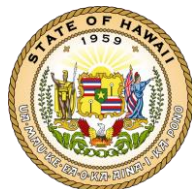


JOSH GREEN M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



GARY S. SUGANUMA
DIRECTOR

KRISTEN M.R. SAKAMOTO
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION

Ka 'Oihana 'Auhau
P.O. BOX 259

HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

**TESTIMONY OF
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

TESTIMONY ON THE FOLLOWING MEASURE:

S.B. No. 494, S.D.1, Relating to Vacant and Abandoned Residential Property

BEFORE THE:

Senate Committee on Ways and Means

DATE: Wednesday, March 1, 2023

TIME: 10:10 a.m.

LOCATION: State Capitol, Room 211

Chair Dela Cruz, Vice-Chair Keith-Agaran, and Members of the Committee:

The Department of Taxation ("Department") offers the following comments regarding S.B. 494, S.D.1, for your consideration.

S.B. 494, S.D.1, adds a new section to chapter 46, Hawaii Revised Statutes (HRS), which requires each county to establish expedited processing of demolition permits for vacant residential structures so that permits are issued not more than 21 business days from the date of the permit application. The expedited processing shall commence no later than January 1, 2024 and shall not include permits for partial demolition of vacant residential structures or for the complete or partial demolition of a vacant residential structure as part of a renovation, reconstruction, or new construction on the parcel. All building permit applications, submitted by the same parcel owner, for the renovation, reconstruction, or new construction on the parcel shall be denied if submitted within 365 days of the approval of the expedited demolition permit.

S.B. 494, S.D. 1, also adds a new section to chapter 667, HRS, and amends section 231-63, HRS, to allow the Department to satisfy state tax liens through the nonjudicial or power of sale foreclosure procedures for vacant and abandoned residential properties at any time after establishing vacancy and abandonment as outlined in section 231-63, HRS. The measure further amends section 231-63, HRS, to specify that the Department shall establish that a residential structure is vacant and abandoned by mailing to the residential structure's owner by certified mail with return receipt a sworn statement establishing that the Department has conducted at least two

Department of Taxation Testimony
S.B. 494, S.D.1
March 1, 2023
Page 2 of 2

separate inspections, each at least seven days apart and at different times of day, and at each inspection, no occupant was present and there was no evidence of occupancy. Section 231-63 requirements are exempted for properties with liens that have existed for three or more years. This bill will become effective upon approval.

The bill has a defective effective date of March 22, 2075.

The Department is able to implement this measure with an appropriate effective date and notes that it estimates no material revenue impact.

Thank you for the opportunity to provide comments on this measure.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: ADMINISTRATION, Restrict DOTAX Ability to Foreclose Tax Lien Property

BILL NUMBER: SB 494 SD 1

INTRODUCED BY: Senate Committee on Judiciary

EXECUTIVE SUMMARY: 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.

SYNOPSIS: Adds a new section to chapter 46, HRS, requiring each county to establish an expedited procedure to approve permits for the demolition of vacant residential structures located within the county.

Adds a new section to chapter 667, HRS, providing that a state tax lien may be foreclosed by nonjudicial or power of sale foreclosure if the structure on the property is vacant and abandoned.

Amends section 231-63, HRS, which normally deals with nonjudicial foreclosure of a tax lien, to allow such foreclosure against vacant and abandoned residential realty only if the Department of Taxation has established that the parcel and residential structure are vacant and abandoned. The bill imposes several procedural and substantive conditions on the Department:

- (1) The department shall establish that a residential structure is vacant and abandoned by mailing to the residential structure's owner by certified mail with return receipt a sworn statement establishing that the department has conducted at least two separate inspections, each at least seven days apart and at different times of day, and at each inspection, no occupant was present and there was no evidence of occupancy. The department shall maintain a copy of the statement and return receipt on file for the owner's inspection and review.
- (2) Prima facie evidence that a residential structure is not vacant and abandoned shall include but is not limited to delivery of certified United States mail and ongoing and current utility usage.
- (3) A residential structure shall not be deemed vacant and abandoned where the structure is:
 - (A) Undergoing construction, renovation, or rehabilitation that is proceeding diligently;
 - (B) Used on a seasonal basis but is otherwise secure;
 - (C) The subject of any ongoing probate action, action to quiet title, or other ownership dispute;
 - (D) Damaged by natural disaster but the owner intends to repair and reoccupy; or
 - (E) Occupied by a mortgagor, relative, or lawful tenant.

EFFECTIVE DATE: March 22, 2075.

STAFF COMMENTS: The bill recites that its purpose is to allow DOTAX to seek nonjudicial foreclosure sale of vacant and abandoned property with an outstanding recorded state tax lien.

DOTAX already has the power in section 231-63, HRS, to proceed with nonjudicial foreclosure and does not have to wait for three years unless it wants to sell the property at public auction outside of the power of sale foreclosure process in chapter 667, HRS. The new provisions proposed by this bill allow for earlier foreclosure but only after significant and burdensome conditions are met.

Under the bill, to proceed with nonjudicial foreclosure DOTAX must establish that the property is vacant and abandoned. The bill has further provisos saying, for example, that DOTAX can establish that property is vacant and abandoned by inspecting the property for activity on two separate occasions, each seven days apart, and on different times of day. Even if DOTAX does so, however, prima facie evidence that the property is not abandoned can be established by certified mail delivery or utility usage, so DOTAX needs to eliminate those conditions to truly establish vacancy and abandonment. There may be additional unstated conditions that might not be satisfied by the inspection requirement. If the bill is enacted, why would DOTAX even go down this road if it can avoid all the hassle if it waits three years? And how is it better, more efficient, and more equitable than now, when DOTAX doesn't even have to wait three years?

Digested: 2/27/2023

LATE

SB-494-SD-1

Submitted on: 2/28/2023 2:01:22 PM

Testimony for WAM on 3/1/2023 10:10:00 AM

Submitted By	Organization	Testifier Position	Testify
Minister, Hector Hoyos (aka) SisterFace	Individual	Support	Written Testimony Only

Comments:

I support this bill loudly I live in a condo on Pensacola between Pensacola and Piokoi Street, at the bottom of Pensacola right before you get on the highway across from the postal office that's under the highway there is a new development of condos which look great. The whole area is trying so hard I have noticed since we bought our condo in a condo building on Davenport. There are a few structures one being at the bottom of Pensacola, at the light to your left before you go under the highway before you even cross the street next to the new development of condos, there is a burnt out house that has been burnt out and destroyed 3 + years! probably has rats and all kinds of infestations why everything else is looking good even wall cops have been slowly redoing them selves some still look like trash pot when you have a burnt out building between a walk up in a new development it doesn't do anything any good for anyone that has property or owns property in the area or for any landlord or tenant, or someone who is able to rent out like Airbnb, or whatever it may be it's disgusting. Please tell me if this bill passes we don't have to wait till 2075. Most all of us will be old and or gone! This is important because the community should be able to go to their legislative Body, the representatives or their city council person to be like. Can you please have this building removed even though the people that own the property aren't it's really bad and it's not good for anyone trying to build value and to stop the homelessness and drug problem because that draws that to it. I would honestly say that most of our legislative Bobby know exactly which building I'm talking about coming down the bottom of Pensacola right before you get onto the highway to your left. Is this just disgusting burnt out building I'm sure my reps have seen it why is it still there?