

---

---

# 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 Paho  
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, as well as liens on vacant and  
15 abandoned residential real property which have existed for any  
16 length of time, may be enforced by the state tax collector by  
17 foreclosure without suit as provided in section 231-63 and  
18 chapter 667.   Jurisdiction is conferred upon the circuit courts  
19 to hear and determine all proceedings brought or instituted to  
20 enforce and foreclose such state tax liens, and the proceedings



1 had before the circuit courts shall be conducted in the same  
2 manner and form as ordinary foreclosure proceedings."

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

5 "[+]§231-63[+] 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; provided further  
21 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;





- 1            (B) Used on a reasonable 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



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 January 28, 2081.



**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. (HB287 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

