
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 home in
6 Maunawili, Oahu caused \$1.8 million in damages. Neighbors
7 reported that the fire may have been sparked by trespassing
8 hikers or homeless individuals who have been illegally living on
9 the property.

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

14 On January 3, 2019, fifteen companies and sixty
15 firefighters responded to a massive fire in an abandoned home in
16 Makiki, Oahu. The homeowner reported that he had been
17 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 in January 2017. Although no foul play
6 was suspected in that 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 the January
10 2017 report on the true costs of abandoned properties
11 commissioned by Community Blight Solutions, a former United
12 States Treasury Department Deputy Assistant Secretary for
13 Economic Policy noted that vacant homes lead to a decline in
14 values of surrounding properties, an increase in crime in the
15 neighborhood, and a reduction in the tax base for local
16 governments.

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



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

3 (1) Requiring each county to establish an expedited
4 procedure for approvals of demolition permits for
5 vacant residential properties; and

6 (2) Allowing the department of taxation to seek the
7 nonjudicial foreclosure sale of vacant and abandoned
8 residential property with an outstanding recorded
9 state tax lien.

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

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



1 (b) Expedited processing of a permit to demolish a vacant
2 residential structure shall apply only to permits to demolish
3 the entire vacant residential structure. Expedited processing
4 shall not apply to permits for:

5 (1) Partial demolition of a vacant residential structure;
6 or

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

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

20 (c) The owner of a residential structure shall establish
21 that the residential structure is vacant by providing the county



1 planning department with sworn statements from each borrower who
2 has at least one loan secured by the parcel and each and every
3 owner of the residential structure and parcel expressing their
4 intent to vacate and abandon the property.

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

7 (1) Undergoing construction, renovation, or rehabilitation
8 that is proceeding diligently;

9 (2) Used on a seasonal basis but is otherwise secure;

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

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

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

15 (e) For the purposes of this section:

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

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



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

4 "§667- Use of power of sale foreclosure in state tax
5 lien foreclosures of vacant and abandoned residential
6 structures. A state tax lien on a parcel upon which a
7 residential structure exists may be foreclosed by nonjudicial or
8 power of sale foreclosure procedures set forth in chapter 667 by
9 the department of taxation; provided that the department of
10 taxation has established its lien and that a residential
11 structure is vacant and abandoned as provided in subsection
12 231-63 (b) ."

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

15 "(b) The liens may be enforced by action of the [~~state tax~~
16 ~~collector~~] department in the circuit court of the judicial
17 circuit in which the property is situated[~~-~~]; provided that
18 liens that have existed for three or more years, as well as
19 liens on vacant and abandoned residential real property which
20 have existed for any length of time, may be enforced by the
21 department by foreclosure without suit as provided in section



1 231-63 and chapter 667. Jurisdiction is conferred upon the
2 circuit courts to hear and determine all proceedings brought or
3 instituted to enforce and foreclose such state tax liens, and
4 the proceedings had before the circuit courts shall be conducted
5 in the same manner and form as ordinary foreclosure
6 proceedings."

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

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

19 (b) A state tax lien on a parcel upon which a vacant and
20 abandoned residential structure exists may be foreclosed by
21 nonjudicial or power of sale foreclosure procedures set forth in



1 chapter 667 by the department at any time; provided that the
2 department has established that the parcel and residential
3 structure is vacant and abandoned; provided further that:

4 (1) The department shall establish that a residential
5 structure is vacant and abandoned by mailing to the
6 residential structure's owner by certified mail with
7 return receipt a sworn statement establishing that the
8 department has conducted at least separate
9 inspections, each at least days apart and at
10 different times of day, and at each inspection, no
11 occupant was present and there was no evidence of
12 occupancy. The department shall maintain a copy of
13 the statement and return receipt on file for the
14 owner's inspection and review;

15 (2) Prima facie evidence that a residential structure is
16 not vacant and abandoned shall include but is not
17 limited to delivery of certified United States mail
18 and ongoing and current utility usage; and

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



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

10 For the purposes of this subsection:

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

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

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



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

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

16 SECTION 6. If any provision of this Act, or the
17 application thereof to any person or circumstance, is held
18 invalid, the invalidity does not affect other provisions or
19 applications of the Act that can be given effect without the
20 invalid provision or application, and to this end the provisions
21 of this Act are severable.



1 SECTION 7. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 8. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 9. This Act shall take effect on January 28, 2081.



Report Title:

Vacant and Abandoned Homes; Counties; Expedited Permits;
Nonjudicial Foreclosure

Description:

Requires counties to establish expedited procedures to approve demolition permits for vacant and abandoned residential homes. Allows the department of taxation to seek sale of the property through nonjudicial foreclosure of vacant and abandoned residential properties with outstanding recorded state tax liens at any time after establishing vacancy and abandonment. Takes effect 1/28/2081. (SD1)

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

