



Hawai'i Home Advocates

"Understanding Makes All the Difference."™

NOTICE OF DEFAULT

What It Means & What to Do

A plain-English guide for Hawai'i homeowners who have received a Notice of Default.

"Understanding Makes All the Difference."™

ONE MISSION · THREE GOALS

One Mission: To educate homeowners.

Three Goals: To help Hawai'i homeowners —

1. Understand their situation,
2. Learn their rights and options, and
3. Navigate toward the best possible outcome.

Everything here is free. Nothing is required.

And every path leads to your best interest.

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MORTGAGE DISTRESS — BEST TIME TO ACT IS BEFORE THE NOD ARRIVES

Missed payments are the most common path to a NOD in Hawai'i. Job loss, medical hardship, divorce, and deployment are the most frequent triggers. If you are behind but have not received a NOD yet — you still have the most options.

🛡️ Federal 120-day rule: Your servicer generally cannot officially begin foreclosure until you are **120+ days past due** (12 C.F.R. §1024.41) — roughly four months from your first missed payment. Use this window to engage your servicer immediately.

🛡️ Federal dual-tracking ban: Once you submit a complete loss mitigation application, your servicer cannot simultaneously advance the foreclosure. Submit everything in writing and keep proof. If foreclosure continues while your application is pending, that is a federal violation — raise it with a HUD counselor or attorney immediately.

Warning Signs You're Heading Toward a NOD

- ✓ Missed one or more mortgage payments
- ✓ Receiving collection calls or letters from your servicer
- ✓ Received a "Notice of Intent to Foreclose" or similar letter
- Lender referred your loan to loss mitigation or collections

What to Do Before You Receive a NOD

- ✓ Call your servicer's loss mitigation department immediately
- ✓ Request forbearance or loan modification in writing — keep copies
- ✓ If not yet behind: ask about refinancing to lower your payment
- ✓ Contact a HUD-approved housing counselor for free guidance
- Do not ignore letters from your lender — deadlines are real
- Do not stop partial payments without written servicer agreement

■ If you've already received a NOD — continue reading. It is not the end. It starts a critical clock, but you still have options. Immediate action is what keeps those options open.

■ **Natural disaster?** A presidentially-declared disaster triggers automatic forbearance and foreclosure suspension for FHA, VA, USDA, Fannie Mae, and Freddie Mac loans. Call your servicer and reference the disaster. Check disasterassistance.gov.

WHAT IS A NOTICE OF DEFAULT? — A NOD IS NOT THE END

ANOD is a formal legal notice that your mortgage is in default — and it starts a critical clock. Acting early gives you the most options.

What Triggers a NOD?

- ✓ Typically 3–6 missed payments (varies by lender)
- ✓ Failure to maintain homeowner's insurance
- ✓ Failure to pay property taxes (lender may escrow and advance)
- NOD is filed with the county — it becomes a public record

■ In Hawai'i there is **NO post-sale right of redemption** — once the auction happens, the home is gone. Act before the auction, not after.

What Happens After a NOD?

Stage	What Happens	Your Window
NOD Filed	Formal notice recorded with county. Clock starts.	Watch for DCCA's notice
DCCA Mails Notice	DCCA sends MFDR eligibility notice to you	30-day clock starts
60–90 Days	If no resolution, lender may file Notice of Sale	Options narrowing
Auction	Property sold. No right of redemption in Hawai'i.	Act now
15–45 Days Post-Sale	Sale not final — eligible bidders may match winning bid (HB467, July 2025)	New 2025 right

NEW 2025 LAW (HB467, eff. July 1, 2025): Non-judicial foreclosure sales are no longer immediately final. For up to 45 days after the auction, **eligible bidders** — tenants in the property, prospective owner-occupants, government agencies, affordable housing nonprofits, and community land trusts (CLTs) — may submit a subsequent bid equal to or exceeding the winning bid. Properties also cannot be bundled; each must be sold separately. If you have a tenant or want a nonprofit to step in, they now have a legal window to act.

YOUR RIGHTS AFTER A NOD — HAWAI'I LAW GIVES YOU IMPORTANT PROTECTIONS

■ Free State Mediation — MFDR Program

- ✓ Hawaii's MFDR (Mortgage Foreclosure Dispute Resolution) program is free for non-judicial foreclosures only
- ✓ Pauses the non-judicial foreclosure and forces your lender to the table
- ✓ **Deadline: 30 days from the date DCCA mails you the eligibility notice** — watch for DCCA's letter; that is when your clock starts
- ✓ A **\$300 nonrefundable fee** is required when you submit your participation form
- ✓ You must have **owner-occupied the property for at least 200 days** to be eligible
- Call DCCA: **808-586-2886** to confirm your status and get the form

■ **Critical tradeoff:** Once you elect to participate in MFDR, you **permanently lose the right to convert to judicial foreclosure**. These are mutually exclusive paths. Consult a HUD counselor or attorney before deciding which path is right for your situation.

■ Right to Stay in Your Home

- ✓ You have the legal right to remain in your home until the foreclosure process is legally complete
- Moving out early can waive legal rights — do not leave without consulting an attorney

■ Active Duty Military — SCRA Protection

- ✓ SCRA (Servicemembers Civil Relief Act): if mortgage predates active duty, lender cannot foreclose without a court order
- ✓ Protection lasts through active duty and 12 months after separation
- Must invoke in writing — contact your JAG (Judge Advocate General) office immediately

■ **Know the difference:** Hawaii's lenders increasingly use **judicial foreclosure** to bypass MFDR. If you need housing legal help, contact:
Volunteer Legal Services: 808-528-7046 (O'ahu) | vlsh.org

YOUR OPTIONS AFTER A NOD — MORE CHOICES THAN YOU MAY REALIZE

A NOD does not mean foreclosure is inevitable. The earlier you act, the more options remain open.

Request MFDR Mediation Non-Judicial Only

- ✓ Free — call DCCA at **808-586-2886**; **30 days from DCCA's mailing** to submit form + \$300 fee
- ✓ Must have owner-occupied 200+ days; pauses foreclosure while you negotiate
 - Choosing MFDR permanently waives your right to convert to judicial foreclosure

Forbearance

- ✓ Temporary pause in payments — not forgiveness; must be repaid
- ✓ When it ends: choose deferral (missed payments moved to end of loan), repayment plan, or modification
 - Apply directly with servicer's loss mitigation department

Loan Modification

- ✓ Permanently changes loan terms — lower rate, extended term, or reduced balance
 - Apply early — requires hardship proof and income docs; process takes months

Short Sale

- ✓ Sell for less than owed with lender approval — better for credit than foreclosure
- May have tax consequences — consult a CPA (Certified Public Accountant)

List on Open Market

- ✓ If you have equity — maximizes proceeds and stops foreclosure
 - If NOD is far advanced, timeline may be very tight

Direct Sale Fast Option

- ✓ Closes in 2–3 weeks — stops foreclosure fast, no repairs or showings needed
 - Price below market — consider only after exploring all other options

YOUR ACTION PLAN — WHAT TO DO RIGHT NOW

- 1 Engage your servicer immediately.** If you're 120+ days past due, formal foreclosure may begin. Request loss mitigation options in writing. Submit a complete application — this triggers the dual-tracking ban, which prevents simultaneous foreclosure.
- 2 Watch for DCCA's mailing if you're in a non-judicial foreclosure.** You have **30 days from DCCA's notice** to submit the MFDR participation form + \$300 fee. Call DCCA at 808-586-2886 to confirm your status. Note: choosing MFDR means you cannot later convert to judicial foreclosure.
For housing legal help, contact:
Volunteer Legal Services: 808-528-7046 (O'ahu) | vlsh.org
qualifying homeowners. Essential if you received a court summons (judicial foreclosure).
- 4 Contact a HUD-approved housing counselor.** Free at 800-569-4287 — they negotiate with lenders on your behalf and can help you choose between MFDR and judicial conversion.
- 5 If active duty military, invoke SCRA immediately.** Your lender cannot foreclose without a court order. Submit written request with military orders to your servicer. Contact your JAG office today.
- ! Do not move out of your home.** You have the legal right to remain until the process is complete. Moving early can waive legal rights. Do not leave without consulting an attorney.
- 6 Get a current market valuation.** Know your equity position — this determines which path makes sense (forbearance vs. modification vs. short sale vs. traditional sale).
- 7 If you have a tenant, tell them about the Right of First Purchase.** Under HB467 (July 2025), tenants have up to 45 days after the foreclosure auction to match the winning bid. Contact a Hawaii real estate attorney for guidance.
- ! Do not pay anyone who promises to stop foreclosure for an upfront fee.** All legitimate help is free. Foreclosure rescue scams are common in Hawaii. Report scams to DCCA OCP: 808-586-2630.
- 8 Contact Barbara.** Free review of your exact timeline and which options remain open — no obligation, no pressure. 808-781-6951

FREE RESOURCES

About free legal help in Hawai'i: Free legal representation for housing matters is very limited. Most free resources provide information or referrals, not an attorney who will represent you.

Hawai'i HomeOwnership Center (HHOC)

HUD-approved nonprofit — free foreclosure prevention counseling and one-on-one coaching statewide.
808-523-9500 | hihomeownership.org

DCCA — MFDR Mediation (non-judicial only)

Free Mortgage Foreclosure Dispute Resolution. Must request within 14 days of NOD. \$300 nonrefundable fee.
808-586-2886 | cca.hawaii.gov

Volunteer Legal Services Hawai'i

Free civil legal help for qualifying low-income residents — housing, landlord-tenant, bankruptcy, and more. Apply online or call for intake.
808-528-7046 (O'ahu) | 1-800-839-5200 (Neighbor Islands) | vlsh.org

Hawai'i State Bar — Lawyer Referral Service

Get matched with a licensed Hawai'i attorney. Many offer a free or reduced-fee first consultation. Available Mon–Fri 8:30 a.m.–4:30 p.m.
808-537-9140 | hawaiilawyerreferral.com

Legal Aid Society of Hawai'i — Elder Law Services Only (age 60+)

Confirmed services: Advance Health Care Directive, Power of Attorney, and Simple Wills for residents 60+. Does not cover housing or foreclosure.
808-536-4302 | legalaidthawaii.org

Consumer Financial Protection Bureau (CFPB)

File complaints against unfair lender practices. Free mortgage guides.
855-411-2372 | consumerfinance.gov



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"When God closes a door, He opens a window."

I want to be that window for you.

"Informed Decisions are the Best Decisions."™

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Free. No sign-up. No obligation. Ever.