

JAN 25 2006

S.B. NO. 2332

A BILL FOR AN ACT

RELATING TO HOUSING.

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

1 SECTION 1. Section 201G-51, Hawaii Revised Statutes, is
2 amended by amending the definition of "public housing project"
3 to read as follows:

4 "Public housing project" or "complex" means a low-income
5 federally assisted housing project [~~directly~~] as established by
6 the United States Housing Act of 1937, as amended, and
7 controlled, owned, developed, or managed by the corporation
8 pursuant to [~~part II, except for subparts F and G.~~] the federal
9 low rent public housing program."

10 SECTION 2. Section 201G-52, Hawaii Revised Statutes, is
11 amended by amending subsections (e) and (f) to read as follows:

12 "(e) If the tenant fails to attend or reschedule the
13 meeting provided for in subsection (c), the corporation shall
14 provide the tenant with a second written notice. The notice
15 shall inform the tenant that:

16 (1) The corporation shall proceed to terminate the
17 tenant's tenancy because of the tenant's outstanding
18 rent delinquency and the tenant's failure to respond

1 to the corporation's written notice issued pursuant to
2 subsection (b);

3 (2) The tenant has [~~thirty days~~] ten workdays from receipt
4 of the second written notice to request a grievance
5 hearing; and

6 (3) If the tenant fails to request a grievance hearing
7 within [~~thirty days~~] ten workdays, the corporation has
8 the right to proceed with the eviction hearing
9 pursuant to section 201G-53."

10 "(f) If the tenant meets with the corporation as provided
11 for in subsection (c), the corporation shall decide, based upon
12 the facts discussed at the meeting, what action is appropriate
13 to address the tenant's case. The corporation shall notify the
14 tenant of such decision in writing. If the corporation decides
15 to proceed with an action to terminate the tenancy, the
16 corporation shall further inform the tenant in the same written
17 notice that:

18 (1) The tenant has [~~thirty days~~] ten workdays from receipt
19 of this notice to request a grievance hearing; and

20 (2) If the tenant fails to request a grievance hearing
21 within [~~thirty days~~] ten workdays, the corporation has

1 the right to proceed with the eviction hearing
2 pursuant to section 201G-53."

3 SECTION 3. Section 201G-53, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) Where the corporation proposes to terminate a
6 lease~~[,]~~ or rental agreement [~~, permit, or license,~~] and evict a
7 tenant [~~, licensee, or other occupant~~] under section 201G-52, a
8 hearing shall be held to determine whether cause exists for the
9 action. The corporation shall give written notice to the person
10 concerned specifying the reason for which the eviction is
11 proposed and fixing the date and place of hearing. The written
12 notice shall further inform the tenant [~~, licensee, or other~~
13 ~~occupant~~] of the right to inspect and copy the tenant file at
14 the tenant's expense before the hearing is held. The notice
15 shall be given at least five days before the date set for the
16 hearing. At the hearing, before final action is taken, the
17 person concerned shall be entitled to be heard in person or
18 through counsel, and shall be accorded a full and fair hearing
19 in accordance with the requirements of a contested case hearing
20 provided for under sections 91-9 and 91-10 to 91-13. This full

1 and fair hearing shall be deemed to be a contested case hearing
2 before the agency that is required pursuant to chapter 91."

3 SECTION 4. Section 201G-55, Hawaii Revised Statutes, is
4 amended by amending subsections (a) and (b) to read as follows:

5 "(a) If it is proven to the satisfaction of the eviction
6 board that there is cause to terminate a lease~~[,]~~ or rental
7 agreement ~~[, permit, or license]~~ and evict the tenant ~~[,~~
8 ~~licensee, or other occupant,~~] the corporation shall provide the
9 tenant with a written notice of the corporation's decision to
10 terminate the lease. The notice shall inform the tenant that a
11 writ of possession may be issued by the corporation within ten
12 days. The notice shall also inform the tenant of whether the
13 grounds for eviction are considered curable, and if so, what the
14 tenant must do to remedy the grounds, by when it must be done,
15 and what the tenant must do to document for the corporation that
16 the grounds have been remedied.

17 (b) When the grounds for termination of the lease may be
18 cured by the ~~[occupant, licensee, or other occupant,~~] tenant,
19 the tenant shall have ten days from receipt of the notice
20 provided for in subsection (a) to cure such grounds. If the
21 grounds are cured within the ten-day period, no writ of

1 possession may be issued. If the condition is not cured within
2 the ten-day period, the corporation may issue a writ of
3 possession forthwith."

4 SECTION 5. Section 201G-56, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§201G-56 Ex parte motion.** If a tenant [~~or licensee~~]
7 cannot be served with an order of eviction or writ of
8 possession, and the facts shall appear by affidavit to the
9 corporation, service to the tenant [~~or licensee~~] may be made
10 according to the special order of the corporation. The order
11 shall require the officer to affix a certified copy of the order
12 of eviction or writ of possession in a conspicuous place upon
13 the premises such as the door or wall of the dwelling unit."

14 SECTION 6. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 7. This Act shall take effect on July 1, 2006.

17
18
19
20

INTRODUCED BY: 
BY REQUEST

JUSTIFICATION SHEET

SB. NO. 2332

DEPARTMENT: Human Services

TITLE: A BILL FOR AN ACT RELATING TO HOUSING

PURPOSE: The purposes of this bill are to (1) amend the definition of "public housing project" for purposes of evictions from federal public housing and to conform part II, subpart C, chapter 201G, Hawaii Revised Statutes, with changes made to the agency split pursuant to Act 196, Session Laws of Hawaii 2005; (2) amend references to the time period in which a public housing tenant has to request a grievance hearing in the written notice of eviction to conform to the recently amended grievance procedure rules (chapter 17-2021, Hawaii Administrative Rules); and (3) clarify that only federal public housing residents have the right to the administrative eviction procedures.

MEANS: Amend sections 201G-51, 201G-52(e) and (f), 201G-53(a), 201G-55(a) and (b), and 201G-56, Hawaii Revised Statutes.

JUSTIFICATION: Currently, the statutory eviction process applies to federal public housing, state low income housing, and housing for elders. This measure amends the definition of "public housing project" in section 201G-51, Hawaii Revised Statutes (HRS) to (1) remove obsolete references to chapter 201G, part II, subparts A, B, and H, which are all to be repealed pursuant to the omnibus bill; and (2) insert a new definition that limits applicability of the statutory eviction process to federal public housing. State low income housing and housing for elders will be subject to chapter 521, HRS, the Residential Landlord Tenant Code, effective July 1, 2006, and the judicial evictions process set forth therein.

Pursuant to federal regulations, the HCDCH is required to provide federal public housing residents with a grievance hearing if requested. In recent amendments to the grievance rules, the length of time residents are allotted was reduced from thirty days to ten workdays from issuance of the second written notice of eviction. The proposed amendments conform references to what information must be contained in those written notices of eviction in section 201G-52, HRS, from thirty days to ten workdays. Section 201G-52 does not govern the grievance process itself, so the proposed amendments thereto do not effect any substantive changes.

Sections 201G-53, 201G-55, and 201G-56 currently reference not only "tenants," but "licensees" and "other occupants" of public housing projects. This language has resulted in commercial entities with which the HCDCH has entered into leases at federal public housing projects to argue that they are entitled to the administrative eviction and grievance processes. These amendments will clarify that only federal public housing residents are entitled to these processes.

The continuation of the amendments made by this bill will depend on whether sunset and reenactment provisions in section 13, Act 227, Session Laws of Hawaii 2002, are repealed, as proposed by a separate bill (HMS-12(06)).

Impact on the public: None.

Impact on the department and other agencies:
Will improve the HCDCH's administration of public housing projects.

GENERAL FUND: None.

OTHER FUNDS: None.

SB. NO. 2332

PPBS PROGRAM
DESIGNATION: HMS 220.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: July 1, 2006