
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 a new section to part I 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 is displayed; provided that the signs shall
12 contain letters not less than two inches in height and the signs
13 are placed at reasonable intervals along the boundary line of
14 the areas that are closed to the public in a manner and position
15 to be clearly noticeable from outside the boundary line.

16 (b) For the purpose of this section:



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

4 "Member of the public" does not include:

5 (1) A tenant, as defined in section 356D-1 or section
6 356D-51, who leases a unit in the subject housing
7 project;

8 (2) A household member, as defined in section 356D-1, who
9 occupies a unit in the subject housing project as a
10 household member;

11 (3) A guest of a tenant of the subject housing project;

12 (4) A director, officer, employee, agent, representative,
13 or contractor of the authority who is acting within
14 the director, officer, employee, agent,
15 representative, or contractor's respective scope of
16 employment or work, or is discharging an official duty
17 for the authority;

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



- 1 (6) A person carrying out governmental duties including
2 but not limited to law enforcement and emergency
3 medical services;
- 4 (7) A person participating in a program authorized by the
5 authority; and
- 6 (8) A person engaging in constitutionally protected door-
7 to-door communications or pamphleteering between 9:00
8 a.m. and 8:00 p.m."

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

11 **"§708-814 Criminal trespass in the second degree.** (1) A
12 person commits the offense of criminal trespass in the second
13 degree if:

- 14 (a) The person knowingly enters or remains unlawfully in
15 or upon premises that are enclosed in a manner
16 designed to exclude intruders or are fenced;
- 17 (b) The person enters or remains unlawfully in or upon
18 commercial premises after a reasonable warning or
19 request to leave by the owner or lessee of the
20 commercial premises, the owner's or lessee's
21 authorized agent, or a police officer; provided that



1 this paragraph shall not apply to any conduct or
2 activity subject to regulation by the National Labor
3 Relations Act.

4 For the purposes of this paragraph, "reasonable
5 warning or request" means a warning or request
6 communicated in writing at any time within a one-year
7 period inclusive of the date the incident occurred,
8 which may contain but is not limited to the following
9 information:

10 (i) A warning statement advising the person that the
11 person's presence is no longer desired on the
12 property for a period of one year from the date
13 of the notice, that a violation of the warning
14 will subject the person to arrest and prosecution
15 for trespassing pursuant to section (1)(b), and
16 that criminal trespass in the second degree is a
17 petty misdemeanor;

18 (ii) The legal name, any aliases, and a photograph, if
19 practicable, or a physical description, including
20 but not limited to sex, racial extraction, age,
21 height, weight, hair color, eye color, or any

- 1 other distinguishing characteristics of the
2 person warned;
- 3 (iii) The name of the person giving the warning along
4 with the date and time the warning was given; and
- 5 (iv) The signature of the person giving the warning,
6 the signature of a witness or police officer who
7 was present when the warning was given and, if
8 possible, the signature of the violator;
- 9 (c) The person enters or remains unlawfully on
10 agricultural lands without the permission of the owner
11 of the land, the owner's agent, or the person in
12 lawful possession of the land, and the agricultural
13 lands:
- 14 (i) Are fenced, enclosed, or secured in a manner
15 designed to exclude intruders;
- 16 (ii) Have a sign or signs displayed on the unenclosed
17 cultivated or uncultivated agricultural land
18 sufficient to give notice and reading as follows:
19 "Private Property". The sign or signs,
20 containing letters not less than two inches in
21 height, shall be placed along the boundary line



1 of the land and at roads and trails entering the
2 land in a manner and position [~~as~~] to be clearly
3 noticeable from outside the boundary line; or
4 (iii) At the time of entry, are fallow or have a
5 visible presence of livestock or a crop:
6 (A) Under cultivation;
7 (B) In the process of being harvested; or
8 (C) That has been harvested;
9 (d) The person enters or remains unlawfully on unimproved
10 or unused lands without the permission of the owner of
11 the land, the owner's agent, or the person in lawful
12 possession of the land, and the lands:
13 (i) Are fenced, enclosed, or secured in a manner
14 designed to exclude the general public; or
15 (ii) Have a sign or signs displayed on the unenclosed,
16 unimproved, or unused land sufficient to give
17 reasonable notice and reads as follows: "Private
18 Property - No Trespassing", "Government Property
19 - No Trespassing", or a substantially similar
20 message; provided that the sign or signs shall
21 contain letters not less than two inches in



1 height and shall be placed at reasonable
2 intervals along the boundary line of the land and
3 at roads and trails entering the land in a manner
4 and position [~~as~~] to be clearly noticeable from
5 outside the boundary line.

6 For the purposes of this paragraph, "unimproved
7 or unused lands" means any land upon which there is no
8 improvement; construction of any structure, building,
9 or facility; or alteration of the land by grading,
10 dredging, or mining that would cause a permanent
11 change in the land or that would change the basic
12 natural condition of the land. Land remains
13 "unimproved or unused land" under this paragraph
14 notwithstanding minor improvements, including the
15 installation or maintenance of utility poles, signage,
16 and irrigation facilities or systems; minor
17 alterations undertaken for the preservation or prudent
18 management of the unimproved or unused land, including
19 the installation or maintenance of fences, trails, or
20 pathways; maintenance activities, including forest
21 plantings and the removal of weeds, brush, rocks,



1 boulders, or trees; and the removal or securing of
2 rocks or boulders undertaken to reduce risk to
3 downslope properties; or

- 4 (e) ~~[The person enters or remains unlawfully in or upon
5 the premises of any public housing project or state
6 low income housing project, as defined in section
7 356D 1, 356D 51, or 356D 91, after a reasonable
8 warning or request to leave by housing authorities or
9 a police officer, based upon an alleged violation of
10 law or administrative rule; provided that a warning or
11 request to leave shall not be necessary between 10:00
12 p.m. and 5:00 a.m. at any public housing project or
13 state low income housing project that is closed to the
14 public during those hours and has signs, containing
15 letters not less than two inches in height, placed
16 along the boundary of the project property, at all
17 entrances to the property, in a manner and position to
18 be clearly noticeable from outside the boundary of the
19 project property and to give sufficient notice that
20 the public housing project or state low income housing~~



1 ~~project is closed to the public during those hours.]~~

2 The person is a non-tenant:

3 (i) Who is a member of the public, as defined in
4 subsection (2), and who enters or remains without
5 authorization in or upon any area of a housing
6 project that is closed to the public as set forth
7 in section 356D- , and has signage as required
8 by section 356D- ; or

9 (ii) Who enters or remains unlawfully in or upon any
10 area of a housing project, that is closed to the
11 public as set forth in section 356D- , after a
12 reasonable warning or request to leave by the
13 housing authority or a police officer, based upon
14 an alleged violation of law or administrative
15 rule, notwithstanding any authorization provided
16 by a tenant of the subject housing project to the
17 person.

18 [~~(2) As used in this section, "housing authorities" means~~
19 ~~resident managers or managers, tenant monitors, security guards,~~
20 ~~or others officially designated by the Hawaii public housing~~
21 ~~authority.]~~



1 As used in this paragraph:

2 "Authorization" means permission to enter the subject
3 housing project, which is given to a non-tenant either by a
4 tenant of the subject housing project, or housing
5 authority.

6 "Housing authority" means a property manager, resident
7 manager, tenant monitors, security guards, or others
8 officially designated by the Hawaii public housing
9 authority, for the subject housing project.

10 "Housing project" means a public housing project,
11 elder or elderly housing, as defined in section 356D-1, or
12 state low-income housing project, as defined in section
13 356D-51.

14 "Member of the public" does not include:

15 (i) A tenant as defined in section 356D-1 or section
16 356D-51 who leases a unit in the subject housing
17 project;

18 (ii) A household member as defined in section 356D-1
19 who occupies a unit in the subject housing
20 project as a household member;



- 1 (iii) A director, officer, employee, agent,
2 representative, or contractor of the Hawaii
3 public housing authority who is acting within the
4 director, officer, employee, agent,
5 representative, or contractor's respective scope
6 of employment or work, or is discharging an
7 official duty for the authority;
- 8 (iv) An employee, agent, or contractor of the United
9 States Department of Housing and Urban
10 Development who is acting within the employee,
11 agent, or contractor's respective scope of the
12 employment or work;
- 13 (v) A person carrying out governmental duties
14 including but not limited to law enforcement and
15 emergency medical services;
- 16 (vi) A person participating in a program authorized by
17 the Hawaii public housing authority; and
- 18 (vii) A person engaging in constitutionally protected
19 door-to-door communications and pamphleteering
20 between 9:00 a.m. and 8:00 p.m.



1 "Non-tenant" means a person who is not a tenant as
2 defined in section 356D-1 or section 356D-51, and not a
3 household member as defined in section 356-1 at the subject
4 housing project.

5 "Reasonable warning or request" means a warning or
6 request communicated in writing at any time within a one-
7 year period inclusive of the date the incident occurred,
8 which may contain but is not limited to the following
9 information:

10 (i) A warning statement advising the person that the
11 person's presence is no longer desired in or on
12 the areas of the subject housing project that are
13 closed to the public for a period of one year
14 from the date of the notice, that a violation of
15 the warning will subject the person to arrest and
16 prosecution for trespassing pursuant to
17 subsection (1)(e), and that criminal trespass in
18 the second degree is a petty misdemeanor;

19 (ii) The legal name, any aliases, and a photograph, if
20 practicable, or a physical description, including
21 but not limited to sex, racial extraction, age,



1 height, weight, hair color, eye color, or any
2 other distinguishing characteristics of the
3 person warned;

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

6 (iv) The signature of the person giving the warning,
7 and, if possible, the signature of the violator;
8 and

9 (v) The signature of a witness or police officer who
10 was present when the warning was given pursuant
11 to subsection (1)(e).

12 (3) Criminal trespass in the second degree is a petty
13 misdemeanor."

14 SECTION 4. This Act does not affect rights and duties that
15 matured, penalties that were incurred, and proceedings that were
16 begun before its effective date.

17 SECTION 5. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 6. This Act shall take effect on July 1, 2050.



Report Title:

Hawaii Public Housing Authority; Trespass

Description:

Provides that all Hawaii Public Housing Authority housing projects are closed to the public and amends criminal trespass in the second degree to permit the prosecution of an unauthorized entry or a violation of a written prohibition to enter into the subject housing projects. Clarifies requirements for signage notifying trespassers of illegal entry. (HB767 HD2)

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