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# 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. 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 sales of vacant and abandoned  
15 residential properties with outstanding recorded state  
16 tax liens.

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



1 expedited procedure to approve permits for the demolition of  
2 vacant residential structures located within the county.

3 Expedited processing of a permit to demolish vacant residential  
4 structures shall take not more than \_\_\_\_\_ days from the date of  
5 the permit application, not including weekends or state  
6 holidays. Expedited processing for permits to demolish vacant  
7 residential structures shall commence no later than \_\_\_\_\_.

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

12 (1) Partial demolition of a vacant residential structure;  
13 or

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

17 An application for a building permit for new construction,  
18 rehabilitation, or reconstruction on the parcel for which the  
19 expedited demolition permit was approved shall be denied if the  
20 permit application for new construction, rehabilitation, or  
21 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 231-63;  
18 provided further that liens that have existed for three or more  
19 years, including liens on vacant and abandoned residential real  
20 property that have existed for any length of time, may be



1 enforced by the department of taxation by foreclosure without  
2 suit as provided in section 231-63 and this chapter."

3 SECTION 4. 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,~~] department, and in case any lien, or any  
9 part thereof, has existed thereon for three years, shall be sold  
10 by the [~~state tax collector~~] department at public auction to the  
11 highest bidder, for cash, to satisfy the lien, together with all  
12 interest, penalties, costs, and expenses due or incurred on  
13 account of the tax, lien, and sale, the surplus, if any, to be  
14 rendered to the person 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 department at any time; provided that the  
19 department has established that the parcel and residential  
20 structure is vacant and abandoned; provided further that:



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



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

7           For the purposes of this subsection:

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

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

13           (c) The sale shall be held at any public place proper for  
14           sales on execution, after notice published at least once a week  
15           for at least four successive weeks immediately prior thereto in  
16           any newspaper with a general circulation of at least sixty  
17           thousand published in the State and any newspaper of general  
18           circulation published and distributed in the taxation district  
19           wherein the property to be sold is situated, if there is a  
20           newspaper published in the taxation district.





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

14           SECTION 5. If any provision of this Act, or the  
15 application thereof to any person or circumstance, is held  
16 invalid, the invalidity does not affect other provisions or  
17 applications of the Act that can be given effect without the  
18 invalid provision or application, and to this end the provisions  
19 of this Act are severable.



1           SECTION 6. 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 7. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6           SECTION 8. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_

A large, stylized handwritten signature in black ink, written over a horizontal line.

# S.B. NO. 494

**Report Title:**

Vacant and Abandoned Properties; Counties; Expedited Permits;  
Tax Liens; Nonjudicial Foreclosure

**Description:**

Requires counties to establish expedited procedures to approve demolition permits for vacant and abandoned residential properties. Allows the Department of Taxation to satisfy certain tax liens through the nonjudicial foreclosure of vacant and abandoned residential properties 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.*

