

JAN 22 2016

A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

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

1 SECTION 1. The legislature finds that it is important to
2 have clear and effective rules related to association
3 foreclosures on condominiums, including which actions
4 successfully cure a default. The legislature further finds that
5 agreeing to a payment plan is not sufficient to cure a default.
6 Rather, agreeing to a payment plan and paying the delinquency in
7 full is required for a unit owner to cure a nonjudicial
8 foreclosure on a condominium.

9 The purpose of this Act is to clarify that when a unit
10 owner and association reach a payment plan to cure a nonjudicial
11 foreclosure, the association does not have to rescind the notice
12 of default and intention to foreclose or restart the foreclosure
13 by filing a new notice of default and intent to foreclose if a
14 unit owner defaults on the payment plan agreed to by the
15 parties. In addition, any fines owed to an association may not
16 be converted into fees that may cause a unit owner to default.



1 SECTION 2. Section 667-94, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[+]§667-94[+] Cure of default. (a) If the default is
4 cured as required by the notice of default and intention to
5 foreclose [~~, or if the parties have agreed on a payment plan,~~]
6 the association shall rescind the notice of default and
7 intention to foreclose. If, pursuant to section 667-19, the
8 parties agree on a payment plan to cure the default, the notice
9 of default and intention to foreclose shall be put on hold until
10 the payment plan is completed. Within fourteen days of the date
11 of the cure or an agreement on a payment plan, the association
12 shall so notify any person who was served with the notice of
13 default and intention to foreclose. If the default is cured, or
14 the payment plan is completed according to its terms, and the
15 notice of default and intention to foreclose was recorded, a
16 release of the notice of default and intention to foreclose
17 shall be recorded.

18 (b) If the default is not cured as required by the notice
19 of default and intention to foreclose, [~~or~~] the parties have not
20 agreed on a payment plan, or the parties have agreed on a
21 payment plan but the payment plan is not completed according to



1 its terms, the association, without filing a court action and
2 without going to court, may foreclose the association's lien
3 under power of sale to sell the unit at a public sale.

4 (c) Any fines owed to the association by a unit owner
5 shall not be converted into any additional fees that may cause
6 the unit owner to default. Any dispute over fines owed by a
7 unit owner to the association shall attempt to be resolved
8 through mediation before foreclosure proceedings are commenced."

9 SECTION 3. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

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

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S.B. NO. 2661

Report Title:

Condominium; Association Foreclosure; Cure of Default

Description:

Clarifies that when a unit owner and association reach a payment plan to cure a nonjudicial foreclosure, completion of the payment plan is required to cure the default. Prohibits an association from converting unpaid fines into fees that may cause a unit owner to default. Requires mediation by a unit owner and association over disputed fines before a foreclosure can be commenced.

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

