
A BILL FOR AN ACT

RELATING TO VACANT AND ABANDONED RESIDENTIAL PROPERTY.

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

1 SECTION 1. Vacant and abandoned residential properties
2 impose significant costs on the community. Abandoned homes may
3 start out as simply eyesores but eventually become public safety
4 hazards and magnets for criminal activity.

5 In April 2018, a fire at a large, unoccupied Maunawili home
6 on Oahu caused \$1.8 million in damage. Neighbors reported that
7 the fire may have been sparked by trespassing hikers or homeless
8 individuals who have been illegally living on the property.

9 In June 2018, a fire in an abandoned Kalihi home on Oahu
10 caused \$193,800 in damage to the structure. The Honolulu Fire
11 Department noted that it received reports of squatters in the
12 structure prior to the fire.

13 On January 3, 2019, fifteen companies and sixty
14 firefighters responded to a massive fire in an abandoned Makiki
15 home on Oahu. The homeowner reported that he had been
16 unsuccessful in preventing squatters from occupying the property



1 and that, at the time of the fire, his permit to demolish the
2 home was under review by the county.

3 The costs of fires extend beyond the financial costs, as
4 demonstrated when a fire destroyed the Akebono Theater in Pahoa
5 in the County of Hawaii. Although no foul play was suspected in
6 that January 2017 fire, the fire destroyed one of the oldest
7 theaters in Hawaii and damaged the community's social fabric.

8 Vacant and abandoned homes also correspond to other
9 substantial but less obvious financial costs. In a January 2017
10 report on the true costs of abandoned properties commissioned by
11 Community Blight Solutions, a former United States Treasury
12 Department Deputy Assistant Secretary for Economic Policy noted
13 that vacant homes lead to a decline in values of surrounding
14 properties, an increase in crime in the neighborhood, and a
15 reduction in the tax base for local governments.

16 The legislature finds that it is in the public interest to
17 encourage the use of residential properties and reduce the
18 number of vacant and abandoned homes in the State because
19 unmaintained homes may become hazards that damage communities.

20 The purpose of this Act is to reduce the potential hazards
21 associated with vacant and abandoned residential properties by:



1 (1) Expediting approvals of demolition permits for vacant
2 residential properties; and

3 (2) Allowing the department of taxation to seek the non-
4 judicial foreclosure sale of vacant and abandoned
5 residential property with an outstanding recorded
6 state tax lien.

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

10 "§46- Expedited demolition permits for vacant
11 residential properties. (a) Each county shall establish an
12 expedited procedure to approve permits for the demolition of
13 vacant residential structures located within the county.
14 Expedited processing of a permit to demolish vacant residential
15 structures shall take no more than days from the date of
16 the permit application, not including weekends or state
17 holidays. Expedited processing for permits to demolish vacant
18 residential structures shall commence no later than .

19 (b) Expedited processing of a permit to demolish a vacant
20 residential structure shall apply only to permits to demolish



1 the entire vacant residential structure. Expedited processing
2 shall not apply to permits for:

3 (1) Partial demolition of a vacant residential structure;

4 or

5 (2) Complete or partial demolition of a vacant residential
6 structure as part of a renovation, reconstruction, or
7 new construction on the parcel.

8 An application for a building permit for new construction,
9 rehabilitation, or reconstruction on the parcel for which the
10 expedited demolition permit was approved shall be denied if the
11 permit application for new construction, rehabilitation, or
12 reconstruction is submitted within days of the approval of
13 the expedited demolition permit; provided that the same parcel
14 owner is listed on both permit applications. A parcel owner may
15 appeal a denial of a permit application pursuant to this section
16 through the appeals process established by the planning
17 department in the county within which the parcel is located.

18 (c) The owner of a residential structure shall establish
19 that the residential structure is vacant by providing the county
20 planning department with sworn statements from each borrower who
21 has at least one loan secured by the parcel and each and every



1 owner of the residential structure and parcel expressing their
2 intent to vacate and abandon the property.

3 (d) A residential structure shall not be deemed vacant and
4 abandoned where the residential structure is:

5 (1) Undergoing construction, renovation, or rehabilitation
6 that is proceeding diligently;

7 (2) Used on a seasonable basis but is otherwise secure;

8 (3) The subject of an ongoing probate action, action to
9 quiet title, or other ownership dispute;

10 (4) Damaged by natural disaster but the owner intends to
11 repair and reoccupy; or

12 (5) Occupied by a mortgagor, relative, or lawful tenant.

13 (e) For the purposes of this section:

14 "Parcel" means the real property, or portion thereof, upon
15 which a residential structure is located.

16 "Residential structure" means a one- or two-family
17 unattached building designed or used exclusively for residential
18 occupancy and located on a parcel zoned for residential use."

19 SECTION 3. Chapter 667, Hawaii Revised Statutes, is
20 amended by adding a new section to be appropriately designated
21 and to read as follows:



1 "§667- Use of power of sale foreclosure in state tax
2 lien foreclosures of vacant and abandoned residential
3 structures. A state tax lien on a parcel upon which a
4 residential structure exists may be foreclosed by nonjudicial or
5 power of sale foreclosure procedures set forth in chapter 667 by
6 the state tax collector; provided that the state tax collector
7 has established its lien and that a residential structure is
8 vacant and abandoned as provided in subsection 231-63(b)."

9 SECTION 4. Section 231-62, Hawaii Revised Statutes, is
10 amended by amending subsection (b) to read as follows:

11 "(b) The liens may be enforced by action of the state tax
12 collector in the circuit court of the judicial circuit in which
13 the property is situated[-]; provided that liens that have
14 existed for three or more years and liens on vacant and
15 abandoned residential real property may be enforced by the state
16 tax collector by foreclosure without suit as provided in section
17 231-63 and chapter 667. Jurisdiction is conferred upon the
18 circuit courts to hear and determine all proceedings brought or
19 instituted to enforce and foreclose such state tax liens, and
20 the proceedings had before the circuit courts shall be conducted



1 in the same manner and form as ordinary foreclosure
2 proceedings."

3 SECTION 5. Section 231-63, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[f]§231-63 [f] Tax liens; foreclosure without suit,
6 notice. (a) All real property on which a lien for state taxes
7 exists may be sold by way of foreclosure without suit by the
8 state tax collector, and in case any lien, or any part thereof,
9 has existed thereon for three years, shall be sold by the state
10 tax collector at public auction to the highest bidder, for cash,
11 to satisfy the lien, together with all interest, penalties,
12 costs, and expenses due or incurred on account of the tax, lien,
13 and sale, the surplus, if any, to be rendered to the person
14 thereto entitled.

15 (b) A state tax lien on a parcel upon which a vacant and
16 abandoned residential structure exists may be foreclosed by
17 nonjudicial or power of sale foreclosure procedures set forth in
18 chapter 667 by the state tax collector at any time; provided
19 that the state tax collector has established that the parcel and
20 residential structure is vacant and abandoned in accordance with
21 subsection 231-62(b) and this subsection; provided that:



- 1 (1) The department of taxation shall establish that a
2 residential structure is vacant and abandoned by
3 mailing to the residential structure's owner by
4 certified mail with return receipt a sworn statement
5 establishing that the department of taxation has
6 conducted at least separate inspections, each at
7 least days apart and at different times of day,
8 and at each inspection, no occupant was present and
9 there was no evidence of occupancy. The department of
10 taxation shall maintain a copy of the statement and
11 return receipt on file for the owner's inspection and
12 review.
- 13 (2) Prima facie evidence that a residential structure is
14 not vacant and abandoned shall include but is not
15 limited to delivery of certified U.S. mail and ongoing
16 and current utility usage.
- 17 (3) A residential structure shall not be deemed vacant and
18 abandoned where the structure is:
- 19 (A) Undergoing construction, renovation, or
20 rehabilitation that is proceeding diligently;



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- 1 (B) Used on a seasonable basis but is otherwise
- 2 secure;
- 3 (C) The subject of any ongoing probate action, action
- 4 to quiet title, or other ownership dispute;
- 5 (D) Damaged by natural disaster but the owner intends
- 6 to repair and reoccupy; or
- 7 (E) Occupied by a mortgagor, relative, or lawful
- 8 tenant.

9 (4) For the purposes of this subsection:

10 "Parcel" means the real property, or portion
11 thereof, upon which a residential structure is
12 located.

13 "Residential structure" means a one- or two-
14 family unattached building designed or used
15 exclusively for residential occupancy and located on a
16 parcel zoned for residential use.

17 (c) The sale shall be held at any public place proper for
18 sales on execution, after notice published at least once a week
19 for at least four successive weeks immediately prior thereto in
20 any newspaper with a general circulation of at least sixty
21 thousand published in the State and any newspaper of general

1 circulation published and distributed in the taxation district
2 wherein the property to be sold is situated, if there is a
3 newspaper published in the taxation district.

4 If the address of the owner is known or can be ascertained
5 by due diligence, including an abstract of title or title
6 search, the state tax collector shall send to each owner notice
7 of the proposed sale by registered mail, with request for return
8 receipt. If the address of the owner is unknown, the state tax
9 collector shall send a notice to the owner at the owner's last
10 known address as shown on the records of the department of
11 taxation. The notice shall be deposited in the mail at least
12 forty-five days prior to the date set for the sale. The notice
13 shall also be posted for a like period in at least three
14 conspicuous public places within such taxation district, and if
15 the land is improved one of the three postings shall be on the
16 land."

17 SECTION 6. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 7. If any provision of this Act, or the
20 application thereof to any person or circumstance, is held
21 invalid, the invalidity does not affect other provisions or



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1 applications of the Act that can be given effect without the
2 invalid provision or application, and to this end the provisions
3 of this Act are severable.

4 SECTION 8. This Act does not affect rights and duties that
5 matured, penalties that were incurred, and proceedings that were
6 begun before its effective date.

7 SECTION 9. This Act shall take effect on July 1, 2019.
8

INTRODUCED BY:

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JAN 18 2019



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Report Title:

Vacant and Abandoned Homes; Expedited Permits; Non-Judicial Foreclosure

Description:

Requires counties to expedite demolition permits for vacant and abandoned residential homes. Allows the department of taxation to seek sale of the property through non-judicial foreclosure of vacant and abandoned residential properties with outstanding recorded state tax liens at any time after establishing vacancy and abandonment.

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