
A BILL FOR AN ACT

RELATING TO THE COUNTIES.

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

1 SECTION 1. The legislature finds that public nuisances
2 caused by uncaring or absent property owners can pose
3 significant risks to public health, safety, and neighboring
4 properties. Chronically unaddressed hazards left by a resident
5 threaten communities and compromise overall public welfare.

6 The legislature further finds that despite the issuance of
7 notices of violation and the imposition of punitive measures,
8 some severe public nuisances persist without resolution. Using
9 the city and county of Honolulu as an example, public nuisance
10 is defined under its ordinances and recent enforcement
11 enhancements were made with ordinance 21-29. This ordinance
12 authorizes administrative liens on properties when civil fines
13 exceed \$150,000 or remain outstanding for over five years.
14 While these steps provide important tools, additional mechanisms
15 at the state level are necessary to address situations where all
16 other remedies fail to achieve compliance.



1 The legislature additionally finds that non-judicial
2 foreclosure for delinquent property taxes is already permitted.
3 Extending similar authority to address persistent public safety
4 and health hazards aligns with the government's duty to protect
5 the community from significant risks. Providing counties with
6 the ability to enforce public nuisance laws through foreclosure
7 or other appropriate means as a last resort will safeguard
8 residents and prevent widespread harm.

9 The purpose of this Act is to authorize counties to
10 implement additional enforcement mechanisms to address severe
11 public nuisances that remain unmitigated despite the exhaustion
12 of existing remedies.

13 SECTION 2. Section 46-1.5, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§46-1.5 General powers and limitation of the counties.**

16 Subject to general law, each county shall have the following
17 powers and shall be subject to the following liabilities and
18 limitations:

- 19 (1) Each county shall have the power to frame and adopt a
20 charter for its own self-government that shall
21 establish the county executive, administrative, and



1 legislative structure and organization, including but
2 not limited to the method of appointment or election
3 of officials, their duties, responsibilities, and
4 compensation, and the terms of their office;

5 (2) Each county shall have the power to provide for and
6 regulate the marking and lighting of all buildings and
7 other structures that may be obstructions or hazards
8 to aerial navigation, so far as may be necessary or
9 proper for the protection and safeguarding of life,
10 health, and property;

11 (3) Each county shall have the power to enforce all claims
12 on behalf of the county and approve all lawful claims
13 against the county, but shall be prohibited from
14 entering into, granting, or making in any manner any
15 contract, authorization, allowance payment, or
16 liability contrary to the provisions of any county
17 charter or general law;

18 (4) Each county shall have the power to make contracts and
19 to do all things necessary and proper to carry into
20 execution all powers vested in the county or any
21 county officer;



- 1 (5) Each county shall have the power to:
 - 2 (A) Maintain channels, whether natural or artificial,
 - 3 including their exits to the ocean, in suitable
 - 4 condition to carry off storm waters;
 - 5 (B) Remove from the channels, and from the shores and
 - 6 beaches, any debris that is likely to create an
 - 7 unsanitary condition or become a public nuisance;
 - 8 provided that, to the extent any of the foregoing
 - 9 work is a private responsibility, the
 - 10 responsibility may be enforced by the county in
 - 11 lieu of the work being done at public expense;
 - 12 (C) Construct, acquire by gift, purchase, or by the
 - 13 exercise of eminent domain, reconstruct, improve,
 - 14 better, extend, and maintain projects or
 - 15 undertakings for the control of and protection
 - 16 against floods and flood waters, including the
 - 17 power to drain and rehabilitate lands already
 - 18 flooded;
 - 19 (D) Enact zoning ordinances providing that lands
 - 20 deemed subject to seasonable, periodic, or
 - 21 occasional flooding shall not be used for

1 residence or other purposes in a manner as to
2 endanger the health or safety of the occupants
3 thereof, as required by the Federal Flood
4 Insurance Act of 1956 (chapter 1025, Public Law
5 1016); and

6 (E) Establish and charge user fees to create and
7 maintain any stormwater management system or
8 infrastructure; provided that no county shall
9 charge against or collect user fees from the
10 department of transportation in excess of
11 \$1,500,000 in the aggregate per year; provided
12 further that no services shall be denied to the
13 department of transportation by reason of
14 nonpayment of the fees;

15 (6) Each county shall have the power to exercise the power
16 of condemnation by eminent domain when it is in the
17 public interest to do so;

18 (7) Each county shall have the power to exercise
19 regulatory powers over business activity as are
20 assigned to them by chapter 445 or other general law;



- 1 (8) Each county shall have the power to fix the fees and
2 charges for all official services not otherwise
3 provided for;
- 4 (9) Each county shall have the power to provide by
5 ordinance assessments for the improvement or
6 maintenance of districts within the county;
- 7 (10) Except as otherwise provided, no county shall have the
8 power to give or loan credit to, or in aid of, any
9 person or corporation, directly or indirectly, except
10 for a public purpose;
- 11 (11) Where not within the jurisdiction of the public
12 utilities commission, each county shall have the power
13 to regulate by ordinance the operation of motor
14 vehicle common carriers transporting passengers within
15 the county and adopt and amend rules the county deems
16 necessary for the public convenience and necessity;
- 17 (12) Each county shall have the power to enact and enforce
18 ordinances necessary to prevent or summarily remove
19 public nuisances and to compel the clearing or removal
20 of any public nuisance, refuse, and uncultivated
21 undergrowth from streets, sidewalks, public places,



1 and unoccupied lots. In connection with these powers,
2 each county may impose and enforce liens upon the
3 property for the cost to the county of removing and
4 completing the necessary work where the property
5 owners fail, after reasonable notice, to comply with
6 the ordinances. The authority provided by this
7 paragraph shall not be self-executing, but shall
8 become fully effective within a county only upon the
9 enactment or adoption by the county of appropriate and
10 particular laws, ordinances, or rules defining "public
11 nuisances" with respect to each county's respective
12 circumstances. The counties shall provide the
13 property owner with the opportunity to contest the
14 summary action and to recover the owner's property;
15 provided that a county may proceed with a power of
16 sale of the property after all notices, orders, and
17 appeal proceedings are exhausted;

18 (13) Each county shall have the power to enact ordinances
19 deemed necessary to protect health, life, and
20 property, and to preserve the order and security of
21 the county and its inhabitants on any subject or



1 matter not inconsistent with, or tending to defeat,
2 the intent of any state statute where the statute does
3 not disclose an express or implied intent that the
4 statute shall be exclusive or uniform throughout the
5 State;

6 (14) Each county shall have the power to:

7 (A) Make and enforce within the limits of the county
8 all necessary ordinances covering all:

9 (i) Local police matters;

10 (ii) Matters of sanitation;

11 (iii) Matters of inspection of buildings;

12 (iv) Matters of condemnation of unsafe
13 structures, plumbing, sewers, dairies, milk,
14 fish, and morgues; and

15 (v) Matters of the collection and disposition of
16 rubbish and garbage;

17 (B) Provide exemptions for homeless facilities and
18 any other program for the homeless authorized by
19 part XVII of chapter 346, for all matters under
20 this paragraph;



1 (C) Appoint county physicians and sanitary and other
2 inspectors as necessary to carry into effect
3 ordinances made under this paragraph, who shall
4 have the same power as given by law to agents of
5 the department of health, subject only to
6 limitations placed on them by the terms and
7 conditions of their appointments; and

8 (D) Fix a penalty for the violation of any ordinance,
9 which penalty may be a misdemeanor, petty
10 misdemeanor, or violation as defined by general
11 law;

12 (15) Each county shall have the power to provide public
13 pounds; to regulate the impounding of stray animals
14 and fowl, and their disposition; and to provide for
15 the appointment, powers, duties, and fees of animal
16 control officers;

17 (16) Each county shall have the power to purchase and
18 otherwise acquire, lease, and hold real and personal
19 property within the defined boundaries of the county
20 and to dispose of the real and personal property as



1 the interests of the inhabitants of the county may
2 require, except that:

3 (A) Any property held for school purposes may not be
4 disposed of without the consent of the
5 superintendent of education;

6 (B) No property bordering the ocean shall be sold or
7 otherwise disposed of; and

8 (C) All proceeds from the sale of park lands shall be
9 expended only for the acquisition of property for
10 park or recreational purposes;

11 (17) Each county shall have the power to provide by charter
12 for the prosecution of all offenses and to prosecute
13 for offenses against the laws of the State under the
14 authority of the attorney general of the State;

15 (18) Each county shall have the power to make
16 appropriations in amounts deemed appropriate from any
17 moneys in the treasury, for the purpose of:

18 (A) Community promotion and public celebrations;

19 (B) The entertainment of distinguished persons as may
20 from time to time visit the county;



- 1 (C) The entertainment of other distinguished persons,
2 as well as, public officials when deemed to be in
3 the best interest of the community; and
- 4 (D) The rendering of civic tribute to individuals
5 who, by virtue of their accomplishments and
6 community service, merit civic commendations,
7 recognition, or remembrance;
- 8 (19) Each county shall have the power to:
 - 9 (A) Construct, purchase, take on lease, lease,
10 sublease, or in any other manner acquire, manage,
11 maintain, or dispose of buildings for county
12 purposes, sewers, sewer systems, pumping
13 stations, waterworks, including reservoirs,
14 wells, pipelines, and other conduits for
15 distributing water to the public, lighting
16 plants, and apparatus and appliances for lighting
17 streets and public buildings, and manage,
18 regulate, and control the same;
 - 19 (B) Regulate and control the location and quality of
20 all appliances necessary to the furnishing of



- 1 water, heat, light, power, telephone, and
2 telecommunications service to the county;
- 3 (C) Acquire, regulate, and control any and all
4 appliances for the sprinkling and cleaning of the
5 streets and the public ways, and for flushing the
6 sewers; and
- 7 (D) Open, close, construct, or maintain county
8 highways or charge toll on county highways;
9 provided that all revenues received from a toll
10 charge shall be used for the construction or
11 maintenance of county highways;
- 12 (20) Each county shall have the power to regulate the
13 renting, subletting, and rental conditions of property
14 for places of abode by ordinance;
- 15 (21) Unless otherwise provided by law, each county shall
16 have the power to establish by ordinance the order of
17 succession of county officials in the event of a
18 military or civil disaster;
- 19 (22) Each county shall have the power to sue and be sued in
20 its corporate name;
- 21 (23) Each county shall have the power to:



- 1 (A) Establish and maintain waterworks and sewer
2 works;
- 3 (B) Implement a sewer monitoring program that
4 includes the inspection of sewer laterals that
5 connect to county sewers, when those laterals are
6 located on public or private property, after
7 providing a property owner not less than ten
8 calendar days' written notice, to detect leaks
9 from laterals, infiltration, and inflow, any
10 other law to the contrary notwithstanding;
- 11 (C) Compel an owner of private property upon which is
12 located any sewer lateral that connects to a
13 county sewer to inspect that lateral for leaks,
14 infiltration, and inflow and to perform repairs
15 as necessary;
- 16 (D) Collect rates for water supplied to consumers and
17 for the use of sewers;
- 18 (E) Install water meters whenever deemed expedient;
19 provided that owners of premises having vested
20 water rights under existing laws appurtenant to
21 the premises shall not be charged for the



1 installation or use of the water meters on the
2 premises;

3 (F) Take over from the State existing waterworks
4 systems, including water rights, pipelines, and
5 other appurtenances belonging thereto, and sewer
6 systems, and to enlarge, develop, and improve the
7 same; and

8 (G) For purposes of subparagraphs (B) and (C):

9 (i) "Infiltration" means groundwater, rainwater,
10 and saltwater that enters the county sewer
11 system through cracked, broken, or defective
12 sewer laterals; and

13 (ii) "Inflow" means non-sewage entering the
14 county sewer system via inappropriate or
15 illegal connections;

16 (24) (A) Each county may impose civil fines, in addition
17 to criminal penalties, for any violation of
18 county ordinances or rules after reasonable
19 notice and requests to correct or cease the
20 violation have been made upon the violator. Any
21 administratively imposed civil fine shall not be



1 collected until after an opportunity for a
2 hearing under chapter 91. Any appeal shall be
3 filed within thirty days from the date of the
4 final written decision. These proceedings shall
5 not be a prerequisite for any civil fine or
6 injunctive relief ordered by the circuit court;

7 (B) Each county by ordinance may provide for the
8 addition of any unpaid civil fines, ordered by
9 any court of competent jurisdiction, to any
10 taxes, fees, or charges, with the exception of
11 fees or charges for water for residential use and
12 sewer charges, collected by the county. Each
13 county by ordinance may also provide for the
14 addition of any unpaid administratively imposed
15 civil fines, which remain due after all judicial
16 review rights under section 91-14 are exhausted,
17 to any taxes, fees, or charges, with the
18 exception of water for residential use and sewer
19 charges, collected by the county. The ordinance
20 shall specify the administrative procedures for
21 the addition of the unpaid civil fines to the



1 eligible taxes, fees, or charges and may require
2 hearings or other proceedings. After addition of
3 the unpaid civil fines to the taxes, fees, or
4 charges, the unpaid civil fines shall not become
5 a part of any taxes, fees, or charges. The
6 county by ordinance may condition the issuance or
7 renewal of a license, approval, or permit for
8 which a fee or charge is assessed, except for
9 water for residential use and sewer charges, on
10 payment of the unpaid civil fines. Upon
11 recordation of a notice of unpaid civil fines in
12 the bureau of conveyances, the amount of the
13 civil fines, including any increase in the amount
14 of the fine which the county may assess, shall
15 constitute a lien upon all real property or
16 rights to real property belonging to any person
17 liable for the unpaid civil fines. The lien in
18 favor of the county shall be subordinate to any
19 lien in favor of any person recorded or
20 registered prior to the recordation of the notice
21 of unpaid civil fines and senior to any lien



1 recorded or registered after the recordation of
2 the notice. The lien shall continue until the
3 unpaid civil fines are paid in full or until a
4 certificate of release or partial release of the
5 lien, prepared by the county at the owner's
6 expense, is recorded. The notice of unpaid civil
7 fines shall state the amount of the fine as of
8 the date of the notice and maximum permissible
9 daily increase of the fine. The county shall not
10 be required to include a social security number,
11 state general excise taxpayer identification
12 number, or federal employer identification number
13 on the notice. Recordation of the notice in the
14 bureau of conveyances shall be deemed, at [~~such~~]
15 that time, for all purposes and without any
16 further action, to procure a lien on land
17 registered in land court under chapter 501.
18 After the unpaid civil fines are added to the
19 taxes, fees, or charges as specified by county
20 ordinance, the unpaid civil fines shall be deemed
21 immediately due, owing, and delinquent and may be



1 collected in any lawful manner. The procedure
2 for collection of unpaid civil fines authorized
3 in this paragraph shall be in addition to any
4 other procedures for collection available to the
5 State and county by law or rules of the courts;
6 (C) Each county may impose civil fines upon any
7 person who places graffiti on any real or
8 personal property owned, managed, or maintained
9 by the county. The fine may be up to \$1,000 or
10 may be equal to the actual cost of having the
11 damaged property repaired or replaced. The
12 parent or guardian having custody of a minor who
13 places graffiti on any real or personal property
14 owned, managed, or maintained by the county shall
15 be jointly and severally liable with the minor
16 for any civil fines imposed hereunder. Any
17 [~~such~~] fine may be administratively imposed after
18 an opportunity for a hearing under chapter 91,
19 but [~~such~~] a proceeding shall not be a
20 prerequisite for any civil fine ordered by any
21 court. As used in this subparagraph, "graffiti"

1 means any unauthorized drawing, inscription,
2 figure, or mark of any type intentionally created
3 by paint, ink, chalk, dye, or similar substances;
4 (D) At the completion of an appeal in which the
5 county's enforcement action is affirmed and upon
6 correction of the violation if requested by the
7 violator, the case shall be reviewed by the
8 county agency that imposed the civil fines to
9 determine the appropriateness of the amount of
10 the civil fines that accrued while the appeal
11 proceedings were pending. In its review of the
12 amount of the accrued fines, the county agency
13 may consider:
14 (i) The nature and egregiousness of the
15 violation;
16 (ii) The duration of the violation;
17 (iii) The number of recurring and other similar
18 violations;
19 (iv) Any effort taken by the violator to correct
20 the violation;

- 1 (v) The degree of involvement in causing or
- 2 continuing the violation;
- 3 (vi) Reasons for any delay in the completion of
- 4 the appeal; and
- 5 (vii) Other extenuating circumstances.

6 The civil fine that is imposed by administrative
7 order after this review is completed and the
8 violation is corrected shall be subject to
9 judicial review, notwithstanding any provisions
10 for administrative review in county charters;

11 (E) After completion of a review of the amount of
12 accrued civil fine by the county agency that
13 imposed the fine, the amount of the civil fine
14 determined appropriate, including both the
15 initial civil fine and any accrued daily civil
16 fine, shall immediately become due and
17 collectible following reasonable notice to the
18 violator. If no review of the accrued civil fine
19 is requested, the amount of the civil fine, not
20 to exceed the total accrual of civil fine prior
21 to correcting the violation, shall immediately



1 become due and collectible following reasonable
2 notice to the violator, at the completion of all
3 appeal proceedings; and
4 (F) If no county agency exists to conduct appeal
5 proceedings for a particular civil fine action
6 taken by the county, then one shall be
7 established by ordinance before the county shall
8 impose the civil fine[+]. After all notices,
9 orders, and appeal proceedings are exhausted, a
10 county may satisfy all unpaid civil fines through
11 the power of sale on the real property subject to
12 a recorded lien. A power of sale shall become
13 fully effective within a county upon the
14 enactment or adoption by the county of
15 appropriate and particular laws, ordinances, or
16 rules establishing the power of sale;
17 (25) Any law to the contrary notwithstanding, any county
18 mayor, by executive order, may exempt donors, provider
19 agencies, homeless facilities, and any other program
20 for the homeless under part XVII of chapter 346 from
21 real property taxes, water and sewer development fees,



1 rates collected for water supplied to consumers and
2 for use of sewers, and any other county taxes,
3 charges, or fees; provided that any county may enact
4 ordinances to regulate and grant the exemptions
5 granted by this paragraph;

6 (26) Any county may establish a captive insurance company
7 pursuant to article 19, chapter 431; and

8 (27) Each county shall have the power to enact and enforce
9 ordinances regulating towing operations."

10 SECTION 3. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 4. This Act shall take effect upon its approval.

13

INTRODUCED BY: _____



JAN 10 2025



H.B. NO. 29

Report Title:

Counties; Civil Fines; Real Property; Power of Sale

Description:

Authorizes counties, after adoption of an ordinance, to sell private property after all notices, orders, and appeal proceedings are exhausted, and to use those revenues to pay unpaid civil fines related to that property.

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

