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# A BILL FOR AN ACT

RELATING TO MORTGAGES.

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

1 SECTION 1. Section 506-1, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§506-1 Lien of mortgages of real property or fixtures;**  
4 **debts secured; priority.** (a) Every transfer of an interest in  
5 real property or fixtures made as security for the performance  
6 of another act or subject to defeasance upon the payment of an  
7 obligation, whether the transfer is made in trust or otherwise,  
8 is to be deemed a mortgage and shall create a lien only as  
9 security for the obligation and shall not be deemed to pass  
10 title.

11 (b) A mortgage may secure the repayment of past debt, a  
12 debt incurred at the time the mortgage is executed, or a debt  
13 incurred for advances which may be made by the mortgagee  
14 subsequent to the execution of the mortgage even though the  
15 mortgagee is under no contractual duty to make these advances.  
16 Except as otherwise provided in sections 490:9-334 and 490:9-604  
17 of the Uniform Commercial Code with respect to security



1 interests in fixtures, a mortgage which secures future advances,  
2 up to but not exceeding the maximum amount of future advances  
3 stated in the mortgage, shall be superior to any subsequently  
4 recorded mortgage, lien, or other encumbrances or conveyance,  
5 other than liens for real property taxes and assessments for  
6 public improvements, even though the subsequently recorded  
7 mortgage, lien, or other encumbrance or conveyance is recorded  
8 [~~prior to~~] before the date upon which any advance or advances  
9 have been made.

10 (c) A mortgage does not exist independent of the debt it  
11 secures and shall not be independently enforceable from the  
12 debt."

13 SECTION 2. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15 SECTION 3. This Act shall take effect on July 1, 3000.



**Report Title:**

Mortgages; Debt; Secured Transactions

**Description:**

Clarifies that a mortgage does not exist independent of the debt it secures and shall not be independently enforceable from the debt. 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.*

