H.B. NO. 2513

A BILL FOR AN ACT

RELATING TO MORTGAGE FORECLOSURES.

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

1	SECTION 1.	Section 667	-17, Hawaii	Revised	Statutes,	is
2	amended to read	as follows:				

3 "[+]§667-17[+] Attorney affirmation in judicial

foreclosure. Any attorney who files on behalf of a mortgagee 4 seeking to foreclose on a residential property under this part 5 6 shall sign and submit an affirmation that the attorney has verified the accuracy of the documents submitted, under penalty 7 8 of perjury and subject to applicable rules of professional 9 conduct. The affirmation shall be filed with the court at the time that the action is commenced and shall be in substantially 10 11 the following form:

12

"____CIRCUIT COURT OF THE STATE OF HAWAII 13 14 15 Plaintiff, 16 17 v. 18 19 Defendant(s)



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1 Mortgaged Premises: 2 3456789 10 Note: During and after August 2010, numerous and widespread insufficiencies in foreclosure filings in various courts around the nation were reported by major mortgage lenders and other authorities, including failure to review documents and files to establish standing and other foreclosure requisites; filing of notarized affidavits that falsely attest to such review and to other critical facts in the foreclosure process; and "robosignature" of documents. 11 12 * * * 13], Esq., pursuant to Hawaii Revised Statutes §667-17 and under the 14 penalties of perjury, affirms as follows: 15 16 17 1. I am an attorney at law duly licensed to practice in the State of Hawaii and am affiliated with the Law Firm of ______, the attorneys of record for Plaintiff in the above-captioned mortgage foreclosure action. As such, I am fully aware of the underlying 18 19 action, as well as the proceedings had herein. $\mathbf{20}$ 21 2. On [date], I communicated with the following representative or representatives of 22 Plaintiff, who informed me that he/she/they (a) personally reviewed plaintiff's documents 23 and records relating to this case for factual accuracy; and (b) confirmed the factual 24 accuracy of the allegations set forth in the Complaint and any supporting affidavits or 25affirmations filed with the Court, as well as the accuracy of the notarizations contained in 26 the supporting documents filed therewith. 27 28 29 Name Title 30 31 32 33 34 3. Based upon my communication with [persons specified in item 2], as well as upon my 35 own inspection and other reasonable inquiry under the circumstances, I affirm that, to the best of my knowledge, information, and belief, the Summons, Complaint, and other 36 37 papers filed or submitted to the Court in this matter contain no false statements of fact or law and that plaintiff has legal standing to bring this foreclosure action. I understand my 38 39 continuing obligation to amend this Affirmation in light of newly discovered material facts following its filing. **40** 41 42 I am aware of my obligations under Hawaii Rules of Professional Conduct. 4.



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1 2 3	DATED:					
4 5 6 7	N.B.: Counsel may augment this affirmation to provide explanatory details, and may file supplemental affirmations or affidavits for the same purpose.""					
8	SECTION 2. This Act does not affect rights and duties that					
9	matured, penalties that were incurred, and proceedings that were					
10	begun before its effective date.					
11	SECTION 3. Statutory material to be repealed is bracketed					
12	and stricken. New statutory material is underscored.					
13	SECTION 4. This Act shall take effect upon its approval.					
14	INTRODUCED BY: Mile E. Louen					
	.Olm					

JAN 2 3 2014





Report Title:

Mortgage Foreclosures; Affirmation Required When Action Commenced

Description:

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Requires that an affirmation be filed with the court at the time a mortgage foreclosure action is commenced.

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

