



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2026**

ON THE FOLLOWING MEASURE:

H.B. NO. 1990, H.D. 1, RELATING TO RESIDENTIAL REAL PROPERTY.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

DATE: Wednesday, March 4, 2026 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Dean A. Soma, Seth J. Corpuz-Lahne, or Gurudev D. Allin, Deputy
Attorneys General

Chair Tarnas and Members of the Committee:

The Department of the Attorney General (Department) offers comments, and recommends amendments to this bill, including that all references to the Department be deleted from the bill.

The purpose of this bill is to specify that a property owner who receives a notice of violation of any county zoning ordinance, rule, or regulation and fails to remediate the violation, to the county planning or permitting agency's satisfaction and within the agency's specified time frame, shall be fined a minimum of \$1,000 per day, subject to a lien if the fines exceed \$20,000, and subject to foreclosure proceedings if the property owner does not satisfy the lien and commence remediation of the violation within thirty days of notice.

This bill adds a new section to chapter 46, Hawaii Revised Statutes (HRS), that, among other things, mandates monetary penalties for violation of any county zoning ordinance, rule, or regulation, and directs the applicable county planning or permitting agency to commence foreclosure of the real property via judicial or nonjudicial foreclosure without delay where the amount of fines exceeds \$20,000 and the owner of real property has failed to timely satisfy the lien and remediate all conditions that gave rise to the issuance of the notice of violation.

The Department of the Attorney General is not an appropriate entity to enforce county-level zoning regulations.

The Department respectfully requests that all references to the Department be deleted from the bill. The bill directs the Attorney General to commence foreclosure

proceedings when the applicable county planning or permitting agency fails to do so within thirty days of receipt of the notice of lien by the owner of the property and provides that any moneys recovered from the proceedings be remitted to the applicable county, less twenty percent of the fines assessed that are directed to be deposited into the general fund.

The Department notes that this bill is concerned with **county zoning rules**. The Department respectfully requests that this bill be amended to replace subsection (b) of the new section of chapter 46, which involves the Attorney General (page 3, lines 5-12), with the following:

(b) Within thirty days after the applicable county planning or permitting agency filing the notice of violation at the bureau of conveyances, the bureau of conveyances shall refer the matter to the applicable county corporation counsel to commence foreclosure proceedings, judicial or nonjudicial, on the real property without delay.

Counsel for the counties are better suited to bring foreclosure actions to enforce their own zoning rules and regulations. The corporation counsels already bring foreclosure actions for nonpayment of property tax in the counties. The Department, on the other hand, is focused on state-level laws and regulations. This bill would divert resources from the Department to a county level zoning enforcement task that is better suited for the corporation counsels for the counties. The Department requests that it be substantively removed from the bill.

The text of this bill is overbroad regarding its subject "Residential Real Property".

Although the subject of this bill as expressed in the bill's title is "Residential Real Property," the findings and purpose section (section 1, page 1, lines 1 – 13) includes all real property. Section 2, pages 1 – 3, contains several references to "real property" that are not qualified to only include "residential real property." The Department recommends that each usage of the term "real property" (page 1, lines 1-2; page 2, lines 4, 11, 13, and 15; and page 3, line 3) be amended to add the qualifier, "residential". The title of the new section "Penalties for unaddressed zoning violations," should be amended to read "Penalties for unaddressed residential real property zoning violations" to further clarify that the provisions set forth apply only to "residential real property". Amending this bill as recommended by the Department will ensure that this

bill stays within the bounds of its subject matter. "Residential real property" should relate back to property designated for residential use under section 46-4, HRS.

This bill references a "notice of lien" but there is no mechanism provided for a "notice of lien".

Section 2 of this bill adds to chapter 46, HRS, a new section that provides in paragraph (2) of subsection (a), on page 2, lines 11 – 13, that, "If fines assessed to the owner of real property exceed \$20,000, then the notice of violation shall constitute a lien upon real property within thirty days," and then makes reference to a "notice of lien" in paragraph (3) on page 2, line 14, referring to "the lien specified in paragraph (2) " on page 2, line 16, and refers again to "notice of violation" on page 2, line 19. There is no process stated by which an applicable county planning or permitting agency would provide a notice of lien.

The Department recommends that the terms "notice of violation" and "notice of lien" be harmonized by amending references to "notice of lien" and "lien" to "notice of violation," where appropriate (page 2, lines 14 and 16) as the "notice of violation" issued pursuant to this section is statutorily deemed to "constitute a lien upon the real property."

The phrase "shall constitute a lien upon the real property within thirty days" is vague.

The new section 46- (a)(2), which states, on page 2, lines 11–13, that, "If fines assessed to the owner of real property exceed \$20,000, then the notice of violation shall constitute a lien upon real property within thirty days," is not clear when a notice of violation becomes a lien upon real property, but the intent of the phrase "within thirty days," appears to be linked to the requirement set forth in paragraph (3) on page 2, lines 14–20, that "If within thirty days of receiving the lien, the owner of real property fails to . . . Satisfy the lien . . . and . . . conduct remediation of all conditions that gave rise to the issuance of the notice of violation"

The Department recommends that the phrase "within thirty days" be removed from proposed subsection (a)(2).

There is no mandate to record the notice of violation at the Bureau of Conveyances to establish lien priority.

In a foreclosure, the determination of which parties get paid out of the foreclosure proceeds and which parties can, by foreclosing a property, extinguish the security of junior creditors, is governed by lien priority. Hawaii is a race-notice jurisdiction, sometimes referred to as "first in time, first in right," in which the first person or entity who first duly records generally has priority. See sections 501-82 and 502-83, HRS. The recordation of a lien is an essential step in establishing priority.

The priority of superior lien holders, such as prime and secondary mortgagees, or tax liens, may in many cases exceed the equity in the residential real property or leave so little to recover after the residential real property is auctioned at distressed property prices that the counties or the Department may determine that foreclosing the property is uneconomical.

The Department recommends that this bill be amended to require that the county planning or permitting agencies record the notice of violation as a lien upon the property after thirty days. The Department suggests that the phrase "agency shall commence foreclosure proceedings, judicial or nonjudicial, on real property without delay" in the new section of chapter 46 at subsection (a)(3)(B), on page 3, lines 2-4, be deleted and replaced with the following:

agency shall record the notice of violation at the bureau of conveyances without delay. The notice of violation shall identify the owner, the violation, and the amount of the fine owed and unpaid. The recorded notice of violation shall be deemed a lien on land registered in the land court under chapter 501.

The phrase "commence foreclosure proceedings, judicial or nonjudicial" is vague.

Foreclosure proceedings are initiated pursuant to chapter 667, HRS, which consists of several parts addressing judicial foreclosures, different types of nonjudicial foreclosures, and timeshare foreclosures. The two types of foreclosures that are applicable to the liens that this bill would create are part IA, judicial foreclosures, and part II, nonjudicial foreclosures.

The Department recommends that "commence foreclosure proceedings, judicial or nonjudicial," be amended to read "may foreclose the property pursuant to part IA or

part II of chapter 667," at page 3, lines 2 - 3 and 8 (if not removed per requested amendment above).

To address the various issues identified herein, the Department recommends adopting the amendments as suggested above.

The Department appreciates the opportunity to offer comments on this bill and remains available to work with the Committee to amend this bill.

March 4, 2026

The Honorable David A. Tarnas, Chair

House Committee on Judiciary & Hawaiian Affairs
State Capitol, Conference Room 325 & Videoconference

RE: House Bill 1990, HD1, Relating to Residential Real Property

HEARING: Wednesday, March 4, 2026, at 2:00 p.m.

Aloha Chair Tarnas, Vice Chair Poepoe, and Members of the Committee:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawaii and its over 10,000 members. HAR provides **comments expressing concerns** on House Bill 1990, HD1, which establishes penalties, including fines and liens, for an owner of real property's failure to remediate zoning violations. Permits a county planning or permitting agency or the Attorney General to commence foreclosure proceedings if the owner fails to satisfy certain conditions. Effective 7/1/3000.

While HAR appreciates the intent of ensuring compliance with zoning laws, however this measure may have unintended consequences. Under the current language, the bill does not distinguish between serious health and safety hazards and minor technical violations. For example, a minor landscaping issue or weed abatement notice could trigger the same severe penalties as a major structural safety violation.

Also, the current timelines established in the bill are exceptionally short and could result in foreclosure proceedings in a very limited timeframe. With a minimum fine of \$1,000 per day, a lien may be imposed within 30 days once fines exceed \$20,000. If the lien is not satisfied and remediation commenced within 30 days, foreclosure proceedings must begin. As a result, a homeowner could face foreclosure in 60 days from an initial failure to remedy a violation. Additionally, if the county planning or permitting agency fails to commence foreclosure proceedings, the Office of the Attorney General must commence foreclosure proceedings without delay. This quick timeline raises concerns, particularly for homeowners who may be ill, traveling, temporarily absent, or otherwise unaware that notices have been issued.

Mahalo for the opportunity to provide testimony on this measure.

March 4, 2026, 2 p.m.
Hawaii State Capitol
Conference Room 325 and Videoconference

To: House Committee on Judiciary & Hawaiian Affairs
Rep. David A. Tarnas, Chair
Rep. Mahina Poepoe, Vice Chair

From: Grassroot Institute of Hawaii
Ted Kefalas, Director of Strategic Campaigns

RE: TESTIMONY IN OPPOSITION TO HB1990 HD1 — RELATING TO RESIDENTIAL REAL PROPERTY

Aloha chair, vice chair and other committee members,

The Grassroot Institute of Hawaii **opposes** [HB1990 HD1](#), which would allow county permitting agencies or the attorney general to commence foreclosure procedures upon private property and use the revenues to satisfy unpaid civil fines for unaddressed zoning violations related to the property.

We sympathize with the desire of the counties to address nuisances and recoup fines, but this bill does not adequately protect the equity interests of homeowners. Unless those interests are protected, any actions taken to recoup fines via foreclosure sales would be vulnerable to legal challenge.

In [Tyler v. Hennepin County, Minnesota](#), the Supreme Court held that the county's retention of the excess value of the plaintiff's home above her tax debt violated the U.S. Constitution's takings clause. Thus, it is important that the bill be amended to protect the homeowner's equity interest, including removal of the provision directing a percentage of the fines assessed to the general fund.

Moreover, we are concerned that the sales envisioned in this bill are ripe for corruption. Without a provision requiring that the property be sold promptly at or near market value, it is possible for a bad actor to deprive the owner of his or her equity interest in the property.

For example, in [Michigan](#), corruption at the local level resulted in some foreclosed properties being sold to friends and families of local officials at far below market value.¹

There is currently a case before the U.S. Supreme Court, [Pung v. Isabella County](#), that centers specifically around whether the Fifth Amendment requires compensation based on fair market value in foreclosure situations such as those envisioned by this bill.

If this bill were to move forward, we suggest that the Committee amend it to include the bolded sections as follows:

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

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

(B) Commence and diligently conduct remediation of all conditions that gave rise to issuance of the notice of violation, to the county planning or permitting agency's satisfaction,

then the applicable county planning or permitting agency shall commence foreclosure proceedings, judicial or nonjudicial, on the real property without delay; **provided that the county sell the property at no less than the market value of similarly situated properties and that all revenues received from the sale that exceed the amount of the unpaid civil fines be refunded to the property owner.**

(b) If the applicable county planning or permitting agency fails to commence foreclosure proceedings pursuant to subsection (a)(3) within thirty days, then the attorney general shall commence foreclosure proceedings without delay; **provided that proceeds from the sale in the amount of the outstanding fines shall be remitted to the applicable county and that any moneys recovered from the proceedings that exceed the amount of the unpaid civil fines shall be refunded to the property owner; provided further that any properties subject to foreclosure under this**

¹ [“Ending Home Equity Theft.”](#) Pacific Legal Foundation, accessed Feb. 4, 2025.

section shall be offered at a timely and competitive sale to the highest bidder at no less than the market value of similarly situated properties.

We also urge the Committee to consider the possibility that the foreclosures and sales envisioned in this bill might unfairly target vulnerable populations.

It is possible that the effect of these foreclosures would fall most heavily on older individuals living on fixed incomes who do not have the resources to pay their fines, hire attorneys or otherwise navigate complicated legal and financial matters. According to the AARP, “tax authorities’ seizure of all of their home equity is nothing short of catastrophic” for older individuals.²

Under the circumstances, we urge the committee to defer this bill.

Thank you for the opportunity to testify.

Ted Kefalas
Director of Strategic Campaigns
Grassroot Institute of Hawaii

² [Brief of Amici Curiae AARP and AARP Foundation Supporting Petition for Writ of Certiorari](#), Tyler v. Hennepin County, Minnesota, Sept. 22, 2022, p. 4.

HB-1990-HD-1

Submitted on: 3/2/2026 12:03:14 AM

Testimony for JHA on 3/4/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Johnnie-Mae L. Perry	Individual	Support	Written Testimony Only

Comments:

I, Johnnie-Mae L. Perry, STRONGLY SUPPORT 1990 HB RELATING TO RESIDENTIAL REAL PROPERTY.

W/COMMENT FINE INCREASE TO \$2,000 A DAY. IMMEDIATE ACTION WHEN A CRIME/MURDER TAKEN PLACE SUCH AS THE SILVA PROPERTY IN WAIANAE VALLEY. MULTIPLY MURDERS AND INJURIES DUE TO THE SHOOTING OF THE LATE MR. SILVA.

INCLUDING VIOLATION OF ILLEGAL DUMPING ON HIS OTHER PROPERTY.

CITY AND STATE NEEDS TO TAKE QUICKER ACTION!!!

HB-1990-HD-1

Submitted on: 3/2/2026 3:02:12 PM

Testimony for JHA on 3/4/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
penny levin	Individual	Oppose	Written Testimony Only

Comments:

While I appreciate the intent of this bill, there are many things wrong with it. H.B. 1990 escalates penalties and foreclosure authority without the safeguards necessary to ensure fairness, consistency, and housing stability.. There is no distinction between types of violations, nor any avenue to contest a fine, allow for due process, or negotiate a doable timeline for compliance.. Under this bill, enforcement would create irreversible loss of property even where compliance is achievable.

As written this bill could significantly impact many local families, particularly kupuna, who are homeowners with limited fixed incomes. .

HB-1990-HD-1

Submitted on: 3/3/2026 11:50:29 AM

Testimony for JHA on 3/4/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Susan Barrackman	Individual	Oppose	Written Testimony Only

Comments:

More regulations kill viability.

Vote No Please