
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 natural disasters
2 and other economic crises can often lead homeowners to default
3 on their mortgage payments, resulting in a wave of foreclosures.
4 Previous foreclosure crises have resulted in the replacement of
5 owner-occupied homes with investor-owned rentals, prolonged
6 vacancies, and unmaintained residential properties. As climate
7 related crises become more intense and frequent, and as housing
8 cost burdens increase for low- to moderate-income homeowners,
9 the legislature believes it is necessary to ensure that
10 foreclosed homes are not lost to second homebuyers or
11 residential investors.

12 Accordingly, the purpose of this Act is to:

- 13 (1) Prohibit sellers of mortgaged properties in a power of
14 sale foreclosure from bundling properties at a public
15 sale for sale to a single buyer and require each
16 mortgaged property to be bid on separately; and



(2) Allow tenants, families, state and city government departments and agencies, affordable housing nonprofits, and community land trusts forty-five days to match or beat the best public sale bid to buy the property.

SECTION 2. Chapter 667, Hawaii Revised Statutes, is amended by adding two new sections to part II be appropriately designated and to read as follows:

"§667-A Bundled properties; prohibition. Notwithstanding any other law to the contrary, for the public sale of mortgaged property under the power of sale foreclosure in this part, no mortgagee shall bundle mortgaged properties for the purpose of public sale and each mortgaged property shall be bid on separately, unless the deed or mortgage otherwise requires.

§667-B Eligible bidder; subsequent bid. (a) Notwithstanding any other law to the contrary, the public sale of a mortgaged property under a power of sale foreclosure pursuant to this part shall not be deemed final until the earliest of the following:

(1) Fifteen days after the public sale, unless at least one or more eligible bidders submits a:



1 (A) Subsequent bid that is equal to or exceeds the
2 amount of the latest and highest bid of the
3 successful bidder under section 667-29; or

4 (B) Nonbinding written notice of intent to place a
5 subsequent bid.

6 The bid or written notice of intent to place a
7 subsequent bid shall be sent to the mortgagee by
8 certified mail, overnight delivery, or another method
9 that allows for confirmation of the delivery date and
10 shall be received by the mortgagee no later than
11 fifteen days after the public sale; or

12 (2) Forty-five days after the public sale; provided that
13 during the forty-five-day period, an eligible bidder
14 may submit a subsequent bid in an amount that is equal
15 to or exceeds the last and highest bid by the
16 successful bidder under section 667-29.

17 (b) If an eligible bidder submits a subsequent bid that is
18 equal to or exceeds the amount of the last and highest bid by
19 the successful bidder under section 667-29, the eligible bidder
20 shall be the final successful bidder and make the nonrefundable
21 downpayment required under section 667-29.



1 (c) For the purposes of this section:

2 "Eligible bidder" means:

3 (1) An eligible tenant buyer;

4 (2) A prospective owner-occupant;

5 (3) A nonprofit corporation whose primary activity is the
6 development and preservation of affordable housing;

7 (4) A community land trust; or

8 (5) A state or county government department or agency.

9 "Eligible tenant buyer" means a natural person who, at the
10 time of a public sale, is:

11 (1) Occupying the mortgaged property as the person's
12 primary residence;

13 (2) Occupying the mortgaged property under a rental or
14 lease agreement; and

15 (3) Not the mortgagor or the child, spouse, or parent of
16 the mortgagor.

17 "Prospective owner-occupant" means a natural person who
18 presents to the mortgagee an affidavit stating that the person:

19 (1) Will occupy the mortgaged property as the person's
20 primary residence within sixty days of the deed being
21 recorded;



1 (2) Will maintain the person's occupancy in the mortgaged
2 property for at least one year;

3 (3) Are not the mortgagor or the child, spouse, or parent
4 of the mortgagor; and

5 (4) Are not acting as the agent of any other person or
6 entity in purchasing the mortgaged property."

7 SECTION 3. Section 667-29, Hawaii Revised Statutes, is
8 amended to read as follows:

9 **"§667-29 Authorized bidder; successful bidder.** Any
10 person, including the foreclosing mortgagee, [~~shall be~~
11 ~~authorized to~~] may bid for the mortgaged property at the public
12 sale and to purchase the mortgaged property. The highest bidder
13 who meets the requirements of the terms and conditions of the
14 public sale shall be the successful bidder. The public sale
15 shall be considered as being held when the mortgaged property is
16 declared by the foreclosing mortgagee as being sold to the
17 successful bidder. When the public sale is held, the successful
18 bidder at the public sale, as the purchaser, shall make a
19 nonrefundable downpayment to the foreclosing mortgagee of [~~not~~]
20 no less than ten per cent of the highest successful bid
21 price[-]; provided that if the successful bidder loses the bid



1 to an eligible bidder pursuant to section 667-B, the downpayment
2 shall be refunded. If the successful bidder is the foreclosing
3 mortgagee or any other mortgagee having a recorded lien on the
4 mortgaged property before the recordation of the notice of
5 default and intention to foreclose under section 667-23, the
6 downpayment requirement may be satisfied by offset and a credit
7 bid up to the amount of the mortgage debt."

8 SECTION 4. In codifying the new sections added by
9 section 2 of this Act, the revisor of statutes shall substitute
10 appropriate section numbers for the letters used in designating
11 the new sections in this Act.

12 SECTION 5. This Act does not affect rights and duties that
13 matured, penalties that were incurred, and proceedings that were
14 begun before its effective date.

15 SECTION 6. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 7. This Act shall take effect on July 1, 3000.



Report Title:

Foreclosure; Nonjudicial Foreclosure; Power of Sale Foreclosure;
Bundled Properties; Public Sale; Prohibition; Eligible Bidders;
Subsequent Bids

Description:

Prohibits sellers of mortgaged properties in a power of sale foreclosure from bundling properties at a public sale and requires each mortgaged property to be bid on separately. Specifies that the sale of a foreclosed property is not final until the earliest of either fifteen days after the public sale, if an eligible bidder submits a subsequent bid or written notice of intent to submit a subsequent bid, or forty-five days after the public sale, if an eligible bidder submits a subsequent bid. Effective 7/1/3000. (HD2)

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