
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 the reasonable
3 maintenance of 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, or unauthorized persons occupying the
11 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 county police and planning or permitting
5 agencies to enter privately owned residential real
6 property, under certain specified conditions, to
7 address imminent threats to health or safety or
8 violations of county zoning laws that threaten health
9 or safety; and

10 (2) Specify that a property owner who receives a health-
11 or safety-related notice of violation and fails to
12 remediate the violation within the county planning or
13 permitting agency's specified time frame shall be
14 fined a minimum of \$1,000 per day and subject to
15 foreclosure proceedings if the fine is not paid within
16 ninety days and remediation of the violation is not
17 being conducted.

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



1 "§46-A Authority to enter private property; imminent
2 threat; zoning violation. (a) Notwithstanding chapter 322, an
3 officer of a county police department or county planning or
4 permitting agency may enter privately owned residential real
5 property, without the consent or cooperation of the owner or
6 occupant of the real property, for the purpose of investigating
7 any condition on the premises that the officer reasonably
8 believes may:

9 (1) Pose an imminent threat:

10 (A) Of illness, disease, or injury; or

11 (B) To health or safety; or

12 (2) Constitute a violation of any county zoning ordinance,
13 rule, or regulation that:

14 (A) Has been adopted in accordance with section 46-4;

15 (B) Applies to residentially zoned real property; and

16 (C) If not enforced, may pose an imminent threat to
17 health or safety, in the judgment of the officer
18 of the county planning or permitting agency.

19 (b) Upon confirmation that the condition specified in
20 subsection (a) exists, the applicable county police department
21 or county planning or permitting agency shall arrest, or issue a



1 citation or notice of violation to, each responsible party, as
2 appropriate; provided that if the applicable county planning or
3 permitting agency issues a notice of violation to the owner of
4 the real property under this subsection, the owner of the real
5 property shall remediate the condition that gave rise to
6 issuance of the notice of violation, to the agency's
7 satisfaction and within the agency's specified time frame.

8 (c) The results of an investigation conducted by a county
9 police department under this section and involving a potential
10 violation of a county zoning ordinance described in
11 subsection (a)(2) shall be promptly forwarded to the applicable
12 county planning or permitting agency for review. The applicable
13 county planning or permitting agency shall take further action
14 if appropriate.

15 (d) The applicable county police department or county
16 planning or permitting agency may request assistance from the
17 department of health for any health-related condition on the
18 real property that is beyond the expertise of the county police
19 department or county planning or permitting agency.

20 (e) For the purposes of this section, a condition that may
21 pose an imminent threat of illness, disease, or injury, or



1 imminent threat to health or safety, includes but is not limited
2 to:

3 (1) An unreasonable amount of accumulated trash;

4 (2) One or more dilapidated structures that may attract or
5 house insects, vermin, or other pests;

6 (3) Occupation by one or more unauthorized persons when
7 the property is not in a habitable condition or is not
8 equipped with proper sanitary facilities;

9 (4) Occupation of a residence or other structure by a
10 number of persons that exceeds the allowed population
11 density for that location, pursuant to county zoning
12 ordinance, rule, or regulation; and

13 (5) Any nuisance described in section 322-1.

14 **§46-B Penalties for unaddressed zoning violations.** The
15 penalties for a violation of any county zoning ordinance, rule,
16 or regulation that potentially impacts health or safety as
17 described in section 46-A(a) (2) (C) shall be as follows,
18 regardless of whether a county planning or permitting agency's
19 investigation was conducted without the owner's or occupant's
20 consent or cooperation pursuant to section 46-A(a) or by other
21 means:



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

7 (2) If within ninety days of receiving notice the owner of
8 real property fails to:

9 (A) Pay in full the assessed fine specified in
10 paragraph (1); and

11 (B) Commence and diligently conduct remediation of
12 all conditions that gave rise to issuance of the
13 notice of violation, to the agency's
14 satisfaction,

15 then the applicable county planning or permitting
16 agency shall commence foreclosure proceedings on the
17 real property without delay."

18 SECTION 3. In codifying the new sections added by
19 section 2 of this Act, the revisor of statutes shall substitute
20 appropriate section numbers for the letters used in designating
21 the new sections in this Act.



1 SECTION 4. 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 5. New statutory material is underscored.

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



Report Title:

Residential Real Property; Private Owner; Health and Safety;
Imminent Threat; Zoning Violation; Penalties

Description:

Authorizes county police and planning or permitting agencies to enter privately owned residential real property, under certain specified conditions, to address imminent threats to health or safety or violations of county zoning laws that threaten health or safety. Specifies that a property owner who receives a health- or safety-related 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 and subject to foreclosure proceedings if within a certain number of days the fine is not paid and commencement of remediation is not started. (HD1)

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