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RECEIVERSHIPS IN HAWAII

In Hawaii, a court appointed "Receiver" typically has general authority to manage and preserve a lender's collateral, but does not have the authority to sell the collateral. The sale of collateral is usually conducted by a "Commissioner" upon entry of an order of foreclosure – but the order of foreclosure ordinarily (but not always) provides that the previously appointed Receiver shall serve as Commissioner. Both of these appointments are within a "judicial" foreclosure. (Any sale proposed by the Commissioner must be approved by the Court, typically after an auction process.) Hawaii law also permits a "non-judicial foreclosure" sale – but by that procedure the creditor does not have the intervening protection of a receiver.

A receiver may also be appointed for an entity (which may not be collateral) in circumstances such as deadlock in management.

In the last 18 months, there have been about 6 Hawaii hotels placed into receivership, and in each case the lender then sought appointment of a commissioner to conduct the actual foreclosure sale.