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# A BILL FOR AN ACT

RELATING TO THE HAWAII PUBLIC HOUSING AUTHORITY.

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

**PART I**

1  
2 SECTION 1. The purpose of this part is to make the  
3 administration of housing projects by the Hawaii public housing  
4 authority more efficient by:

5 (1) Authorizing the Hawaii public housing authority to  
6 assess all the units in a state public housing project  
7 a fee for the common area expenses of the housing  
8 project;

9 (2) Eliminating most procedural requirements preliminary  
10 to hearings for evictions of tenants of public housing  
11 projects;

12 (3) In accordance with federal law, requiring written  
13 notice to delinquent tenants;

14 (4) Clarifying that for federal low-income housing,  
15 hearings shall be conducted by an eviction board;



- 1 (5) Requiring evictions from state low-income housing to
- 2 be conducted by a hearings officer appointed by the
- 3 Hawaii public housing authority;
- 4 (6) Authorizing an eviction board or hearings officer to
- 5 consider a tenant's involvement in the tenant's
- 6 child's school in making a determination; and
- 7 (7) Prohibiting the Hawaii public housing authority from
- 8 selling land developed for any public housing project.

9 SECTION 2. Chapter 356D, Hawaii Revised Statutes, is  
10 amended by adding a new section to be appropriately designated  
11 and to read as follows:

12 "§356D- Assessments for common area expenses. (a) In  
13 accordance with rules adopted by the authority pursuant to  
14 chapter 91, at least one per cent of common area expenses for a  
15 state public housing project shall be assessed against all the  
16 units in a state public housing project.

17 (b) If any common area expense is caused by the misconduct  
18 of any unit resident, the authority may assess that expense  
19 exclusively against the unit resident.

20 (c) The authority, either directly or through its managing  
21 agent or resident manager, shall notify the unit residents of a



1 state public housing project in writing of common area expense  
2 assessment increases at least thirty days prior to an increase."

3 SECTION 3. Section 356D-92, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 **"§356D-92 Termination and eviction.** (a) Except as  
6 otherwise provided, the authority may terminate any lease,  
7 rental agreement, permit, or license covering the use and  
8 occupation of any dwelling unit or other premises located within  
9 a public housing project and evict from any premises any tenant,  
10 licensee, or other occupant for any of the following reasons:

- 11 (1) Failure to pay rent when due;
- 12 (2) Violation of any of the provisions of a lease, rental  
13 agreement, permit, or license;
- 14 (3) Violation of any of the rules of the authority;
- 15 (4) Failure to maintain the dwelling unit in a clean,  
16 sanitary, and habitable condition; or
- 17 (5) The existence of any other circumstances giving rise  
18 to an immediate right to possession by the authority.

19 (b) When any tenant has been delinquent in payment of  
20 rent, the authority, either directly or through its managing  
21 agent, shall provide the tenant with a written notice [~~no later~~  
22 ~~than forty five days from the date of delinquency~~] in accordance



1 with requirements imposed under federal law that shall inform  
2 the tenant of the delinquency [~~and schedule a meeting between~~  
3 ~~the tenant and the authority or its agent.~~ The written notice  
4 shall:

- 5       ~~(1) Inform the tenant that continued delinquency shall~~  
6           ~~result in the tenant's eviction;~~
- 7       ~~(2) Inform the tenant of the tenant's right to apply for~~  
8           ~~an interim adjustment in rent;~~
- 9       ~~(3) Explain to the tenant the steps of the grievance and~~  
10           ~~eviction processes and how the processes protect the~~  
11           ~~tenant;~~
- 12       ~~(4) Provide the tenant with a sample letter for demanding~~  
13           ~~a grievance hearing;~~
- 14       ~~(5) Set forth the location, date, and time, which shall be~~  
15           ~~no earlier than fourteen days from the date of the~~  
16           ~~written notice, at which the tenant may meet with the~~  
17           ~~authority or its agent to discuss the delinquency in~~  
18           ~~rent; and~~
- 19       ~~(6) Inform the tenant that the tenant shall either attend~~  
20           ~~the meeting or, if applicable, contact the authority~~  
21           ~~or the authority's agent before the meeting time to~~  
22           ~~reschedule the meeting.~~



1       ~~(c) At the meeting described in subsection (b), the~~  
2 ~~authority or its agent shall:~~

3       ~~(1) Inquire into the cause of the tenant's delinquency and~~  
4       ~~offer suggestions, if any, that the authority may feel~~  
5       ~~appropriate to address the causes of delinquency;~~

6       ~~(2) Consider whether a reasonable payment plan is~~  
7       ~~appropriate for the tenant's situation and, if~~  
8       ~~appropriate, offer a payment plan to the tenant; and~~

9       ~~(3) Inform the tenant of and explain the issues as~~  
10       ~~required under subsection (b) (1), (2), and (3).~~

11       ~~(d) The authority shall develop a checklist outlining all~~  
12 ~~of the requirements listed in subsection (c). The authority or~~  
13 ~~its agent and the tenant shall complete, sign, and date the~~  
14 ~~checklist to memorialize the meeting.~~

15       ~~(e) If the tenant fails to attend or reschedule the~~  
16 ~~meeting provided for in subsection (b), the authority shall~~  
17 ~~provide the tenant with a second written notice. The notice~~  
18 ~~shall inform the tenant that:~~

19       ~~(1) The authority shall proceed to terminate the tenant's~~  
20       ~~tenancy because of the tenant's outstanding rent~~  
21       ~~delinquency and the tenant's failure to respond to the~~



1 authority's ~~written notice issued pursuant to~~  
2 ~~subsection (b),~~

3 ~~(2) The tenant has ten business days from receipt of the~~  
4 ~~second written notice to request a grievance hearing,~~  
5 ~~and~~

6 ~~(3) If the tenant fails to request a grievance hearing~~  
7 ~~within ten business days, the authority has the right~~  
8 ~~to proceed with the eviction hearing pursuant to~~  
9 ~~section 356D-93.~~

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

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

20 (2) If the tenant fails to request a grievance hearing  
21 within ten business days, the authority has the right



1 to proceed with the eviction hearing pursuant to  
2 section 356D-93."

3 SECTION 4. Section 356D-93, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 " ~~[+]~~§356D-93 ~~[+]~~ **Hearings.** (a) Where the authority  
6 proposes to terminate a lease or rental agreement and evict a  
7 tenant under section 356D-92, a hearing shall be held to  
8 determine whether cause exists for the action. The authority  
9 shall give written notice to the person concerned specifying the  
10 reason for which the eviction is proposed and fixing the date  
11 and place of hearing. The written notice shall further inform  
12 the tenant of the right to inspect and copy the tenant file at  
13 the tenant's expense before the hearing is held. The notice  
14 shall be given at least five days before the date set for the  
15 hearing. At the hearing, before final action is taken, the  
16 person concerned shall be entitled to be heard in person or  
17 through counsel, and shall be accorded a full and fair hearing  
18 in accordance with the requirements of a contested case hearing  
19 provided for under sections 91-9 and 91-10 to 91-13. This full  
20 and fair hearing shall be deemed to be a contested case hearing  
21 before the authority that is required pursuant to chapter 91.



1           (b) ~~[Hearings]~~ For federal low-income housing, hearings  
2 shall be conducted by an eviction board appointed by the  
3 authority. The eviction board shall consist of not fewer than  
4 three persons, of which one member shall be a tenant. At least  
5 one eviction board shall be established in each county of the  
6 State. The findings, conclusions, decision, and order of the  
7 eviction board shall be final unless an appeal is ~~[taken as~~  
8 ~~hereinafter provided.]~~ made pursuant to section 356D-97.

9           (c) For state low-income housing, hearings shall be  
10 conducted by a hearings officer appointed by the authority. At  
11 least one hearings officer shall be appointed in each county of  
12 the State. The findings, conclusions, decision, and order of  
13 the hearings officer shall be final unless an appeal is made  
14 pursuant to section 356D-97.

15           (d) In a hearing under subsection (a) that involves a  
16 tenant who has custody of a school age child or children  
17 residing with the tenant, the eviction board or hearings officer  
18 shall solicit information regarding the tenant's regular  
19 participation in school activities or meetings during the  
20 current and previous school year from the school or schools in  
21 which the child or children are or were enrolled. This





1 information shall be considered in determining the findings,  
2 conclusions, decision, and order.

3 [~~e~~] (e) The eviction board or hearings officer shall  
4 have the same powers [~~respecting~~] with respect to administering  
5 oaths, compelling the attendance of witnesses and the production  
6 of documentary evidence, and examining witnesses, as are  
7 possessed by circuit courts. In case of disobedience by any  
8 person of any order of the eviction board, hearings officer, or  
9 of any subpoena issued by the eviction board[7] or hearings  
10 officer, or the refusal of any witness to testify to any matter  
11 regarding which the witness may lawfully be questioned, any  
12 circuit judge, on application by the eviction board[7] or  
13 hearings officer, shall compel obedience as in the case of  
14 disobedience of the requirements of a subpoena issued by a  
15 circuit court, or a refusal to testify therein."

16 SECTION 5. Section 356D-94, Hawaii Revised Statutes, is  
17 amended by amending subsection (a) to read as follows:

18 "(a) If it is proven to the satisfaction of the eviction  
19 board or hearings officer that there is cause to terminate a  
20 lease or rental agreement and evict the tenant, the authority  
21 shall provide the tenant with a written notice of the  
22 authority's decision to terminate the tenancy. The notice shall

1 inform the tenant that a writ of possession may be issued by the  
2 authority within ten business days. The notice shall also  
3 inform the tenant whether the grounds for eviction are  
4 considered curable and, if so, what the tenant must do to remedy  
5 the grounds, by when it must be done, and what the tenant must  
6 do to document for the authority that the grounds have been  
7 remedied."

8 **PART II**

9 SECTION 6. Section 356D-4, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 **"[+]§356D-4[+] General powers of the authority.** (a) The  
12 authority may:

- 13 (1) Sue and be sued;
- 14 (2) Have a seal and alter the same at pleasure;
- 15 (3) Make and execute contracts and other instruments  
16 necessary or convenient to the exercise of its powers;  
17 and
- 18 (4) Adopt bylaws and rules in accordance with chapter 91  
19 for its organization, internal management, and to  
20 carry into effect its purposes, powers, and programs.



1 (b) In addition to other powers conferred upon it, the  
2 authority may do all things necessary and convenient to carry  
3 out the powers expressly provided in this chapter.

4 (c) The authority shall not sell any land developed for  
5 any public housing project."

6 SECTION 7. This Act does not affect rights and duties that  
7 matured, penalties that were incurred, and proceedings that were  
8 begun before its effective date.

9 SECTION 8. If any provision of this Act, or the  
10 application thereof to any person or circumstance is held  
11 invalid, the invalidity does not affect other provisions or  
12 applications of the Act, which can be given effect without the  
13 invalid provision or application, and to this end the provisions  
14 of this Act are severable.

15 SECTION 9. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 10. This Act shall take effect on July 1, 2010.

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INTRODUCED BY: Norman Sabornie  
Michelle N. Kholani

[Signature]  
Shiranne Chum Caldwell

**Report Title:**

Hawaii Public Housing Authority; Common Area Expenses; Hearings

**Description:**

Authorizes the Hawaii public housing authority to assess all the units in a state public housing project for common area expenses. Eliminates most procedural requirements to hearings for eviction of tenants from public housing but requires written notice per federal law. Requires evictions from state low-income housing to be conducted by hearings officers appointed by the authority. Clarifies that for federal low-income housing, hearings shall be conducted by eviction board. Authorizes an eviction board or hearings officer to consider a tenant's involvement in the tenant's child's school in making a determination. Prohibits the authority from selling any land developed for any public housing project.

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