteen days after the date of
11 the publication of the new public notice. Not less than
12 fourteen days before the rescheduled date of the public sale, a
13 copy of the new public notice of the rescheduled public sale
14 shall be posted on the mortgaged property or on another real
15 property of which the mortgaged property is a part, and it shall
16 be mailed or delivered to the mortgagor, the borrower, the
17 foreclosing mortgagee, and any other person entitled to receive
18 notification of the foreclosure action under subsection (a)(2).

19 (c) Upon the fourth postponement of every series of four
20 consecutive postponements, the court-appointed commissioner
21 shall follow all of the public notice of public sale
22 requirements of section 667-20."



- 1 SECTION 3. New statutory material is underscored.
- 2 SECTION 4. This Act shall take effect on July 1, 2112.



Report Title:

Foreclosures; Postponement or Cancellation of Public Sale;
Zombie Title

Description:

Establishes a notice of postponement or cancellation of sale requirement under part IA, chapter 667, Hawaii Revised Statutes, relating to judicial foreclosures. Effective July 1, 2012.
(SB960 HD1)

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

