

JAN 22 2016

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# 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 ensure a fair distribution of funds when an association  
3 forecloses on a condominium. The legislature further finds that  
4 when an association foreclosure results in a surplus of proceeds  
5 from the sale of the unit after the debt to the association has  
6 been paid in full, the proceeds should be distributed to  
7 existing junior creditors and the former owner of the unit.  
8 Priority for the funds should not be given to the first mortgage  
9 holder because the first mortgage holder retains a lien on the  
10 property and all of the associated remedies.

11           The purpose of this Act is to ensure that any surplus  
12 proceeds from an association foreclosure be paid to junior  
13 creditors and the former owner of the condominium instead of  
14 first being paid to the first mortgage holder.

15           SECTION 2. Section 667-100, Hawaii Revised Statutes, is  
16 amended by amending subsection (b) to read as follows:



1 " (b) From the sale proceeds, after paying in the following  
2 order:

- 3 (1) The association's attorney's fees and costs;
- 4 (2) The fees and costs of the power of sale foreclosure;
- 5 and
- 6 (3) The moneys owed to the association[ ~~and~~
- 7 ~~(4) All other liens and encumbrances in the order of~~
- 8 ~~priority as a matter of law],~~

9 the balance of the sale proceeds shall be distributed by the  
10 association to junior creditors having valid liens on the unit  
11 in the order of their priority and not pro rata. Any remaining  
12 surplus after payment in full of all valid lien creditors shall  
13 be distributed to the unit owner."

14 SECTION 3. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

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

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INTRODUCED BY:

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# S.B. NO. 2662

**Report Title:**

Condominium; Association Foreclosure; Priority

**Description:**

Ensures that any surplus proceeds from an association foreclosure be paid to junior creditors and the former owner of the condominium instead of first being paid to the first mortgage holder.

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

