

ACT 4

H.B. NO. 2585

A Bill for an Act Relating to Foreclosures.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 667-92, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) If the association is unable to serve the notice of default and intention to foreclose on the unit owner or any other party listed in subsection (e)(2) to (5) within sixty days, the association may:

- (1) File a special proceeding in the circuit court of the circuit in which the unit is located, for permission to proceed with a nonjudicial foreclosure by serving the unit owner [only] or any other party listed in subsection (e)(2) and (e)(5) by publication and posting;
- (2) Proceed with a nonjudicial foreclosure of the unit; provided that if the association proceeds without the permission of the court, the association shall not be entitled to obtain a deficiency judgment against the unit owner, and the unit owner shall have one year from the date the association records the deed in the nonjudicial foreclosure to redeem the unit by paying the unit owner’s delinquency to the association; or
- (3) Take control of the unit if the unit is unoccupied, after giving notice to the unit owner at the unit owner’s last known address as shown on the records of the association or as determined by the association as part of its due diligence to serve notice to the owner. The association’s authority to take control of the unit pursuant to this paragraph shall be exercised solely for the purpose of renting the unit to generate rental income to pay the unit owner’s delinquency, and the association shall acquire no legal title to the unit. In addition, the association shall credit the net rental proceeds generated from the rental of the unit to the owner’s delinquency. For purposes

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of this paragraph, "net rental proceeds" means the rental proceeds remaining each month after deducting:

- (A) The unit's regular monthly assessments that come due while the association controls the unit pursuant to this subsection;
- (B) Any rental agent commissions; and
- (C) Expenses incurred by the association in maintaining the unit in rentable condition.

If the unit owner pays the full amount of the unit owner's delinquency to the association, the association shall return control of the unit to the unit owner; provided that the full amount of the unit owner's delinquency shall be calculated by deducting the total net rental proceeds collected by the association, if any, from the unit owner's delinquency."

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 1, 2014.)