

JAN 21 2022

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# A BILL FOR AN ACT

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RELATING TO VACANT AND ABANDONED RESIDENTIAL PROPERTY.

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

1       SECTION 1. The legislature finds that vacant and abandoned  
2 residential properties impose significant costs on the  
3 community. Abandoned homes may start out as simply eyesores but  
4 eventually become public safety hazards and magnets for criminal  
5 activity. 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 had been illegally living on  
9 the property.

10       On January 3, 2019, fifteen companies and sixty  
11 firefighters responded to a massive fire in an abandoned home in  
12 Makiki, Oahu. The homeowner reported that he had been  
13 unsuccessful in preventing squatters from occupying the property  
14 and that, at the time of the fire, his permit to demolish the  
15 home was under review by the county.

16       Vacant and abandoned homes also correspond to other  
17 substantial but less obvious financial costs. In the January



1 2017 report on the true costs of abandoned properties  
2 commissioned by Community Blight Solutions, a former United  
3 States Treasury Department Deputy Assistant Secretary for  
4 Economic Policy noted that vacant homes lead to a decline in  
5 values of surrounding properties, an increase in crime in the  
6 neighborhood, and a reduction in the tax base for local  
7 governments.

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

10 (1) Requiring each county to establish an expedited  
11 procedure for approvals of demolition permits for  
12 vacant residential properties; and

13 (2) Allowing the department of taxation to seek the  
14 nonjudicial foreclosure sale of vacant and abandoned  
15 residential property with an outstanding recorded  
16 state tax lien.

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

20 "§46- Expedited demolition permits for vacant  
21 residential properties. (a) Each county shall establish an



expedited procedure to approve permits for the demolition of  
vacant residential structures located within the county.  
Expedited processing of a permit to demolish vacant residential  
structures shall be completed within                      days of the filing of  
the permit application, not including weekends or state  
holidays. Expedited processing for permits to demolish vacant  
residential structures shall commence no later than                      .

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

(1) Partial demolition of a vacant residential structure;

or

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

An application for a building permit for new construction,  
rehabilitation, or reconstruction on the parcel for which the  
expedited demolition permit was approved shall be denied if the  
permit application for new construction, rehabilitation, or  
reconstruction is submitted within                      days of the approval of



1 the expedited demolition permit; provided that the same parcel  
2 owner is listed on both permit applications. A parcel owner may  
3 appeal a denial of a permit application pursuant to this section  
4 through the appeals process established by the planning  
5 department in the county within which the parcel is located.

6 (c) The owner of a residential structure shall establish  
7 that the residential structure is vacant by providing the county  
8 planning department with sworn statements from each borrower who  
9 has at least one loan secured by the parcel and each and every  
10 owner of the residential structure and parcel expressing their  
11 intent to vacate and abandon the property.

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

14 (1) Undergoing construction, renovation, or rehabilitation  
15 that is proceeding diligently;

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

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

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

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



1        (e) For the purpose of this section:

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

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

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

10        "§667-    Use of power of sale foreclosure in state tax  
11 lien foreclosures of vacant and abandoned residential  
12 structures. A state tax lien on a parcel upon which a  
13 residential structure exists may be foreclosed by nonjudicial or  
14 power of sale foreclosure procedures set forth in this chapter  
15 by the department of taxation; provided that the department of  
16 taxation has established its lien and that a residential  
17 structure is vacant and abandoned as provided in section  
18 231-63 (b) ."

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



1       "(b) The liens may be enforced by action of the [~~state tax~~  
2 ~~collector~~] department in the circuit court of the judicial  
3 circuit in which the property is situated[-]; provided that  
4 liens that have existed for three or more years, including liens  
5 on vacant and abandoned residential real property that have  
6 existed for any length of time, may be enforced by the  
7 department by foreclosure without suit as provided in section  
8 231-63 and chapter 667. Jurisdiction is conferred upon the  
9 circuit courts to hear and determine all proceedings brought or  
10 instituted to enforce and foreclose such state tax liens, and  
11 the proceedings had before the circuit courts shall be conducted  
12 in the same manner and form as ordinary foreclosure  
13 proceedings."

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

16       "~~{}~~§231-63~~{}~~ **Tax liens; foreclosure without suit,**  
17 **notice.** (a) All real property on which a lien for state taxes  
18 exists may be sold by way of foreclosure without suit by the  
19 [~~state tax collector~~,] department, and in case any lien, or any  
20 part thereof, has existed thereon for three years, shall be sold  
21 by the [~~state tax collector~~] department at public auction to the



1 highest bidder, for cash, to satisfy the lien, together with all  
2 interest, penalties, costs, and expenses due or incurred on  
3 account of the tax, lien, and sale, the surplus, if any, to be  
4 rendered to the person thereto entitled.

5 (b) A state tax lien on a parcel upon which a vacant and  
6 abandoned residential structure exists may be foreclosed by  
7 nonjudicial or power of sale foreclosure procedures set forth in  
8 chapter 667 by the department at any time; provided that the  
9 department has established that the parcel and residential  
10 structure is vacant and abandoned; provided further that:

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



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

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

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

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

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

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

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

16       For the purposes of this subsection:

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

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





1        (c) The sale shall be held at any public place proper for  
2 sales on execution, after notice published at least once a week  
3 for at least four successive weeks immediately prior thereto in  
4 any newspaper with a general circulation of at least sixty  
5 thousand published in the State and any newspaper of general  
6 circulation published and distributed in the taxation district  
7 wherein the property to be sold is situated, if there is a  
8 newspaper published in the taxation district.

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



1       SECTION 6. If any provision of this Act, or the  
2 application thereof to any person or circumstance, is held  
3 invalid, the invalidity does not affect other provisions or  
4 applications of the Act that can be given effect without the  
5 invalid provision or application, and to this end the provisions  
6 of this Act are severable.

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

10       SECTION 8. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12       SECTION 9. This Act shall take effect upon its approval.

13  
INTRODUCED BY: 



# S.B. NO. 2881

**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.

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

