

JAN 21 2011

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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. Chapter 667, Hawaii Revised Statutes, is  
2 amended by adding a new section to part III to be appropriately  
3 designated and to read as follows:

4           "~~§667-~~ Mediation; foreclosure suspended. Prior to  
5 initiating any judicial or non-judicial foreclosure under part I  
6 or part II, the mortgagee shall provide the borrower with an  
7 opportunity to participate in foreclosure mediation to resolve  
8 the issues that caused the foreclosure and shall be prohibited  
9 from initiating foreclosure proceedings while the mediation is  
10 pending; provided that the mediation period shall not exceed  
11 \_\_\_\_\_ months."

12           SECTION 2. Section 454M-5, Hawaii Revised Statutes, is  
13 amended by amending subsection (a) to read as follows:

14           "(a) A mortgage servicer licensed or acting under this  
15 chapter, in addition to duties imposed by law, shall:

16           (1) Safeguard and account for any money handled for the  
17           borrower;



- 1           (2) Act with reasonable skill, care, timeliness,
- 2                   promptness, and diligence;
- 3           (3) Disclose to the commissioner in the application and
- 4                   yearly renewal a complete, current schedule of the
- 5                   ranges of costs and fees it charges borrowers for its
- 6                   servicing-related activities; [and]
- 7           (4) File with the commissioner upon request a report in a
- 8                   form and format acceptable to the director detailing
- 9                   the servicer's activities in this State, including:
- 10                   (A) The number of mortgage loans the servicer is
- 11                           servicing;
- 12                   (B) The type and characteristics of such loans in
- 13                           this State;
- 14                   (C) The number of serviced loans in default, along
- 15                           with a breakdown of thirty-, sixty-, and ninety-
- 16                           day delinquencies;
- 17                   (D) Information on loss mitigation activities,
- 18                           including details on workout arrangements
- 19                           undertaken;
- 20                   (E) Information on foreclosures commenced in this
- 21                           State; and



1 (F) Any other information that the commissioner may  
2 require[-]; and

3 (5) Maintain an office in the State that is staffed by at  
4 least one agent or employee for the purposes of  
5 addressing consumer inquiries or complaints and  
6 accepting service of process."

7 SECTION 3. During the fiscal year beginning on July 1,  
8 2011, and ending on June 30, 2012, no mortgagee having a power  
9 of sale contained in a mortgage shall initiate either a  
10 foreclosure by power of sale under part I, chapter 667, Hawaii  
11 Revised Statutes, or an alternate power of sale foreclosure  
12 process under part II, chapter 667, Hawaii Revised Statutes,  
13 upon a breach of a condition of the mortgage agreement.

14 SECTION 4. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 5. This Act shall take effect on July 1, 2011.

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INTRODUCED BY:

Mike Gabbard

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**Report Title:**

Mortgages; Borrowers

**Description:**

Requires a Hawaii agent for mortgage servicers, requires foreclosing mortgagees to engage in mediation, and places a moratorium on non-judicial foreclosures.

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

