
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, 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 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 or alternate power
12 of sale foreclosure process under this chapter, no mortgagee
13 shall bundle mortgaged properties for the purpose of public sale
14 and each mortgaged property shall be bid on separately, unless
15 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 or
19 alternate power of sale process pursuant to this chapter shall
20 not be deemed final until 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 667-98;
6 or
7 (B) Nonbinding written notice of intent to place a
8 subsequent bid.

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

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

- 20 (b) If an eligible bidder submits a subsequent bid that is
21 equal to or exceeds the amount of the last and highest bid by



1 the successful bidder under section 667-29 or 667-98, the
2 eligible bidder shall be the final successful bidder and make
3 the nonrefundable downpayment required under section 667-29 or
4 667-98.

5 (c) For the purposes of this section:

6 "Eligible bidder" means:

7 (1) An eligible tenant buyer;

8 (2) A prospective owner-occupant;

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

11 (4) A community land trust; or

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

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

15 (1) Occupying the mortgaged property as their primary
16 residence;

17 (2) Occupying the mortgaged property under a rental or
18 lease agreement; and

19 (3) Not the mortgagor or the child, spouse, or parent of
20 the mortgagor.



1 "Prospective owner-occupant" means a natural person who
2 presents to the mortgagee an affidavit stating that they:

3 (1) Will occupy the mortgaged property as their primary
4 residence within sixty days of the deed being
5 recorded;

6 (2) Will maintain their occupancy in the mortgaged
7 property for at least one year;

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

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

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

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



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

13 SECTION 4. Section 667-98, Hawaii Revised Statutes, is
14 amended to read as follows:

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



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

10 SECTION 5. In codifying the new sections added by
11 section 2 of this Act, the revisor of statutes shall substitute
12 appropriate section numbers for the letters used in designating
13 the new sections in this Act.

14 SECTION 6. This Act does not affect rights and duties that
15 matured, penalties that were incurred, and proceedings that were
16 begun before its effective date.

17 SECTION 7. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 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)

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