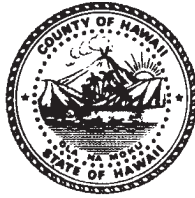


COUNTY OF HAWAI‘I



STATE OF HAWAI‘I

BILL NO. 71  
(DRAFT 2)

ORDINANCE NO. 14 126

**AN ORDINANCE AMENDING CHAPTER 19, ARTICLE 5 OF THE HAWAI‘I COUNTY CODE 1983 (2005 EDITION, AS AMENDED), RELATING TO REAL PROPERTY TAXES, LIENS, FORECLOSURES, AND NOTICE.**

**BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI‘I:**

**SECTION 1.** Purpose. The purpose of this ordinance is to reduce the number of years required to foreclose on a property for delinquent real property taxes from three to two years, thus allowing the County to sell the foreclosed property at public auction to recoup unpaid taxes, penalties, and various administrative costs in a timelier manner. This reduction in the holding period also decreases the period the property is left vacant thereby lessening the potential loss of value due to deterioration in its condition. Additionally, this ordinance relocates notice requirements previously placed in Section 19-38 into the appropriate Section 19-40, to ensure that all notice requirements are provided in a single location.

**SECTION 2.** Chapter 19, article 5, section 19-38 of the Hawai‘i County Code 1983 (2005 edition, as amended), is amended to read as follows:

**“Section 19-38. Tax liens; foreclosure without suit [~~notice~~].**

~~[All real property on which a lien for taxes exists may be sold by way of foreclosure without suit by the director, and in case any lien, or any part thereof, has existed thereon for three years, shall be sold by the director at public auction to the highest bidder, for cash, to satisfy the lien, together with all interest, penalties, costs, and expenses due or incurred on account of the tax, lien, and sale, the surplus, if any, to be rendered to the person thereto entitled. The sale shall be held at any public place proper for sales on execution, after notice published at least once a week for at least four successive weeks immediately prior thereto in any newspaper with a general circulation of at least sixty thousand published in the State and any newspaper of general circulation published and distributed in the County. If the address of the owner is known or can be ascertained by due diligence, including an abstract of title or title search, the director shall send to each owner notice of the proposed sale by registered mail, with request for return receipt. If the address of the owner is unknown, the director shall send a notice to the owner at the owner’s last known address as shown on the records of the department of finance. The notice shall be deposited in the mail at least forty five days prior to the date set for the sale. The notice shall also be posted for a like period in at least three~~

conspicuous public places within the county and if the land is improved, one of the three postings shall be on the land.]

- (a) All real property on which any lien, or part thereof, for taxes levied pursuant to this Code has existed for at least two years may be sold by way of foreclosure without suit by the director or as otherwise specified in this Code.
- (b) Such delinquent real property shall be sold by the director or the director's designated representative at public auction to the highest bidder, for cash, to satisfy the lien, together with all interest, penalties, costs, and expenses due or incurred on account of the taxes, lien, and sale.
- (c) The surplus funds from the tax foreclosure sale, if any, shall be rendered to the person(s) legally entitled to the surplus funds resulting from the sale.
- (d) The sale shall be held at any public place proper for sales on execution of the foreclosure."

**SECTION 3.** Chapter 19, article 5, section 19-40 of the Hawai'i County Code 1983 (2005 edition, as amended), is amended to read as follows:

**"Section 19-40. [Same; notice, for of.] Notice; sale of foreclosed property without suit.**

~~[The notice of sale shall contain the names of the persons assessed, the names of the present owners (so far as shown by the records of the director and the records, if any, in the office of the assistant registrar of the land court) the character and amount of the tax, and the tax year or years, with interest, penalties, costs, expenses, and charges accrued or to accrue to the date appointed for the sale, a brief description of the property to be sold, and the time and place of sale, and shall warn the persons assessed, and all persons having or claiming to have any mortgage or other lien thereon or any legal or equitable right, title, or other interest in the property, that unless the tax, with all interest, penalties, costs, expenses, and charges accrued to the date of payment, is paid before the time of sale appointed, the property advertised for sale will be sold as advertised. The director may include in one advertisement of notice of sale notice of foreclosure upon more than one parcel of real property, whether or not owned by the same person and whether or not the liens are for the same tax year or years.]~~

- (a) The notice of tax foreclosure without suit and tax sale shall contain:
  - (1) The names of the persons assessed;
  - (2) The names of the present owners as shown by the records of the director and the records if any of the assistant registrar of the land court;
  - (3) The character and amount of tax and year or years taxes are delinquent, with interest, penalties, costs, expenses, and charges accrued or to be accrued to the appointed date of sale;
  - (4) A brief description of the property;
  - (5) The time and place of the sale; and
  - (6) A warning to the persons assessed, and all persons having or claiming to have any mortgage or other lien thereon on that property or any legal or equitable right, title, or other interest in the property, that unless the tax, together with all interest, penalties, costs, expenses, and charges accrued to

the date of payment, is paid before the appointed time of sale, the property advertised for sale will be sold as advertised.

- (b) The procedure for noticing a tax foreclosure without suit and sale shall be as follows:
- (1) Notice shall be published at least once a week for at least four successive weeks immediately prior to the sale in any newspaper with a general circulation of at least sixty thousand published in the State and any two newspapers of general circulation published and distributed in the County;
  - (2) If the address of the owner is known or can be ascertained by due diligence, including an abstract of title or title search, the director shall send to each owner notice of the proposed sale by registered mail, with request for return receipt. If the address of the owner is unknown, the director shall send a notice to the owner at the owner's last known address as shown on the records of the department of finance;
  - (3) The notice shall be deposited in the mail at least forty-five days prior to the date set for the sale; and
  - (4) The notice shall also be posted for a like period in at least three conspicuous public places within the County and if the land is improved, one of the three postings shall be on the land.
- (c) The director may include in one advertisement of notice of sale the notice of foreclosure upon more than one parcel of real property, whether or not owned by the same person and whether or not the liens are for the same tax year or years."

**SECTION 4.** Material to be repealed is bracketed and stricken. New material is underscored. In printing this ordinance, the brackets, bracketed and stricken material and underscoring need not be included.

**SECTION 5.** Severability. If any provision of this ordinance or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are declared to be severable.

**SECTION 6.** This ordinance shall take effect upon its approval.

INTRODUCED BY:



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COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i

Date of Introduction: October 15, 2014

Date of 1st Reading: October 15, 2014

Date of 2nd Reading: November 7, 2014

Effective Date: November 26, 2014

OFFICE OF THE COUNTY CLERK  
 County of Hawai'i  
 Hilo, Hawai'i

COUNTY CLERK  
 COUNTY OF HAWAII  
 2014 NOV 26 PM 2:19

Introduced By: Brenda J. Ford  
 Date Introduced: October 15, 2014  
 First Reading: October 15, 2014  
 Published: N/A

REMARKS: \_\_\_\_\_  
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Second Reading: November 7, 2014  
 To Mayor: November 18, 2014  
 Returned: November 26, 2014  
 Effective: November 26, 2014  
 Published: December 6, 2014



REMARKS: \_\_\_\_\_  
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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Eoff	X			
Ford	X			
Ilagan		X		
Kanuha	X			
Kern		X		
Onishi		X		
Poindexter			X	
Wille	X			
Yoshimoto	X			
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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Eoff	X			
Ford	X			
Ilagan		X		
Kanuha	X			
Kern			X	
Onishi		X		
Poindexter	X			
Wille	X			
Yoshimoto	X			
	6	2	1	0

I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

Approved/Disapproved this 26<sup>th</sup> day  
 of November, 2014.  
  
 MAYOR, COUNTY OF HAWAII

  
 COUNCIL CHAIRPERSON  
  
 COUNTY CLERK

Bill No.: 71 (Draft 2)  
 Reference: C-261.3/FC-195  
 Ord No.: 14 126