
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
7 climate-related crises become more intense and frequent, and as
8 housing cost burdens increase for low- to moderate-income
9 homeowners, the legislature believes it is necessary to ensure
10 that 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 and require each mortgaged property to be bid on
16 separately; and



1 (2) Specify that the sale of a foreclosed property is not
2 final until the earliest of either fifteen days after
3 the public sale, if an eligible bidder submits a
4 subsequent bid or written notice of intent to submit a
5 subsequent bid, or forty-five days after the public
6 sale, if an eligible bidder submits a subsequent bid.

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

10 "§667-A Bundled properties; prohibition. Notwithstanding
11 any other law to the contrary, for the public sale of mortgaged
12 property under the power of sale foreclosure process in this
13 part, no mortgagee shall bundle mortgaged properties for the
14 purpose of public sale and each mortgaged property shall be bid
15 on separately, unless the deed or mortgage otherwise requires.

16 §667-B Eligible bidder; subsequent bid. (a)
17 Notwithstanding any other law to the contrary, the public sale
18 of a mortgaged property under a power of sale foreclosure
19 process pursuant to this part shall not be deemed final until
20 the earliest of the following:



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

- 3 (A) Subsequent bid that is equal to or exceeds the
4 amount of the latest and highest bid of the
5 successful bidder under section 667-29; or
6 (B) Nonbinding written notice of intent to place a
7 subsequent bid.

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

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

19 (b) If an eligible bidder submits a subsequent bid that is
20 equal to or exceeds the amount of the latest and highest bid of
21 the successful bidder under section 667-29, the eligible bidder



1 shall be the final successful bidder and make the nonrefundable
2 downpayment required under section 667-29.

3 (c) For the purposes of this section:

4 "Eligible bidder" means:

5 (1) An eligible tenant buyer;

6 (2) A prospective owner-occupant;

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

9 (4) A community land trust; or

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

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

13 (1) Occupying the mortgaged property as the person's
14 primary residence;

15 (2) Occupying the mortgaged property under a rental or
16 lease agreement; and

17 (3) Not the mortgagor or the child, spouse, or parent of
18 the mortgagor.

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



- 1 (1) Will occupy the mortgaged property as the person's
2 primary residence within sixty days of the deed being
3 recorded;
- 4 (2) Will maintain the person's occupancy in the mortgaged
5 property for at least one year;
- 6 (3) Is not the mortgagor or the child, spouse, or parent
7 of the mortgagor; and
- 8 (4) Is not acting as the agent of any other person or
9 entity in purchasing the mortgaged property."

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

12 **"§667-29 Authorized bidder; successful bidder.** Any
13 person, including the foreclosing mortgagee, [~~shall be~~
14 ~~authorized to~~] may bid for the mortgaged property at the public
15 sale and [~~to~~] purchase the mortgaged property. The highest
16 bidder who meets the requirements of the terms and conditions of
17 the public sale shall be the successful bidder. The public sale
18 shall be considered as being held when the mortgaged property is
19 declared by the foreclosing mortgagee as being sold to the
20 successful bidder. When the public sale is held, the successful
21 bidder at the public sale, as the purchaser, shall make a



1 nonrefundable downpayment to the foreclosing mortgagee of [~~not~~]
2 no less than ten per cent of the highest successful bid
3 price[-]; provided that if the successful bidder loses the bid
4 to an eligible bidder pursuant to section 667-B, the downpayment
5 shall be refunded. If the successful bidder is the foreclosing
6 mortgagee or any other mortgagee having a recorded lien on the
7 mortgaged property before the recordation of the notice of
8 default and intention to foreclose under section 667-23, the
9 downpayment requirement may be satisfied by offset and a credit
10 bid up to the amount of the mortgage debt."

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

15 SECTION 5. This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were
17 begun before its effective date.

18 SECTION 6. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 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. (HD3)

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