
A BILL FOR AN ACT

RELATING TO THE HAWAII PUBLIC HOUSING AUTHORITY.

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

1 SECTION 1. The purpose of this Act is to clarify the
2 offense of trespassing on public housing property.

3 SECTION 2. Chapter 356D, Hawaii Revised Statutes, is
4 amended by adding to part I a new section to be appropriately
5 designated and to read as follows:

6 "§356D- Closed to the public. (a) Any area within a
7 housing project that is not a public street, road, highway,
8 sidewalk, or county or state bus stop, shall be closed to
9 members of the public where signs are displayed that read:
10 "Closed to the Public - No Trespassing", or a substantially
11 similar message; provided that the signs:

12 (1) Contain letters not less than two inches in height;
13 and

14 (2) Are placed at reasonable intervals along the boundary
15 line of the areas that are closed to the public in a
16 manner and position to be clearly noticeable from
17 outside the boundary line.



- 1 (b) For the purposes of this section:
- 2 "Housing project" means a public housing project, elder or
- 3 elderly housing, as defined in section 356D-1, or state low-
- 4 income housing project, as defined in section 356D-51.
- 5 "Member of the public" means an individual who is not:
- 6 (1) A tenant, as defined in section 356D-1 or 356D-51, who
- 7 leases a unit in a housing project;
- 8 (2) A household member, as defined in section 356D-1, who
- 9 occupies a unit a housing project as a household
- 10 member;
- 11 (3) A live-in aide who resides with one or more elderly
- 12 persons, or near-elderly persons, or persons with
- 13 disabilities, who is determined to be essential to the
- 14 care and well-being of the persons, is not obligated
- 15 for the support of the person, and would not be living
- 16 in the unit in a housing project except to provide the
- 17 necessary support services;
- 18 (4) A guest of a tenant of a housing project;
- 19 (5) A director, officer, employee, agent, representative,
- 20 or contractor of the authority who is acting within
- 21 the director, officer, employee, agent,



1 representative, or contractor's respective scope of
2 employment or work, or is discharging an official duty
3 for the authority;

4 (6) An employee, agent, or contractor of the United States
5 Department of Housing and Urban Development who is
6 acting within the scope of the employee, agent, or
7 contractor's respective employment or work;

8 (7) A person carrying out governmental duties including
9 but not limited to law enforcement and emergency
10 medical services;

11 (8) A person participating in a program authorized by the
12 authority; and

13 (9) A person engaging in constitutionally protected door-
14 to-door communications or pamphleteering between 9:00
15 a.m. and 8:00 p.m."

16 SECTION 3. Section 708-814, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§708-814 **Criminal trespass in the second degree.** (1) A
19 person commits the offense of criminal trespass in the second
20 degree if:



1 (a) The person knowingly enters or remains unlawfully in
2 or upon premises that are enclosed in a manner
3 designed to exclude intruders or are fenced;

4 (b) The person enters or remains unlawfully in or upon
5 commercial premises after a reasonable warning or
6 request to leave by the owner or lessee of the
7 commercial premises, the owner's or lessee's
8 authorized agent, or a police officer; provided that
9 this paragraph shall not apply to any conduct or
10 activity subject to regulation by the National Labor
11 Relations Act.

12 For the purposes of this paragraph, "reasonable
13 warning or request" means a warning or request
14 communicated in writing at any time within a one-year
15 period inclusive of the date the incident occurred,
16 which may contain but is not limited to the following
17 information:

18 (i) A warning statement advising the person that the
19 person's presence is no longer desired on the
20 property for a period of one year from the date
21 of the notice, that a violation of the warning



1 will subject the person to arrest and prosecution
2 for trespassing pursuant to [~~section 708-~~
3 ~~814(1)(b)-,~~] this subsection, and that criminal
4 trespass in the second degree is a petty
5 misdemeanor;

6 (ii) The legal name, any aliases, and a photograph, if
7 practicable, or a physical description, including
8 but not limited to sex, racial extraction, age,
9 height, weight, hair color, eye color, or any
10 other distinguishing characteristics of the
11 person warned;

12 (iii) The name of the person giving the warning along
13 with the date and time the warning was given; and

14 (iv) The signature of the person giving the warning,
15 the signature of a witness or police officer who
16 was present when the warning was given and, if
17 possible, the signature of the violator;

18 (c) The person enters or remains unlawfully on
19 agricultural lands without the permission of the owner
20 of the land, the owner's agent, or the person in



- 1 lawful possession of the land, and the agricultural
- 2 lands:
- 3 (i) Are fenced, enclosed, or secured in a manner
- 4 designed to exclude intruders;
- 5 (ii) Have a sign or signs displayed on the unenclosed
- 6 cultivated or uncultivated agricultural land
- 7 sufficient to give notice and reading as follows:
- 8 "Private Property". The sign or signs,
- 9 containing letters not less than two inches in
- 10 height, shall be placed along the boundary line
- 11 of the land and at roads and trails entering the
- 12 land in a manner and position as to be clearly
- 13 noticeable from outside the boundary line; or
- 14 (iii) At the time of entry, are fallow or have a
- 15 visible presence of livestock or a crop:
- 16 (A) Under cultivation;
- 17 (B) In the process of being harvested; or
- 18 (C) That has been harvested;
- 19 (d) The person enters or remains unlawfully on unimproved
- 20 or unused lands without the permission of the owner of



1 the land, the owner's agent, or the person in lawful
2 possession of the land, and the lands:

- 3 (i) Are fenced, enclosed, or secured in a manner
4 designed to exclude the general public; or
- 5 (ii) Have a sign or signs displayed on the unenclosed,
6 unimproved, or unused land sufficient to give
7 reasonable notice and reads as follows: "Private
8 Property - No Trespassing", "Government Property
9 - No Trespassing", or a substantially similar
10 message; provided that the sign or signs shall
11 contain letters not less than two inches in
12 height and shall be placed at reasonable
13 intervals along the boundary line of the land and
14 at roads and trails entering the land in a manner
15 and position as to be clearly noticeable from
16 outside the boundary line.

17 For the purposes of this paragraph, "unimproved
18 or unused lands" means any land upon which there is no
19 improvement; construction of any structure, building,
20 or facility; or alteration of the land by grading,
21 dredging, or mining that would cause a permanent



1 change in the land or that would change the basic
2 natural condition of the land. Land remains
3 "unimproved or unused land" under this paragraph
4 notwithstanding minor improvements, including the
5 installation or maintenance of utility poles, signage,
6 and irrigation facilities or systems; minor
7 alterations undertaken for the preservation or prudent
8 management of the unimproved or unused land, including
9 the installation or maintenance of fences, trails, or
10 pathways; maintenance activities, including forest
11 plantings and the removal of weeds, brush, rocks,
12 boulders, or trees; and the removal or securing of
13 rocks or boulders undertaken to reduce risk to
14 downslope properties; or

15 (e) ~~[The person enters or remains unlawfully in or upon~~
16 ~~the premises of any public housing project or state~~
17 ~~low income housing project, as defined in section~~
18 ~~356D-1, 356D-51, or 356D-91, after a reasonable~~
19 ~~warning or request to leave by housing authorities or~~
20 ~~a police officer, based upon an alleged violation of~~
21 ~~law or administrative rule; provided that a warning or~~



1 ~~request to leave shall not be necessary between 10:00~~
 2 ~~p.m. and 5:00 a.m. at any public housing project or~~
 3 ~~state low income housing project that is closed to the~~
 4 ~~public during those hours and has signs, containing~~
 5 ~~letters not less than two inches in height, placed~~
 6 ~~along the boundary of the project property, at all~~
 7 ~~entrances to the property, in a manner and position to~~
 8 ~~be clearly noticeable from outside the boundary of the~~
 9 ~~project property and to give sufficient notice that~~
 10 ~~the public housing project or state low income housing~~
 11 ~~project is closed to the public during those hours.]~~

12 The person is a non-tenant:

13 (i) Who is a member of the public and who enters or
 14 remains without authorization in or upon any area
 15 of a housing project that is closed to the public
 16 as set forth in section 356D- , and has signage
 17 as required by section 356D- ; or

18 (ii) Who enters or remains unlawfully in or upon any
 19 area of a housing project that is closed to the
 20 public as set forth in section 356D- , after a
 21 reasonable warning or request to leave by the



1 housing authority or a law enforcement officer as
2 defined in section 710-1000, based upon an
3 alleged violation of law or administrative rule,
4 notwithstanding any authorization provided by a
5 tenant of the housing project to the person.

6 As used in this paragraph:

7 "Authorization" means permission to enter the
8 housing project, which is given to a non-tenant by a
9 tenant of the housing project, or housing authority.

10 "Housing authority" means a property manager,
11 resident manager, tenant monitors, security guards, or
12 others officially designated by the Hawaii public
13 housing authority, for the housing project.

14 "Housing project" means a public housing project,
15 elder or elderly housing, as defined in section 356D-
16 1, or state low-income housing project, as defined in
17 section 356D-51.

18 "Member of the public" has the same meaning as
19 defined in section 356D- .

20 "Non-tenant" means a person who is not a tenant
21 as defined in section 356D-1 or 356D-51, and not a



1 household member as defined in section 356-1 at the
2 housing project.

3 "Reasonable warning or request" has the same
4 meaning as defined in paragraph (b).

5 (2) Subsection (1) shall not apply to a process server who
6 enters or remains in or upon the land or premises of another,
7 unless the land or premises are secured with a fence and locked
8 gate, for the purpose of making a good faith attempt to perform
9 their legal duties and to serve process upon any of the
10 following:

11 (a) An owner or occupant of the land or premises;

12 (b) An agent of the owner or occupant of the land or
13 premises;

14 (c) A lessee of the land or premises.

15 For the purposes of this subsection, "process server" means
16 any person authorized under the Hawaii rules of civil procedure,
17 district court rules of civil procedure, Hawaii family court
18 rules, or section 353C-10 to serve process.

19 ~~[(3) As used in this section:~~



1 ~~"Housing authorities" means resident managers or managers,~~
2 ~~tenant monitors, security guards, or others officially~~
3 ~~designated by the Hawaii public housing authority.~~

4 ~~"Process server" means any person authorized under the~~
5 ~~Hawaii rules of civil procedure, district court rules of civil~~
6 ~~procedure, Hawaii family court rules, or section 353C-10 to~~
7 ~~serve process.~~

8 ~~(4)]~~ (3) Criminal trespass in the second degree is a petty
9 misdemeanor."

10 SECTION 4. This Act does not affect rights and duties that
11 matured, penalties that were incurred, and proceedings that were
12 begun before its effective date.

13 SECTION 5. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 6. This Act shall take effect on January 7, 2059.

16



Report Title:

Hawaii Public Housing Authority; Criminal Trespass

Description:

Provides that certain areas within Hawaii Public Housing Authority housing projects are closed to the public and requirements for signage notifying trespassers of illegal entry. Amends the offense of criminal trespass in the second degree to permit the prosecution of an unauthorized entry or a violation of a written prohibition to enter into certain housing projects. Takes effect on 1/7/2059. (SD2)

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