

---

# 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 foreclosed homes in a nonjudicial  
14      foreclosure from bundling properties at a public sale  
15      for sale to a single buyer and require each foreclosed  
16      home to be sold separately; and



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

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

8           "§667-A Bundled properties; prohibition. Notwithstanding  
9           any other law to the contrary, for the public sale of mortgaged  
10          property under the power of sale foreclosure or alternate power  
11          of sale foreclosure process under this chapter, no mortgagee  
12          shall bundle mortgaged properties for the purpose of public sale  
13          and each mortgaged property shall be bid on separately, unless  
14          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 mortgaged property under a power of sale foreclosure or  
18          alternate power of sale process under this chapter shall not be  
19          deemed final until the earliest of the following:

20                (1) Fifteen days after the public sale, unless at least  
21                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 667-98;

4           or

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

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

13          (2) Forty-five days after the public sale; provided that  
14          during the forty-five-day period, an eligible bidder  
15          may submit a subsequent bid in an amount that is equal  
16          to or exceeds the last and highest bid by the  
17          successful bidder under section 667-29 or 667-98.

18          (b) If an eligible bidder submits a subsequent bid that is  
19          equal to or exceeds the amount of the last and highest bid by  
20          the successful bidder under section 667-29 or 667-98, the  
21          eligible bidder shall be the final successful bidder and make



1 the nonrefundable downpayment required under section 667-29 or  
2 667-98.

3 (c) For 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 their primary  
14 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 they:



- 1        (1) Will occupy the mortgaged property as their primary  
2        residence within sixty days of the deed being  
3        recorded;
- 4        (2) Will maintain their occupancy in the mortgaged  
5        property for at least one year;
- 6        (3) Are not the mortgagor or the child, spouse, or parent  
7        of the mortgagor; and
- 8        (4) Are 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 bidder  
16        who meets the requirements of the terms and conditions of the  
17        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. Section 667-98, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "[~~§~~]**§667-98[+]** **Authorized bidder; successful bidder.** Any  
14 person, including the association, ~~[shall be authorized to]~~ may  
15 bid for the unit at the public sale and to purchase the unit.  
16 The highest bidder who meets the requirements of the terms and  
17 conditions of the public sale shall be the successful bidder.  
18 The public sale shall be considered as being held when the unit  
19 is declared by the association as being sold to the successful  
20 bidder. When the public sale is held, the successful bidder at  
21 the public sale, as the purchaser, shall make a nonrefundable



1 downpayment to the association of [~~not~~] no less than ten per  
2 cent of the highest successful bid price[-]; provided that if  
3 the successful bidder loses the bid to an eligible bidder  
4 pursuant to section 667-B, the downpayment shall be refunded.  
5 If the successful bidder is the association, the downpayment  
6 requirement may be satisfied by offset and a credit bid up to  
7 the amount of the lien debt."

8 SECTION 5. In codifying the new sections added by section  
9 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 6. 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 7. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 8. This Act shall take effect on July 1, 3000.



**Report Title:**

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

**Description:**

Prohibits sellers of foreclosed homes from bundling properties at a public sale and requires each foreclosed home to be sold separately. Specifies that the sale of a foreclosed property is not final until either fifteen days after the public sale or forty-five days if an eligible bidder submits a subsequent bid or written notice of intent to submit a subsequent bid. Effective 7/1/3000. (HD1)

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

