

ACT 105

S.B. NO. 332

A Bill for an Act Relating to Foreclosures.

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

SECTION 1. The legislature finds that natural disasters and other economic crises can often lead homeowners to default on their mortgage payments, resulting in a wave of foreclosures. Previous foreclosure crises have resulted in the replacement of owner-occupied homes with investor-owned rentals, prolonged vacancies, and unmaintained residential properties. As climate-related crises become more intense and frequent, and as housing cost burdens increase for low- to moderate-income homeowners, the legislature believes it is necessary to ensure that foreclosed homes are not lost to second homebuyers or residential investors.

Accordingly, the purpose of this Act is to:

- (1) Prohibit sellers of mortgaged properties in a power of sale foreclosure from bundling properties at a public sale and require each mortgaged property to be bid on separately; and
- (2) Specify that the sale of a foreclosed property is not final until the earliest of either fifteen days after the public sale, unless 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.

SECTION 2. Chapter 667, Hawaii Revised Statutes, is amended by adding two new sections to part II¹ be appropriately designated and to read as follows:

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

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

- (1) Fifteen days after the public sale, unless at least one or more eligible bidders submits a:
 - (A) Subsequent bid that is equal to or exceeds the amount of the latest and highest bid of the successful bidder under section 667-29; or
 - (B) Nonbinding written notice of intent to place a subsequent bid. The bid or written notice of intent to place a subsequent bid shall be sent to the mortgagee by certified mail, overnight delivery, or another method that allows for confirmation of the delivery date and

shall be received by the mortgagee no later than fifteen days after the public sale; or

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

(b) If an eligible bidder submits a subsequent bid that is equal to or exceeds the amount of the latest and highest bid of the successful bidder under section 667-29, the eligible bidder shall be the final successful bidder and make the nonrefundable downpayment required under section 667-29.

(c) For the purposes of this section:

“Eligible bidder” means:

- (1) An eligible tenant buyer;
- (2) A prospective owner-occupant;
- (3) A nonprofit corporation whose primary activity is the development and preservation of affordable housing;
- (4) A community land trust; or
- (5) A state or county government department or agency.

“Eligible tenant buyer” means a natural person who, at the time of a public sale, is:

- (1) Occupying the mortgaged property as the person’s primary residence;
- (2) Occupying the mortgaged property under a rental or lease agreement; and
- (3) Not the mortgagor or the child, spouse, or parent of the mortgagor.

“Prospective owner-occupant” means a natural person who presents to the mortgagee an affidavit stating that the person:

- (1) Will occupy the mortgaged property as the person’s primary residence within sixty days of the deed being recorded;
- (2) Will maintain the person’s occupancy in the mortgaged property for at least one year;
- (3) Is not the mortgagor or the child, spouse, or parent of the mortgagor; and
- (4) Is not acting as the agent of any other person or entity in purchasing the mortgaged property.”

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

“§667-29 Authorized bidder; successful bidder. Any person, including the foreclosing mortgagee, ~~[shall be authorized to]~~ may bid for the mortgaged property at the public sale and ~~[to]~~ purchase the mortgaged property. The highest bidder who meets the requirements of the terms and conditions of the public sale shall be the successful bidder. The public sale shall be considered as being held when the mortgaged property is declared by the foreclosing mortgagee as being sold to the successful bidder. When the public sale is held, the successful bidder at the public sale, as the purchaser, shall make a nonrefundable downpayment to the foreclosing mortgagee of not less than ten per cent of the highest successful bid price~~[-];~~ provided that if the successful bidder loses the bid to an eligible bidder pursuant to section 667-B, the downpayment shall be refunded. If the successful bidder is the foreclosing mortgagee or any other mortgagee having a recorded lien on the mortgaged property before the recordation of the notice of default and intention to foreclose under section 667-23, the downpayment requirement may be satisfied by offset and a credit bid up to the amount of the mortgage debt.”

ACT 105

SECTION 4. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.²

SECTION 7. This Act shall take effect on July 1, 2025.

(Approved May 29, 2025.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.