
A BILL FOR AN ACT

RELATING TO RESIDENTIAL REAL PROPERTY.

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

1 SECTION 1. The legislature finds that owners of real
2 property have certain responsibilities, such as reasonably
3 maintaining their premises and refraining from using the
4 premises for unlawful activities. The legislature also finds
5 that some property owners are unwilling or unable to fulfill
6 these basic obligations. As a result, properties are not
7 maintained in a safe and sanitary condition or are the site of
8 ongoing zoning violations. Examples of properties that are not
9 reasonably maintained include those having accumulated trash,
10 dilapidated structures, extreme plant overgrowth, or
11 unauthorized persons occupying the premises.

12 The legislature further finds that it is a matter of
13 statewide concern when a real property owner fails to maintain
14 premises in a safe and sanitary condition or engages in
15 unpermitted uses of the property. The failure of the real
16 property owner to act in a timely manner to address hazardous or



1 illegal conditions jeopardizes the health and safety of
2 neighboring residents and the larger community.

3 Accordingly, the purpose of this Act is to:

4 (1) Authorize planning or permitting agencies to enter
5 privately owned residential real property, under
6 certain specified conditions, to address violations of
7 county zoning ordinances, rules, or regulations; and

8 (2) Specify that a property owner who receives a notice of
9 violation and fails to remediate the violation within
10 the county planning or permitting agency's specified
11 time frame shall be fined a minimum of \$1,000 per day,
12 subject to a lien if the fines exceed \$5,000, and
13 subject to foreclosure proceedings if the property
14 owner does not satisfy the lien within thirty days of
15 notice and commence remediation of the violation.

16 SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended
17 by adding two new sections to part I to be appropriately
18 designated and to read as follows:

19 **"§46-A Authority to enter private property; zoning**
20 **violation.** (a) Notwithstanding chapter 322, a county planning
21 or permitting agency may enter privately owned residential real



1 property, without the consent or cooperation of the owner or
2 occupant of the real property, for the purpose of investigating
3 any condition on the premises that the officer reasonably
4 believes may constitute a violation of any county zoning
5 ordinance, rule, or regulation that:

- 6 (1) Has been adopted in accordance with section 46-4; and
- 7 (2) Applies to residentially zoned real property.

8 (b) Upon confirmation that the condition specified in
9 subsection (a) exists, the applicable county planning or
10 permitting agency shall issue a citation or notice of violation
11 to each responsible party, as appropriate; provided that if the
12 applicable county planning or permitting agency issues a notice
13 of violation to the owner of the real property under this
14 subsection, the owner of the real property shall remediate the
15 condition that gave rise to issuance of the notice of violation,
16 to the agency's satisfaction and within the agency's specified
17 time frame.

18 (c) The applicable county planning or permitting agency
19 may request assistance from the department of health for any
20 health-related condition on the real property that is beyond the



1 expertise of the county planning or permitting agency, or from
2 the applicable county police department for any safety matter.

3 **§46-B Penalties for unaddressed zoning violations.** The
4 penalties for a violation of any county zoning ordinance, rule,
5 or regulation shall be as follows, regardless of whether a
6 county planning or permitting agency's investigation was
7 conducted without the owner's or occupant's consent or
8 cooperation pursuant to section 46-A(a) or by other means:

9 (1) An owner of real property who fails to remediate all
10 conditions that gave rise to issuance of the notice of
11 violation, to the agency's satisfaction and within the
12 agency's specified time frame, shall be assessed by
13 the agency a fine of not less than \$1,000 for each day
14 the violation persists;

15 (2) If fines assessed to the owner of real property exceed
16 \$5,000, then the notice of violation shall constitute
17 a lien upon the real property within thirty days; and

18 (3) If within thirty days of receiving notice of the lien,
19 the owner of real property fails to:

20 (A) Satisfy the lien specified in paragraph (2); and



1 (B) Commence and diligently conduct remediation of
2 all conditions that gave rise to issuance of the
3 notice of violation, to the agency's
4 satisfaction,
5 then the applicable county planning or permitting
6 agency shall commence foreclosure proceedings,
7 judicial or nonjudicial, on the real property without
8 delay."

9 SECTION 3. In codifying the new sections added by section
10 2 of this Act, the revisor of statutes shall substitute
11 appropriate section numbers for the letters used in designating
12 the new sections in this Act.

13 SECTION 4. If any provision of this Act, or the
14 application thereof to any person or circumstance, is held
15 invalid, the invalidity does not affect other provisions or
16 applications of the Act that can be given effect without the
17 invalid provision or application, and to this end the provisions
18 of this Act are severable.

19 SECTION 5. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.



1 SECTION 6. New statutory material is underscored.

2 SECTION 7. This Act shall take effect upon its approval.

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INTRODUCED BY:



JAN 20 2023



H.B. NO. 538

Report Title:

Residential Real Property; Private Owner; Zoning Violation;
Penalties

Description:

Authorizes planning or permitting agencies to enter privately owned residential real property, under certain specified conditions, to address violations of county zoning ordinances, rules, or regulations. Specifies that a property owner who receives a notice of violation and fails to remediate the violation within the county planning or permitting agency's specified time frame shall be fined a minimum of \$1,000 per day, subject to a lien if the fines exceed \$5,000, and subject to foreclosure proceedings if the property owner does not satisfy the lien within thirty days of notice and commence remediation of the violation.

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