
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 members
9 of the public where signs are displayed that read: "Closed to
10 the Public - No Trespassing", or a substantially similar message
11 is displayed; provided that the signs shall contain letters not
12 less than two inches in height and the signs are placed at
13 reasonable intervals along the boundary line of the areas that
14 are closed to the public in a manner and position to be clearly
15 noticeable from outside the boundary line.

16 (b) For the purposes 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~~] law enforcement



1 officer; provided that this paragraph shall not apply
2 to any conduct or activity subject to regulation by
3 the National Labor 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 708-814~~]
16 subsection (1)(b), and that criminal trespass in
17 the second degree is a 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~~] law
- 7 enforcement officer who was present when the
- 8 warning was given and, if possible, the signature
- 9 of the violator;
- 10 (c) The person enters or remains unlawfully on
- 11 agricultural lands without the permission of the owner
- 12 of the land, the owner's agent, or the person in
- 13 lawful possession of the land, and the agricultural
- 14 lands:
- 15 (i) Are fenced, enclosed, or secured in a manner
- 16 designed to exclude intruders;
- 17 (ii) Have a sign or signs displayed on the unenclosed
- 18 cultivated or uncultivated agricultural land
- 19 sufficient to give notice and reading as follows:
- 20 "Private Property". The sign or signs,
- 21 containing letters not less than two inches in



1 height, shall be placed along the boundary line
2 of the land and at roads and trails entering the
3 land in a manner and position [as] to be clearly
4 noticeable from outside the boundary line; or
5 (iii) At the time of entry, are fallow or have a
6 visible presence of livestock or a crop:
7 (A) Under cultivation;
8 (B) In the process of being harvested; or
9 (C) That has been harvested;
10 (d) The person enters or remains unlawfully on unimproved
11 or unused lands without the permission of the owner of
12 the land, the owner's agent, or the person in lawful
13 possession of the land, and the lands:
14 (i) Are fenced, enclosed, or secured in a manner
15 designed to exclude the general public; or
16 (ii) Have a sign or signs displayed on the unenclosed,
17 unimproved, or unused land sufficient to give
18 reasonable notice and reads as follows: "Private
19 Property - No Trespassing", "Government Property
20 - No Trespassing", or a substantially similar
21 message; provided that the sign or signs shall



1 contain letters not less than two inches in
2 height and shall be placed at reasonable
3 intervals along the boundary line of the land and
4 at roads and trails entering the land in a manner
5 and position [as] to be clearly noticeable from
6 outside the boundary line.

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



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

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



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

2 The person is a non-tenant:

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

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

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

21 For the purposes of this paragraph:



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

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

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

13 "Member of the public" does not include:

- 14 (i) A tenant as defined in section 356D-1 or section
15 356D-51 who leases a unit in the subject housing
16 project;
- 17 (ii) A household member as defined in section 356D-1
18 who occupies a unit in the subject housing
19 project as a household member;
- 20 (iii) A director, officer, employee, agent,
21 representative, or contractor of the Hawaii



- 1 public housing authority who is acting within the
2 director, officer, employee, agent,
3 representative, or contractor's respective scope
4 of employment or work, or is discharging an
5 official duty for the authority;
- 6 (iv) An employee, agent, or contractor of the United
7 States Department of Housing and Urban
8 Development who is acting within the employee,
9 agent, or contractor's respective scope of the
10 employment or work;
- 11 (v) A person carrying out governmental duties
12 including but not limited to law enforcement and
13 emergency medical services;
- 14 (vi) A person participating in a program authorized by
15 the Hawaii public housing authority; and
- 16 (vii) A person engaging in constitutionally protected
17 door-to-door communications and pamphleteering
18 between 9:00 a.m. and 8:00 p.m.
- 19 "Non-tenant" means a person who is not a tenant
20 as defined in section 356D-1 or section 356D-51, and



1 not a household member as defined in section 356-1 at
2 the subject housing project.

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

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

17 (ii) The legal name, any aliases, and a photograph, if
18 practicable, or a physical description, including
19 but not limited to sex, racial extraction, age,
20 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;
- 5 (iv) The signature of the person giving the warning,
- 6 and, if possible, the signature of the person
- 7 warned; and
- 8 (v) The signature of a witness or law enforcement
- 9 officer who was present when the warning was
- 10 given pursuant to subsection (1) (e).

11 ~~[(3)]~~ (2) Criminal trespass in the second degree is a
 12 petty misdemeanor."

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

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

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

Report Title:

Hawaii Public Housing Authority; Trespass

Description:

Provides that certain areas within 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. Effective 7/1/2050. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

