
A BILL FOR AN ACT

RELATING TO THE COUNTIES.

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

1 SECTION 1. Section 46-1.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§46-1.5 General powers and limitation of the counties.**

4 Subject to general law, each county shall have the following
5 powers and shall be subject to the following liabilities and
6 limitations:

7 (1) Each county shall have the power to frame and adopt a
8 charter for its own self-government that shall
9 establish the county executive, administrative, and
10 legislative structure and organization, including but
11 not limited to the method of appointment or election
12 of officials, their duties, responsibilities, and
13 compensation, and the terms of their office;

14 (2) Each county shall have the power to provide for and
15 regulate the marking and lighting of all buildings and
16 other structures that may be obstructions or hazards
17 to aerial navigation, so far as may be necessary or



1 proper for the protection and safeguarding of life,
2 health, and property;

3 (3) Each county shall have the power to enforce all claims
4 on behalf of the county and approve all lawful claims
5 against the county, but shall be prohibited from
6 entering into, granting, or making in any manner any
7 contract, authorization, allowance payment, or
8 liability contrary to the provisions of any county
9 charter or general law;

10 (4) Each county shall have the power to make contracts and
11 to do all things necessary and proper to carry into
12 execution all powers vested in the county or any
13 county officer;

14 (5) Each county shall have the power to:
15 (A) Maintain channels, whether natural or artificial,
16 including their exits to the ocean, in suitable
17 condition to carry off storm waters;
18 (B) Remove from the channels, and from the shores and
19 beaches, any debris that is likely to create an
20 unsanitary condition or become a public nuisance;
21 provided that, to the extent any of the foregoing



1 work is a private responsibility, the
2 responsibility may be enforced by the county in
3 lieu of the work being done at public expense;

4 (C) Construct, acquire by gift, purchase, or by the
5 exercise of eminent domain, reconstruct, improve,
6 better, extend, and maintain projects or
7 undertakings for the control of and protection
8 against floods and flood waters, including the
9 power to drain and rehabilitate lands already
10 flooded;

11 (D) Enact zoning ordinances providing that lands
12 deemed subject to seasonable, periodic, or
13 occasional flooding shall not be used for
14 residence or other purposes in a manner as to
15 endanger the health or safety of the occupants
16 thereof, as required by the Federal Flood
17 Insurance Act of 1956 (chapter 1025, Public Law
18 1016); and

19 (E) Establish and charge user fees to create and
20 maintain any stormwater management system or
21 infrastructure; provided that no county shall



charge against or collect user fees from the department of transportation in excess of \$1,500,000 in the aggregate per year; provided further that no services shall be denied to the department of transportation by reason of nonpayment of the fees;

- (6) Each county shall have the power to exercise the power of condemnation by eminent domain when it is in the public interest to do so;
- (7) Each county shall have the power to exercise regulatory powers over business activity as are assigned to them by chapter 445 or other general law;
- (8) Each county shall have the power to fix the fees and charges for all official services not otherwise provided for;
- (9) Each county shall have the power to provide by ordinance assessments for the improvement or maintenance of districts within the county;
- (10) Except as otherwise provided, no county shall have the power to give or loan credit to, or in aid of, any



1 person or corporation, directly or indirectly, except
2 for a public purpose;

3 (11) Where not within the jurisdiction of the public
4 utilities commission, each county shall have the power
5 to regulate by ordinance the operation of motor
6 vehicle common carriers transporting passengers within
7 the county and adopt and amend rules the county deems
8 necessary for the public convenience and necessity;

9 (12) Each county shall have the power to enact and enforce
10 ordinances necessary to prevent or summarily remove
11 public nuisances and to compel the clearing or removal
12 of any public nuisance, refuse, and uncultivated
13 undergrowth from streets, sidewalks, public places,
14 and unoccupied lots. In connection with these powers,
15 each county may impose and enforce liens upon the
16 property for the cost to the county of removing and
17 completing the necessary work where the property
18 owners fail, after reasonable notice, to comply with
19 the ordinances. The authority provided by this
20 paragraph shall not be self-executing, but shall
21 become fully effective within a county only upon the



1 enactment or adoption by the county of appropriate and
2 particular laws, ordinances, or rules defining "public
3 nuisances" with respect to each county's respective
4 circumstances. The counties shall provide the
5 property owner with the opportunity to contest the
6 summary action and to recover the owner's property;

7 (13) Each county shall have the power to enact ordinances
8 deemed necessary to protect health, life, and
9 property, and to preserve the order and security of
10 the county and its inhabitants on any subject or
11 matter not inconsistent with, or tending to defeat,
12 the intent of any state statute where the statute does
13 not disclose an express or implied intent that the
14 statute shall be exclusive or uniform throughout the
15 State;

16 (14) Each county shall have the power to:
17 (A) Make and enforce within the limits of the county
18 all necessary ordinances covering all:
19 (i) Local police matters;
20 (ii) Matters of sanitation;
21 (iii) Matters of inspection of buildings;



1 (iv) Matters of condemnation of unsafe
2 structures, plumbing, sewers, dairies, milk,
3 fish, and morgues; and
4 (v) Matters of the collection and disposition of
5 rubbish and garbage;

6 (B) Provide exemptions for homeless facilities and
7 any other program for the homeless authorized by
8 part XVII of chapter 346, for all matters under
9 this paragraph;

10 (C) Appoint county physicians and sanitary and other
11 inspectors as necessary to carry into effect
12 ordinances made under this paragraph, who shall
13 have the same power as given by law to agents of
14 the department of health, subject only to
15 limitations placed on them by the terms and
16 conditions of their appointments; and
17 (D) Fix a penalty for the violation of any ordinance,
18 which penalty may be a misdemeanor, petty
19 misdemeanor, or violation as defined by general
20 law;



1 (15) Each county shall have the power to provide public
2 pounds; to regulate the impounding of stray animals
3 and fowl, and their disposition; and to provide for
4 the appointment, powers, duties, and fees of animal
5 control officers;

6 (16) Each county shall have the power to purchase and
7 otherwise acquire, lease, and hold real and personal
8 property within the defined boundaries of the county
9 and to dispose of the real and personal property as
10 the interests of the inhabitants of the county may
11 require, except that:

12 (A) Any property held for school purposes may not be
13 disposed of without the consent of the
14 superintendent of education;

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

17 (C) All proceeds from the sale of park lands shall be
18 expended only for the acquisition of property for
19 park or recreational purposes;

20 (17) Each county shall have the power to provide by charter
21 for the prosecution of all offenses and to prosecute



1 for offenses against the laws of the State under the
2 authority of the attorney general of the State;

3 (18) Each county shall have the power to make
4 appropriations in amounts deemed appropriate from any
5 moneys in the treasury, for the purpose of:
6 (A) Community promotion and public celebrations;
7 (B) The entertainment of distinguished persons as may
8 from time to time visit the county;
9 (C) The entertainment of other distinguished persons,
10 as well as, public officials when deemed to be in
11 the best interest of the community; and
12 (D) The rendering of civic tribute to individuals
13 who, by virtue of their accomplishments and
14 community service, merit civic commendations,
15 recognition, or remembrance;

16 (19) Each county shall have the power to:
17 (A) Construct, purchase, take on lease, lease,
18 sublease, or in any other manner acquire, manage,
19 maintain, or dispose of buildings for county
20 purposes, sewers, sewer systems, pumping
21 stations, waterworks, including reservoirs,





1 (21) Unless otherwise provided by law, each county shall
2 have the power to establish by ordinance the order of
3 succession of county officials in the event of a
4 military or civil disaster;

5 (22) Each county shall have the power to sue and be sued in
6 its corporate name;

7 (23) Each county shall have the power to:
8 (A) Establish and maintain waterworks and sewer
9 works;
10 (B) Implement a sewer monitoring program that
11 includes the inspection of sewer laterals that
12 connect to county sewers, when those laterals are
13 located on public or private property, after
14 providing a property owner not less than ten
15 calendar days' written notice, to detect leaks
16 from laterals, infiltration, and inflow, any
17 other law to the contrary notwithstanding;

18 (C) Compel an owner of private property upon which is
19 located any sewer lateral that connects to a
20 county sewer to inspect that lateral for leaks,



1 infiltration, and inflow and to perform repairs
2 as necessary;

3 (D) Collect rates for water supplied to consumers and
4 for the use of sewers;

11 (F) Take over from the State existing waterworks
12 systems, including water rights, pipelines, and
13 other appurtenances belonging thereto, and sewer
14 systems, and to enlarge, develop, and improve the
15 same; and

16 (G) For purposes of subparagraphs (B) and (C):
17 (i) "Infiltration" means groundwater, rainwater,
18 and saltwater that enters the county sewer
19 system through cracked, broken, or defective
20 sewer laterals; and





1 county by ordinance may also provide for the
2 addition of any unpaid administratively imposed
3 civil fines, which remain due after all judicial
4 review rights under section 91-14 are exhausted,
5 to any taxes, fees, or charges, with the
6 exception of water for residential use and sewer
7 charges, collected by the county. The ordinance
8 shall specify the administrative procedures for
9 the addition of the unpaid civil fines to the
10 eligible taxes, fees, or charges and may require
11 hearings or other proceedings. After addition of
12 the unpaid civil fines to the taxes, fees, or
13 charges, the unpaid civil fines shall not become
14 a part of any taxes, fees, or charges. The
15 county by ordinance may condition the issuance or
16 renewal of a license, approval, or permit for
17 which a fee or charge is assessed, except for
18 water for residential use and sewer charges, on
19 payment of the unpaid civil fines. Upon
20 recordation of a notice of unpaid civil fines in
21 the bureau of conveyances, the amount of the



1 civil fines, including any increase in the amount
2 of the fine which the county may assess, shall
3 constitute a lien upon all real property or
4 rights to real property belonging to any person
5 liable for the unpaid civil fines. The lien in
6 favor of the county shall be subordinate to any
7 lien in favor of any person recorded or
8 registered prior to the recordation of the notice
9 of unpaid civil fines and senior to any lien
10 recorded or registered after the recordation of
11 the notice. The lien shall continue until the
12 unpaid civil fines are paid in full or until a
13 certificate of release or partial release of the
14 lien, prepared by the county at the owner's
15 expense, is recorded. The notice of unpaid civil
16 fines shall state the amount of the fine as of
17 the date of the notice and maximum permissible
18 daily increase of the fine. The county shall not
19 be required to include a social security number,
20 state general excise taxpayer identification
21 number, or federal employer identification number



1 on the notice. Recordation of the notice in the
2 bureau of conveyances shall be deemed, at such
3 time, for all purposes and without any further
4 action, to procure a lien on land registered in
5 land court under chapter 501. After the unpaid
6 civil fines are added to the taxes, fees, or
7 charges as specified by county ordinance, the
8 unpaid civil fines shall be deemed immediately
9 due, owing, and delinquent and may be collected
10 in any lawful manner. The procedure for
11 collection of unpaid civil fines authorized in
12 this paragraph shall be in addition to any other
13 procedures for collection available to the State
14 and county by law or rules of the courts;

15 (C) Each county may impose civil fines upon any
16 person who places graffiti on any real or
17 personal property owned, managed, or maintained
18 by the county. The fine may be up to \$1,000 or
19 may be equal to the actual cost of having the
20 damaged property repaired or replaced. The
21 parent or guardian having custody of a minor who



1 places graffiti on any real or personal property
2 owned, managed, or maintained by the county shall
3 be jointly and severally liable with the minor
4 for any civil fines imposed hereunder. Any such
5 fine may be administratively imposed after an
6 opportunity for a hearing under chapter 91, but
7 such a proceeding shall not be a prerequisite for
8 any civil fine ordered by any court. As used in
9 this subparagraph, "graffiti" means any
10 unauthorized drawing, inscription, figure, or
11 mark of any type intentionally created by paint,
12 ink, chalk, dye, or similar substances;

13 (D) At the completion of an appeal in which the
14 county's enforcement action is affirmed and upon
15 correction of the violation if requested by the
16 violator, the case shall be reviewed by the
17 county agency that imposed the civil fines to
18 determine the appropriateness of the amount of
19 the civil fines that accrued while the appeal
20 proceedings were pending. In its review of the



1 amount of the accrued fines, the county agency
2 may consider:

3 (i) The nature and egregiousness of the
4 violation;

5 (ii) The duration of the violation;

6 (iii) The number of recurring and other similar
7 violations;

8 (iv) Any effort taken by the violator to correct
9 the violation.

10 (v) The degree of involvement in causing or
11 continuing the violation.

12 (vi) Reasons for any delay in the completion of
13 the appeal; and

14 (vii) Other extenuating circumstances

15 The civil fine that is imposed by administrative
16 order after this review is completed and the
17 violation is corrected shall be subject to

20 (E) After completion of a review of the amount of
21 assessed civil fine by the county agency that



1 (A) Each county may adopt ordinances and rules
2 providing for the imposition of civil fines for
3 violations of county ordinances and rules;
4 provided that no civil fine may be imposed
5 without written notice of the fine and the
6 reasons for the fine to the violator.

7 (B) No civil fine imposed under this part may be
8 collected until the opportunity for a hearing
9 under chapter 91 has expired or been exhausted.
10 If no county agency exists to conduct appeal
11 proceedings for a particular civil fine action
12 taken by the county, then one shall be
13 established before the county shall impose the
14 civil fine. A request for a hearing to contest
15 the civil fine shall be filed within thirty days
16 from the date of service of the written notice of
17 the civil fine and such notice must include
18 notice of the cited person's rights to appeal the
19 civil fine decision.

20 (C) An appeal shall not stay any provision in an
21 order, including provisions imposing civil fines.



1 However, after the completion of an appeal in
2 which the county's enforcement action is
3 affirmed, the county shall review the total daily
4 fines imposed during the pendency of the appeal
5 for appropriateness and may reduce the daily
6 fines accrued during this period based on:

7 (i) The nature and egregiousness of the
8 violation;
9 (ii) The duration of the violation;
10 (iii) The number of recurring and other similar
11 violations;
12 (iv) Any effort taken by the violator to correct
13 the violation;
14 (v) The degree of involvement in causing or
15 continuing the violation;
16 (vi) Reasons for any delay in the completion of
17 the appeal; and
18 (vii) Other extenuating circumstances, including
19 the violator's ability to pay the fines.

20 (D) If a person liable for daily fines imposed by a
21 county corrects the violation for which the fines



- (i) The nature and egregiousness of the violation;
- (ii) The duration of the violation;
- (iii) The number of recurring and other similar violations;
- (iv) Any effort taken by the violator to correct the violation;
- (v) The degree of involvement in causing or continuing the violation;
- (vi) Reasons for any delay in the completion of the appeal;
- (vii) Other extenuating circumstances, including the violator's ability to pay the total fine imposed.

Each county may, by ordinance, provide for the addition of any unpaid civil fines to any taxes, fees, or charges, with the exception of fees or charges for water for residential use and sewer



1 charges, collected by the county. The ordinance
2 shall specify the administrative procedures for
3 the addition of the unpaid civil fines to the
4 eligible taxes, fees, or charges and may require
5 hearings or other proceedings. After the unpaid
6 civil fines are added to the taxes, fees, or
7 charges as specified by county ordinance, the
8 unpaid civil fines shall be deemed immediately
9 due, owing, and delinquent and may be collected
10 in the same manner as the taxes, fees, or charges
11 to which they are attached; provided that the
12 fines will not be considered part of the taxes,
13 fees, or charges to which they are attached and
14 will not be given priority over senior mortgages,
15 liens, or judgments that can be collected through
16 the applicable collections process.

17 (F) Each country, by ordinance, may condition the
18 issuance or renewal of a license, approval, or
19 permit for which a fee or charge is assessed,
20 except for water for residential use and sewer
21 charges, on payment of the unpaid civil fines.





1 unpaid civil fines are paid in full or until a
2 certificate of release or partial release of the
3 lien, prepared by the county at the owner's
4 expense, is recorded. The county shall not be
5 required to include a social security number,
6 state general excise taxpayer identification
7 number, or federal employer identification number
8 on the notice.

9 (H) After a county records a notice of unpaid civil
10 fines in the bureau of conveyances or land court,
11 the county may collect any unpaid fines secured
12 by the county lien by foreclosing on the lien in
13 a manner similar to that provided under chapter
14 667; provided that this power shall become
15 effective upon the county's adoption of
16 ordinances or rules necessary to carry this power
17 into effect; provided further that the counties
18 shall adhere to section 667-3 in providing for
19 the application of proceeds upon foreclosure of
20 the county lien.



1 (I) Each county may impose civil fines upon any
2 person who places graffiti on any real or
3 personal property owned, managed, or maintained
4 by the county. The fine may be up to \$1,000 or
5 may be equal to the actual cost of having the
6 damaged property repaired or replaced. The
7 parent or guardian having custody of a minor who
8 places graffiti on any real or personal property
9 owned, managed, or maintained by the county shall
10 be jointly and severally liable with the minor
11 for any civil fines imposed hereunder. Any such
12 fine may be administratively imposed after an
13 opportunity for a hearing under chapter 91, but
14 such a proceeding shall not be a prerequisite for
15 any civil fine ordered by any court. As used in
16 this subparagraph, "graffiti" means any
17 unauthorized drawing, inscription, figure, or
18 mark of any type intentionally created by paint,
19 ink, chalk, dye, or similar substances;
20 (25) Any law to the contrary notwithstanding, any county
21 mayor, by executive order, may exempt donors, provider



1 agencies, homeless facilities, and any other program
2 for the homeless under part XVII of chapter 346 from
3 real property taxes, water and sewer development fees,
4 rates collected for water supplied to consumers and
5 for use of sewers, and any other county taxes,
6 charges, or fees; provided that any county may enact
7 ordinances to regulate and grant the exemptions
8 granted by this paragraph;

9 (26) Any county may establish a captive insurance company
10 pursuant to article 19, chapter 431; and
11 (27) Each county shall have the power to enact and enforce
12 ordinances regulating towing operations."

13 SECTION 2. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 3. This Act shall take effect upon its approval.

16

INTRODUCED BY:

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JAN 23 2026



H.B. NO. 1861

Report Title:

County Powers; Civil Fines; Lien; Non-judicial Foreclosure

Description:

Authorizes counties to sell property through non-judicial foreclosure as a way to collect unpaid civil fines, subject to certain conditions.

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

