

JAN 22 2015

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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:**

1           SECTION 1. The purpose of this Act is to clarify  
2 trespassing on public housing property.

3           SECTION 2. Section 708-814, Hawaii Revised Statutes, is  
4 amended to read as follows:

5           "§708-814 Criminal trespass in the second degree. (1) A  
6 person commits the offense of criminal trespass in the second  
7 degree if:

8           (a) The person knowingly enters or remains unlawfully in  
9 or upon premises that are enclosed in a manner  
10 designed to exclude intruders or are fenced;

11           (b) The person enters or remains unlawfully in or upon  
12 commercial premises after a reasonable warning or  
13 request to leave by the owner or lessee of the  
14 commercial premises, the owner's or lessee's  
15 authorized agent, or a police officer; provided that  
16 this paragraph shall not apply to any conduct or



1 activity subject to regulation by the National Labor  
2 Relations Act.

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

9 (i) A warning statement advising the person that the  
10 person's presence is no longer desired on the  
11 property for a period of one year from the date  
12 of the notice, that a violation of the warning  
13 will subject the person to arrest and prosecution  
14 for trespassing pursuant to section  
15 708-814(1)(b), and that criminal trespass in the  
16 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; 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 is a nonresident who enters or remains  
5           unlawfully or without authorization in or upon the  
6           premises of any public housing project or state low-  
7           income housing project, as defined in section 356D-1,  
8           356D-51, or 356D-91 [~~, after a reasonable warning or~~  
9           ~~request to leave by housing authorities or a police~~  
10          ~~officer, based upon an alleged violation of law or~~  
11          ~~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~~



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1 ~~the public housing project or state low income housing~~  
2 ~~project is closed to the public during those hours.]:~~

3 (i) "Nonresident" means a person who is not a tenant  
4 or household member listed on a lease with the  
5 Hawaii public housing authority at the subject  
6 property. "Nonresident" does not include  
7 individuals who are on the property to carry out  
8 constitutionally protected activities or other  
9 governmental duties;

10 (ii) "Authorization" means permission given for a  
11 nonresident to enter the property which is given  
12 either by:

13 (A) A tenant of the property who is eighteen  
14 years or older, to a nonresident who has not  
15 been convicted of any violation of the law  
16 involving narcotics, prostitution,  
17 vandalism, weapons, disturbance of the  
18 peace, loitering, threat to commit a violent  
19 act, or a violent act, on any public housing  
20 project within the past five years; or

21 (B) The housing authorities;



1            (iii) The Hawaii public housing authority shall post a  
2            sign or signs along the boundary of the housing  
3            project that reads: "Private Property - No  
4            Trespassing," "Government Property - No  
5            Trespassing," or a substantially similar message;  
6            provided that the sign or signs shall contain  
7            letters not less than two inches in height and  
8            shall be placed at reasonable intervals along the  
9            boundary line of the property and at entrances in  
10           a manner and position as to be clearly noticeable  
11           from outside the boundary line; and

12           [~~(2) As used in this section, "housing]~~ (iv) "Housing  
13           authorities" means resident managers or managers,

14           tenant monitors, security guards, or others

15           officially designated by the Hawaii public

16           housing authority.

17           [~~(3)]~~ (2) Criminal trespass in the second degree is a  
18           petty misdemeanor."

19           SECTION 3. Statutory material to be repealed is bracketed  
20           and stricken. New statutory material is underscored.





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1 SECTION 4. This Act does not affect rights and duties that  
 2 matured, penalties that were incurred, and proceedings that were  
 3 begun before its effective date.

4 SECTION 5. This Act shall take effect upon its approval.  
 5

INTRODUCED BY:

*Thomas [unclear]*  
~~Scott [unclear]~~  
*Paul E. [unclear]*

*Thomas [unclear]*

*Breene [unclear]*

*Clarence K. [unclear]*

*Will [unclear]*

*SP [unclear]*

*[unclear]*

*[unclear]*



# S.B. NO. 123

**Report Title:**

Hawaii Public Housing Authority; Trespass

**Description:**

Clarifies trespassing in the second degree at Hawaii public housing authority housing projects as a nonresident who enters or remains on the property unlawfully or without authorization. Requires the Hawaii public housing authority to post signs notifying trespassers of illegal entry.

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

