

Original sponsor: Labor and Commerce Committee

1 IN THE HOUSE  
2 CS FOR HOUSE BILL NO. 433 (L&C)  
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 on residential property; and  
8 providing for an effective date."  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
10 \* Section 1. LEGISLATIVE DETERMINATION AND FINDINGS. The legislature  
11 finds that an economic emergency currently exists in the state that threat-  
12 ens to undermine a substantial public investment in residential housing and  
13 that is causing residents of the state to be displaced from their homes and  
14 has substantially increased insolvencies and bankruptcies among individuals  
15 and private and public financial institutions in the state that has brought  
16 great harm to the people of the state. The legislature further finds that  
17 the compelling public interest requires the legislature to enact legis-  
18 lation granting the courts of the state emergency authority to deal with  
19 the economic emergency facing the state residential housing market in order  
20 to prevent further damage to the public welfare. The legislature further  
21 determines that the following legislation does not impair the obligation of  
22 contract guaranteed under the Constitution of the United States or of the  
23 State of Alaska when it enacts legislation within its police power and  
24 within its reserved power to protect its sovereignty, its government, its  
25 people, and their welfare against exigencies that may arise in the present  
26 great emergency.  
27 \* Sec. 2. NONJUDICIAL FORECLOSURES. (a) In a nonjudicial foreclosure  
28 of a mortgage or deed of trust on residential property where the period for  
29 the redemption by the mortgagor or trustor has not expired, the owner of

1 the residential property may apply to the superior court for an order  
2 delaying the expiration of the period for redemption or other proceedings  
3 related to the foreclosure until one year after the effective date of this  
4 Act. Until one year after the effective date of this Act, the owner of the  
5 residential property has the exclusive right to redeem the property and is  
6 entitled to possession of the property.

7 (b) The superior court, on an application for an extension of the  
8 period of redemption or of other proceedings related to the foreclosure of  
9 residential property under (a) of this section, shall issue an order delay-  
10 ing the expiration of the period for redemption on its determination, after  
11 notice and an opportunity for a hearing, that the property is residential  
12 property and that the owner of the residential property has agreed to and  
13 has made the payment of a reasonable rental for the residential property  
14 for the period. The reasonable rental shall be determined by the court  
15 based on the reasonable economic value of the residential property on the  
16 date of the request, the past-due or anticipated expenses of taxes, insur-  
17 ance, amounts due to a common interest community, and other amounts requir-  
18 ed to preserve the residential property, and the payment by the owner of  
19 the amounts due as principal under the mortgage. In no case may the rea-  
20 sonable rental determined by the court be less than 50 percent of the total  
21 of the monthly mortgage payment and any amounts due to a common interest  
22 community.

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

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

1     \* Sec. 3. JUDICIAL FORECLOSURES. (a) In a judicial foreclosure of a  
2 mortgage or deed of trust on residential property where the period for the  
3 redemption by the mortgagor or trustor has not expired under AS 09.35.250,  
4 other law, or under the mortgage or deed of trust, the owner of the resi-  
5 dential property may apply to the superior court for an order delaying the  
6 expiration of the period for redemption or other proceedings related to the  
7 foreclosure until two years after the effective date of this Act. Until  
8 two years after the effective date of this Act, the owner of the residen-  
9 tial property has the exclusive right to redeem the property and is enti-  
10 tled to possession of the property.

11       (b) The superior court, on an application for an extension of the  
12 period of redemption under (a) of this section, shall issue an order delay-  
13 ing the expiration of the period for redemption on its determination, after  
14 notice and an opportunity for a hearing, that the property is residential  
15 property and that the owner of the residential property has agreed to and  
16 has made the payment of a reasonable rental for the residential property  
17 for the period. The reasonable rental shall be determined by the court  
18 based on the reasonable economic value of the residential property on the  
19 date of the request, the past-due or anticipated expenses of taxes, insur-  
20 ance, amounts due to a common interest community, and other amounts re-  
21 quired to preserve the residential property, and the payment by the owner  
22 of the amounts due as principal under the mortgage. In no case may the  
23 reasonable rental determined by the court be less than 50 percent of the  
24 total of the monthly mortgage payment and any amounts due to a common  
25 interest community.

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

1 (d) The provisions of (a) - (c) of this section supersede, for two  
2 years following the effective date of this Act, the provisions of any other  
3 law inconsistent with this section.

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

8 \* Sec. 5. In this Act, "residential property" includes vessels used for  
9 residential purposes.

10 \* Sec. 6. This Act is repealed two years after the effective date of  
11 this Act.

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