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# 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



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

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

9 **"§667-A Bundled properties; prohibition.** Notwithstanding  
 10 any other law to the contrary, for the public sale of mortgaged  
 11 property under the power of sale foreclosure in this part, no  
 12 mortgagee shall bundle mortgaged properties for the purpose of  
 13 public sale and each mortgaged property shall be bid on  
 14 separately, unless the deed or mortgage otherwise requires.

15 **§667-B Eligible bidder; subsequent bid.** (a)  
 16 Notwithstanding any other law to the contrary, the public sale  
 17 of a mortgaged property under a power of sale foreclosure  
 18 pursuant to this part shall not be deemed final until the  
 19 earliest of the following:

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





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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