

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE HOUSE

2 HOUSE BILL NO. 433

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing a moratorium on judicial and
7 nonjudicial foreclosures; and providing for an effective date."
8

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. LEGISLATIVE DETERMINATION AND FINDINGS. (a) The legisla-
11 ture determines the present emergency in the state requires that it enact
12 legislation granting the courts of the state emergency authority to deal
13 with the economic emergency facing the state. The legislature further
14 determines that the following legislation does not impair the obligation of
15 contract guaranteed under the Constitution of the United States or of the
16 State of Alaska when it enacts legislation within its police power and
17 within its reserved power to protect its sovereignty, its government, its
18 people, and their welfare against exigencies that may arise in the present
19 great emergency.

20 (b) The legislature finds that the state is experiencing a great
21 economic crisis and that it is in the public interest to declare a mora-
22 torium on the foreclosure of certain liens on property in the state. The
23 legislature finds that among the reasons for the declaration of the mora-
24 torium as provided in this Act are the following purposes:

25 (1) to give the owner of mortgaged property protection during
26 the emergency;

27 (2) to afford relief to mortgagors finding themselves in oppres-
28 sed and straitened circumstances due to the economic conditions in the
29 state;

1 (3) to prevent valuable property from being sold at distressed
2 prices;

3 (4) to prevent a sale or foreclosure of property at a time when
4 there is no market for the property and limited opportunities for refinanc-
5 ing;

6 (5) to prevent double recoveries by mortgagees; and

7 (6) to prevent creditors, as well as debtors, from suffering
8 unnecessary losses resulting from the economic conditions in the state.

9 * Sec. 2. NONJUDICIAL FORECLOSURES. (a) In a nonjudicial foreclosure
10 of a mortgage or deed of trust where the period for the redemption by the
11 mortgagor or trustor has not expired, the owner of the property may apply
12 to the superior court for an order delaying the expiration of the period
13 for redemption or other proceedings related to the foreclosure until one
14 year after the effective date of this Act. Until one year after the effec-
15 tive date of this Act, the owner of the property has the exclusive right to
16 redeem the property and is entitled to possession of the property.

17 (b) The superior court, on an application for an extension of the
18 period of redemption or of other proceedings related to the foreclosure
19 under (a) of this section, shall issue an order delaying the expiration of
20 the period for redemption on its determination, after notice and an oppor-
21 tunity for a hearing, that the owner of the property has agreed to and has
22 made the payment of a reasonable rental for the property for the period.
23 The reasonable rental shall be determined by the court based on the reason-
24 able economic value of the property on the date of the request, the past-
25 due or anticipated expenses of taxes, insurance, and other amounts required
26 to preserve the property, and the payment by the owner of the amounts due
27 as principal under the mortgage.

28 (c) If the owner of the property subject to an order issued under (b)
29 of this section fails to comply with the order, the order extending the

1 period of redemption may be set aside after notice and an opportunity for a
2 hearing.

3 (d) The provisions of (a) - (c) of this section supersede, for one
4 year after the effective date of this Act, the provisions of any other law
5 inconsistent with this section.

6 * Sec. 3. JUDICIAL FORECLOSURES. (a) In a judicial foreclosure of a
7 mortgage or deed of trust where the period for the redemption by the mort-
8 gator or trustor has not expired under AS 09.35.250, other law, or under
9 the mortgage or deed of trust, the owner of the property may apply to the
10 superior court for an order delaying the expiration of the period for
11 redemption or other proceedings related to the foreclosure until two years
12 after the effective date of this Act. Until two years after the effective
13 date of this Act, the owner of the property has the exclusive right to
14 redeem the property and is entitled to possession of the property.

15 (b) The superior court, on an application for an extension of the
16 period of redemption under (a) of this section, shall issue an order delay-
17 ing the expiration of the period for redemption on its determination, after
18 notice and an opportunity for a hearing, that the owner of the property has
19 agreed to and has made the payment of a reasonable rental for the property
20 for the period. The reasonable rental shall be determined by the court
21 based on the reasonable economic value of the property on the date of the
22 request, the past-due or anticipated expenses of taxes, insurance, and
23 other amounts required to preserve the property, and the payment by the
24 owner of the amounts due as principal under the mortgage.

25 (c) If the owner of the property subject to an order issued under (b)
26 of this section fails to comply with the order, the order extending the
27 period of redemption may be set aside after notice and an opportunity for a
28 hearing.

29 (d) The provisions of (a) - (c) of this section supersede, for two

1 years following the effective date of this Act, the provisions of any other
2 law inconsistent with this section.

3 * Sec. 4. If the period for the redemption by the mortgagor or trustor
4 expires within 30 days after the effective date of this Act, the period for
5 the redemption is extended to 30 days after the effective date of this Act.

6 * Sec. 5. In this Act, "property" means real property and vessels.

7 * Sec. 6. This Act is repealed two years after the effective date of
8 this Act.

9 * Sec. 7. This Act takes effect immediately under AS 01.10.070(c).