

JAN 22 2021

A BILL FOR AN ACT

RELATING TO PROPERTY.

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

1 SECTION 1. The legislature finds that the high cost of
2 purchasing property has put homeownership out of reach for many
3 families in Hawaii. One factor contributing to the inflated
4 costs of homes is the activity of nonresident alien developers
5 and investors. Speculation in the land market by these
6 developers and investors artificially increases competition in
7 the market and drives prices beyond the resources of individuals
8 and families that would like to purchase homes.

9 The legislature also finds that other jurisdictions have
10 restricted nonresident aliens from purchasing land in an attempt
11 to keep prices from being artificially inflated. For example,
12 New Zealand has placed prohibitions to prevent nonresident
13 aliens from buying into most parts of its residential property
14 market. Oklahoma, Wisconsin, and other states in the United
15 States have adopted similar restrictions.

16 The purpose of this Act is to prohibit nonresident aliens
17 and businesses and trusts significantly controlled by



1 nonresident aliens from acquiring certain residential property
2 in the State, except as otherwise provided by law.

3 SECTION 2. The Hawaii Revised Statutes is amended by
4 adding a new chapter to title 28 to be appropriately designated
5 and to read as follows:

6 "CHAPTER

7 NONRESIDENT ALIEN ACQUISITION OF RESIDENTIAL PROPERTY

8 § -1 Definitions. As used in this chapter, unless the
9 context requires otherwise:

10 "Nonresident alien" means any:

- 11 (1) Individual who is a foreign national, not a citizen of
12 the United States, and not a legal resident of the
13 United States;
- 14 (2) Business formed under the laws of a country or a
15 political subdivision of a country other than the
16 United States;
- 17 (3) Business having more than per cent of its stock,
18 securities, or other ownership held or owned by
19 persons described in paragraph (1) or (2); or



1 (4) Trust having more than twenty per cent of the value of
2 its assets held for the benefit of persons described
3 in paragraph (1) or (2).

4 "Residential property" means real property that is zoned as
5 residential property in the county where the property is
6 located.

7 "Threshold property" means residential property containing
8 a main structure that was constructed more than five years prior
9 to the acquisition or purchase date; provided that if the
10 residential property is a unit of a condominium, the unit shall
11 be considered to have been constructed on the completion
12 deadline date submitted pursuant to section 514B-83(a)(2).

13 **§ -2 General prohibition.** (a) Except as otherwise
14 provided in this chapter, a nonresident alien shall not acquire,
15 own, or hold any interest, directly or indirectly, in any
16 threshold property.

17 (b) Notwithstanding any law to the contrary, an
18 authorization by the State to conduct business within the State
19 shall not be construed to exempt a nonresident alien from the
20 prohibition established in this section.



1 **§ -3 Exceptions.** (a) The prohibition in section -2
2 shall not apply to:

3 (1) The extent that it is contrary to any treaty in which
4 the United States is a party; provided that the treaty
5 is in force;

6 (2) Any residential property acquired before July 1, 2021;
7 provided that the property remains in the possession
8 of the owner who acquired the property before July 1,
9 2021; or

10 (3) Any residential property that was not a threshold
11 property when initially acquired by a nonresident
12 alien but subsequently qualified as a threshold
13 property; provided that the property remained in the
14 possession of the owner who acquired the property
15 before it qualified as a threshold property.

16 (b) The prohibition in section -2 shall not prevent a
17 nonresident alien from:

18 (1) Acquiring residential property or any interest in
19 residential property by devise, inheritance, or in the
20 good faith collection of debts by due process of law;



1 (2) Acquiring liens on residential property or any
2 interest therein;
3 (3) Lending money and securing it by a lien or mortgage on
4 residential property or any interest therein;
5 (4) Enforcing the foregoing liens or mortgages; or
6 (5) Acquiring and holding title to residential property,
7 or any interest therein, upon which a lien is fixed or
8 upon which a loan of money was made and secured;
9 provided that any threshold property so acquired shall be
10 conveyed to a person who is not a nonresident alien within five
11 years after title is perfected. Any threshold property not
12 conveyed by the foregoing deadline, or conveyed to a nonresident
13 alien in violation of this chapter, shall revert and escheat to
14 the State pursuant to section -5.

15 **§ -4 Conveyance of threshold property before proceedings**
16 **by the State initiated.** (a) Any nonresident alien who holds
17 threshold property in violation of this chapter may convey title
18 thereto at any time before the institution of proceedings by the
19 State to revert and escheat the property.

20 (b) Notwithstanding subsection (a), any conveyance made
21 for the purpose and with the intention of evading this chapter



1 shall be void, and any property so conveyed shall revert and
2 escheat to the State pursuant to section -5.

3 **§ -5 Proceedings by the State; compensation.** (a) The
4 attorney general, when having reason to believe that threshold
5 property in this State is held contrary to this chapter, shall
6 file an action on behalf of the State in the circuit court where
7 the property is situated, to revert and escheat the property to
8 the State.

9 (b) No later than ninety days before filing an action
10 under this section, the attorney general shall serve a written
11 notice of claim, by registered mail or personal service, to:

- 12 (1) The owner of the property;
- 13 (2) The person who last claimed to own the property for
14 real property taxation purposes; or
- 15 (3) A duly authorized agent.

16 (c) If notice cannot be accomplished by one or more of the
17 methods in subsection (b), notice may be made by publication in
18 a newspaper of general circulation in the county where the
19 property is situated.

20 (d) If the threshold property subject to these proceedings
21 was acquired by a person pursuant to section -3(b), the State



1 shall pay the full value of the property to the person, less any
2 expense incurred by the State in attaining an appraisal of the
3 property."

4 SECTION 3. This Act does not affect rights and duties that
5 matured, penalties that were incurred, and proceedings that were
6 begun before its effective date.

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

8

INTRODUCED BY: Kurt Ferella



S.B. NO. 904

Report Title:

Residential Property; Nonresident Aliens; Prohibitions

Description:

Prohibits nonresident aliens and businesses and trusts that are significantly controlled by nonresident aliens from acquiring certain residential property in the State, except as otherwise provided by law.

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

