

JAN 25 2006

A BILL FOR AN ACT

RELATING TO HOUSING.

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

1 SECTION 1. The procedures currently in place for evicting
2 public housing tenants require correction to curtail abuses of
3 the due process rights of tenants who have limited access to
4 legal counsel and do not understand legal language, process, or
5 procedures.

6 The purpose of this Act is to further amend certain
7 amendments made by Act 227, Session Laws of Hawaii 2002, to make
8 these amendments permanent, and to reenact certain provisions of
9 subpart C of part II of chapter 201G, Hawaii Revised Statutes,
10 relating to evictions.

11 SECTION 2. Chapter 201G is amended by adding a new section
12 to subpart C of part II to be appropriately designated and to
13 read as follows:

14 "§201G-A Appeal. (a) Within five days after the issuance
15 of an order under section 201G-53, an appeal may be taken to the
16 administration. Notwithstanding any other law to the contrary,
17 the appeal shall be heard and decided by the administration or
18 an appeals board appointed by the administration.



1 (b) The administration shall review the record of the
 2 eviction board. The administration or appeals board shall have
 3 the same powers in connection with appeals as the eviction board
 4 in section 201G-53, and the decision of the administration or
 5 appeals board in the appeal shall be final.

6 (c) The administration shall adopt rules that provide for:

7 (1) The admission of new facts or evidence that were
 8 unavailable and could not have been presented to the
 9 eviction board;

10 (2) The documents required for appeal;

11 (3) Written notice to the appellant of the date, place,
 12 and time of the appeal hearing; and

13 (4) The minimum amount of time within which the appellant
 14 must be notified of the appeal hearing."

15 SECTION 3. Section 201G-52, Hawaii Revised Statutes, is
 16 amended to read as follows:

17 **"§201G-52 Termination and eviction.** (a) Except as
 18 otherwise provided, the administration may terminate any lease,
 19 rental agreement, permit, or license covering the use and
 20 occupation of any dwelling unit or other premises located within
 21 a public housing project and evict from any premises any tenant,
 22 licensee, or other occupant for any of the following reasons:



1 (1) Failure to pay rent when due[+] for more than one
2 consecutive month;

3 (2) Violation of any of the provisions of a lease rental
4 agreement, permit, or license;

5 (3) Violation of any of the rules of the administration;

6 (4) Failure to maintain the dwelling unit in a clean,
7 sanitary, and habitable condition; or

8 (5) The existence of any other circumstances giving rise
9 to an immediate right to possession by the
10 administration.

11 (b) When any tenant has been delinquent in payment of
12 rent, the administration, either directly or through its
13 managing agent, shall provide the tenant with a written notice
14 by certified mail no later than [~~forty-five~~] five days from the
15 date of delinquency that shall inform the tenant of the
16 delinquency and schedule a meeting between the tenant and the
17 administration or its agent. The written notice shall[+], in
18 languages deemed necessary, inform the tenant that:

19 (1) [~~Inform the tenant that continued~~] Continued
20 delinquency shall result in the tenant's eviction;

21 (2) [~~Inform the tenant of the tenant's~~] The tenant shall
22 have the right to apply for an interim adjustment in



1 rent with monthly catch-up payments over a six-month
2 period;

3 ~~[-(3) Explain to the tenant the steps of the grievance and~~
4 ~~eviction processes and how the processes protect the~~
5 ~~tenant;~~

6 ~~-(4) Provide the tenant with a sample letter for demanding~~
7 ~~a grievance hearing;~~

8 ~~-(5) Set forth the] (3) The location, date, and time[-~~
9 ~~which] of the hearing shall be no earlier than~~
10 ~~[fourteen] seven days from the date of receipt of the~~
11 ~~written notice, at which the tenant may meet with the~~
12 ~~administration or its agent to discuss the delinquency~~
13 ~~in rent; [and~~

14 ~~-(6) Inform the tenant that the] (4) The tenant shall~~
15 ~~either attend the meeting or, if applicable, contact~~
16 ~~the administration or the administration's agent~~
17 ~~before the meeting time to reschedule the meeting[-]~~
18 ~~within seven days;~~

19 (5) The notice is the first step in the eviction process;
20 and

21 (6) The tenant may request a professional interpreter at
22 the expense of the administration.

1 The administration shall post notices at each public
2 housing project indicating services available to tenants, at the
3 expense of the administration, to assist them in understanding
4 the grievance and eviction processes.

5 (c) At the meeting described in subsection (b), the
6 administration or its agent shall:

7 (1) Inquire into the cause of the tenant's delinquency and
8 offer suggestions that the administration may feel
9 appropriate, if any, to address the causes of
10 delinquency;

11 (2) Consider whether a reasonable payment plan is
12 appropriate for the tenant's situation and, if
13 appropriate, offer a reasonable payment plan to the
14 tenant; and

15 (3) Inform the tenant of and explain the issues as
16 required under subsection (b)(1), (2), and (3).

17 (d) The administration shall develop a checklist outlining
18 all of the requirements listed in subsection (c). The
19 administration or its agent and the tenant shall complete, sign,
20 and date the checklist to memorialize the meeting.

21 (e) If the tenant fails to attend or reschedule the
22 meeting provided for in subsection (c), the administration shall

1 ~~[provide]~~ contact the tenant to schedule an appointment before
2 providing the tenant with a second written notice by certified
3 mail. The second notice shall inform the tenant that:

4 (1) The administration shall proceed to terminate the
5 tenant's tenancy because of the tenant's outstanding
6 rent delinquency and the tenant's failure to respond
7 to the administration's written notice issued pursuant
8 to subsection (b);

9 (2) The tenant has thirty days from receipt of the second
10 written notice to request a grievance hearing; ~~[and]~~

11 (3) The grievance and eviction processes have several
12 steps that are beneficial to the tenant, and that a
13 grievance process is available after a second notice
14 of delinquency is received;

15 (4) The tenant may use a one-page form written in plain
16 language, a sample of which shall be provided, for
17 requesting a grievance hearing; and

18 ~~[(3)]~~ (5) If the tenant fails to request a grievance hearing
19 within thirty days, the administration has the right
20 to proceed with the eviction hearing pursuant to
21 section 201G-53.

1 (f) If the tenant meets with the administration as
2 provided for in subsection (c), the administration shall decide,
3 based upon the facts discussed at the meeting, what action is
4 appropriate to address the tenant's case. The administration
5 shall notify the tenant of such decision in writing by certified
6 mail. If the administration decides to proceed with an action
7 to terminate the tenancy, the administration shall further
8 inform the tenant in the same written notice that:

9 (1) The tenant has thirty days from receipt of this notice
10 to request a grievance hearing; [~~and~~]

11 (2) The grievance and eviction processes have several
12 steps that are beneficial to the tenant, and that a
13 grievance process is available after a second notice
14 of delinquency is received;

15 (3) The tenant may use a one-page form written in plain
16 language, a sample of which shall be provided, for
17 requesting a grievance hearing; and

18 [~~2~~] (4) If the tenant fails to request a grievance
19 hearing within thirty days, the administration has the
20 right to proceed with the eviction hearing pursuant to
21 section 201G-53."

1 SECTION 4. Section 201G-53, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§201G-53 Hearings.** (a) Where the administration
4 proposes to terminate a lease, rental agreement, permit, or
5 license, and evict a tenant, licensee, or other occupant under
6 section 201G-52, a grievance hearing shall be held to determine
7 whether cause exists for the action. The administration shall
8 give written notice to the person concerned [~~specifying~~] that
9 explains the contested case procedure and how to prepare for the
10 hearing, and specifies 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 the
14 tenant's expense before the hearing is held. The notice shall
15 be given at least [~~five~~] fifteen days before the date set for
16 the hearing. At the grievance hearing, before final action is
17 taken, the person concerned shall be entitled to be heard in
18 person or through counsel, and shall be accorded a full and fair
19 hearing in accordance with the requirements of a contested case
20 hearing provided for under sections 91-9 and 91-10 to 91-13.
21 This full and fair hearing shall be deemed to be a contested



1 case hearing before the agency that is required pursuant to
2 chapter 91.

3 (b) Hearings shall be conducted by an eviction board
4 appointed by the administration. The eviction board shall
5 consist of not fewer than three persons, of which one member
6 shall be [~~a tenant.~~] an advocate for tenants' rights. At least
7 one eviction board shall be established in each county of the
8 State. The findings, conclusions, decision, and order of the
9 eviction board shall be final unless an appeal is taken as
10 hereinafter provided.

11 (c) The eviction board shall have the same powers
12 respecting administering oaths, compelling the attendance of
13 witnesses and the production of documentary evidence, and
14 examining witnesses, as are possessed by circuit courts. In
15 case of disobedience by any person of any order of the eviction
16 board, or of any subpoena issued by the eviction board, or the
17 refusal of any witness to testify to any matter regarding which
18 the witness may lawfully be questioned, any circuit judge, on
19 application by the eviction board, shall compel obedience as in
20 the case of disobedience of the requirements of a subpoena
21 issued by a circuit court, or a refusal to testify therein."



1 SECTION 5. Section 201G-55, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§201G-55 Eviction.** (a) If it is proven to the
4 satisfaction of the eviction board that there is cause to
5 terminate a lease, rental agreement, permit, or license and
6 evict the tenant, licensee, or other occupant, the
7 administration shall provide the tenant with a written notice of
8 the administration's decision to terminate the lease. The
9 notice shall inform the tenant that a writ of possession may be
10 issued by the administration [~~within ten~~] after thirty days.

11 The notice shall also inform the tenant [e~~f~~] whether the grounds
12 for eviction are considered curable, and if so, what the tenant
13 must do to remedy the grounds, by when it must be done, and what
14 the tenant must do to document for the administration that the
15 grounds have been remedied.

16 (b) When the grounds for termination of the lease may be
17 cured by the occupant, licensee, or other occupant, the tenant
18 shall have [~~ten~~] thirty days from receipt of the notice provided
19 for in subsection (a) to cure such grounds. If the grounds are
20 cured within the [~~ten-day~~] thirty-day period, no writ of
21 possession [~~may~~] shall be issued. If the condition is not cured

1 within the [~~ten-day~~] thirty-day period, the administration may
2 issue a writ of possession forthwith.

3 (c) The administration may adopt rules to define curable
4 and noncurable grounds for eviction pursuant to chapter 91. The
5 administration may consider a tenant's history in determining
6 noncurable grounds for eviction. A tenant's history may include
7 chronic or consistent delinquency, or repeated violations of the
8 terms of the rental agreement, except for good cause shown.

9 (d) Enforcement of the order by a writ of possession shall
10 be effected, no sooner than ten days after the order is issued
11 or affirmed on appeal pursuant to section 201G-A, either by an
12 officer appointed by the administration, who shall have all of
13 the powers of a police officer for all action in connection with
14 the enforcement of the order, or by the sheriff, or any other
15 law enforcement officer of the State or any county, whose duty
16 it shall be to carry out the order. The person enforcing the
17 order shall remove all persons from the premises and put the
18 administration in full possession thereof.

19 (e) Upon eviction, the household goods and personal
20 effects of the person against whom the order is entered, and
21 those of any persons using the premises incident to the person's
22 holding, may be removed from the premises and stored by the



1 administration. If the action is taken, the administration
2 shall have a lien on the property so taken for the expenses
3 incurred by it in moving and storing the same, and the
4 administration is authorized to sell or otherwise dispose of the
5 property, if unclaimed after thirty days."

6 SECTION 6. Section 201G-56, Hawaii Revised Statutes, is
7 amended to read as follows:

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

16 SECTION 7. Act 227, Session Laws of Hawaii 2002, is
17 amended by amending section 13 to read as follows:

18 "SECTION 13. This Act shall take effect upon its approval
19 [~~and shall be repealed on July 1, 2007; provided that sections~~
20 ~~201G-33, 201G-51, 201G-52, 201G-53, 201G-54, 201G-55, and 201G-~~
21 ~~56, Hawaii Revised Statutes, are reenacted in the form in which~~
22 ~~they read on the day before the approval of this Act]."~~



1 SECTION 8. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 9. This Act shall take effect on July 1, 2006.

4

INTRODUCED BY: *Dinkarn*
Cherukuru Vishikha

Report Title:
Public Housing; Eviction Procedures

SB. NO. 3025

Description:

Amends pre-eviction procedures for public housing tenants delinquent in rent payment, to require delivery of notice by certified mail. Clarifies that an eviction hearing is a contested case proceeding and requires that notice so inform tenants in plain language. Reenacts an administrative appeal process.

