

JAN 25 2006

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# A BILL FOR AN ACT

RELATING TO PROPERTY LEFT IN A DANGEROUS CONDITION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. After natural disasters occur, commercial and  
2 industrial facilities are often damaged. The owners of these  
3 structures often do not always rebuild or make the necessary  
4 repairs, so the facility is left abandoned. Over time they  
5 become dilapidated, unsafe, and an eyesore for passers-by.

6           The State must be authorized to clear debris and condemn  
7 derelict and dangerous buildings following natural disasters.  
8 Unless the State has the ability to clear these dangerous  
9 abandoned properties and make them safe, citizens will be  
10 threatened by these hazardous conditions.

11           The purpose of this Act is to establish civil penalties for  
12 property owners who fail to make reasonable efforts at  
13 remediation. This Act authorizes counties to place a lien on  
14 the property for costs incurred for condemnation, demolition, or  
15 remediation of the property.

16           SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended  
17 by adding a new section to be appropriately designated and to  
18 read as follows:



1            "§46-    Damaged facilities; dangerous conditions;  
2 condemnation; penalties.    (a)    The owner of a building or other  
3 facility formerly used for commercial or industrial purposes,  
4 which:

- 5            (1)    Has not been used for commercial or industrial  
6                    purposes for at least two years;  
7            (2)    Has been damaged by a natural disaster, such as a  
8                    hurricane, tidal wave, volcanic eruption, or  
9                    earthquake, to such an extent that the facilities pose  
10                   a danger to the public health, safety, or welfare; and  
11            (3)    Is larger than five thousand square feet;

12 shall make a reasonable effort to repair the damage and correct  
13 the problem so that the public health, safety, or welfare is not  
14 endangered.

15            (b)    The county in which a building or other facility that  
16 meets the requirements of subsection (a) is located shall notify  
17 the owner of the property of the dangerous condition. If the  
18 owner fails to take remedial action within ninety days following  
19 notification by the county, the county may declare the site as  
20 dangerous and either condemn the property pursuant to section  
21 101-13 or demolish the facilities, at the county's discretion.

22 The property owner shall be liable for all costs related to the

1 condemnation action or demolition activity pursuant to this  
2 section.

3 (c) Any property owner who fails to make a reasonable  
4 effort to remediate a dangerous property within ninety days  
5 following notification by the county pursuant to subsection (b)  
6 shall pay a civil fine to the county not to exceed \$1,000 per  
7 day, beginning with the ninety-first day following notification  
8 and ending when the property is condemned, demolished, or  
9 remediated. The county may place a lien on the property to  
10 secure payment for the fine and for costs incurred for the  
11 condemnation, demolition, or remediation of the property."

12 SECTION 3. Section 101-13, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 **"§101-13 Exercise of power by county.** Whenever any county  
15 deems it advisable or necessary to exercise the right of eminent  
16 domain in the furtherance of any governmental power, or as  
17 provided under section 46-\_\_\_, the proceedings may be instituted  
18 as provided in section 101-14 after the governing authority  
19 (county council, or other governing board in the case of an  
20 independent board having control of its own funds) of the county  
21 has authorized such suit by resolution duly passed, or adopted  
22 and approved, as the case may be. The resolution, in the case



1 of the city and county of Honolulu or an independent board  
 2 thereof, shall, after its introduction, be published in a daily  
 3 newspaper with the ayes and noes, once (Sundays and legal  
 4 holidays excepted) at least three days before final action upon  
 5 it, and in the case of any other county or an independent board  
 6 thereof, be published in a newspaper with the ayes and noes, at  
 7 least one day (Sundays and legal holidays excepted), before  
 8 final action upon it."

9 SECTION 4. New statutory material is underscored.

10 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:

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**Report Title:**

Abandoned Facilities; Dangerous Conditions; Condemnation

**Description:**

Establishes civil penalties for property owners who fail to make reasonable efforts at remediation. Authorizes counties to condemn and demolish abandoned facilities damaged due to a natural disaster and place a lien on the property for costs incurred.

