

---

---

# A BILL FOR AN ACT

RELATING TO RIGHT OF ENTRY FOR PROFESSIONAL SURVEYORS.

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

1           SECTION 1. The legislature finds that professional land  
2 surveyors require reasonable access over and across certain  
3 private properties at reasonable times in the regular course of  
4 their work to conduct a survey of common property boundaries  
5 that are used to determine the legal interests of parties in  
6 real property. A professional land surveyor requires access to:

7           (1) Retrace record boundary lines;

8           (2) Recover or reestablish boundary monuments or survey  
9           controls; and

10          (3) Locate rights-of-way or improvements with positional  
11          discrepancies.

12          Without a right of entry, a professional land surveyor  
13 conducting a land survey is often subject to trespass laws or  
14 encounters conditions and hazards that prohibit the land  
15 surveyor from conducting a land survey required to ensure the  
16 public's interest in maintaining a sound and uniform real  
17 property system.



1           The purpose of this Act is to establish a right of entry  
2 for professional land surveyors and their assistants to conduct  
3 a survey that protects the private property interests of  
4 property owners and the public interest in maintaining the  
5 integrity of a sound uniform real property system.

6           SECTION 2. Chapter 464, Hawaii Revised Statutes, is  
7 amended by adding a new section to be appropriately designated  
8 and to read as follows:

9           "§464- Professional land surveyor right of entry to  
10 private property; notification; identification. (a) Except as  
11 otherwise provided in this section, a professional land surveyor  
12 licensed pursuant to this chapter and any assistant under the  
13 direct supervision of the land surveyor may enter the private  
14 property of the landowner of the real property to be surveyed  
15 and any adjoining lands, but not any building, structure,  
16 residence, or vehicle, at reasonable times to perform land  
17 surveying at the request of the landowner of, or person with an  
18 interest in, the real property to be surveyed.

19           (b) If the requested survey of real property may require  
20 entry to adjoining lands, the land surveyor shall give at least  
21 seven days written notice of the intention to enter the private



1 property to be surveyed and any adjoining lands. The written  
2 notice shall include:

3 (1) The name of the landowner of, or person with an  
4 interest in, the real property to be surveyed and the  
5 name of the landowner or occupier of the adjoining  
6 lands to be accessed;

7 (2) The date and time the survey work is scheduled to be  
8 performed;

9 (3) A description of the work to be performed and the  
10 approximate duration that the land surveyor will be on  
11 the real property to be surveyed and adjoining lands;

12 (4) The name and contact information of the land surveyor  
13 who will perform the work;

14 (5) A statement that the landowner or occupier of the  
15 adjoining lands may refuse entry by making a timely  
16 written objection; and

17 (6) A statement of the date, time, and method by which the  
18 landowner or occupier of the adjoining lands may  
19 object.

20 Written notice sent from the land surveyor to the last known  
21 address of the landowner or occupier of the adjoining lands by



1 certified mail shall be deemed sufficient notice for the  
2 purposes of this section.

3 Upon receiving written notice pursuant to this subsection,  
4 the landowner or occupier of the adjoining lands must give  
5 written notice objecting to the land surveyor's entry to the  
6 adjoining lands no later than twenty-four hours before the date  
7 and time the survey work is scheduled to be performed.

8 If the landowner or occupier of the adjoining lands makes a  
9 timely objection, the land surveyor and any assistant under the  
10 direct supervision of the land surveyor shall not be authorized  
11 to enter the adjoining lands pursuant to this section. If the  
12 landowner or occupier of the adjoining lands does not make a  
13 timely objection, the land surveyor and any assistant under the  
14 direct supervision of the land surveyor shall be authorized to  
15 enter the adjoining lands pursuant to this section.

16 (c) The land surveyor shall carry identification, which  
17 shall include a valid government-issued photo identification  
18 and:

19 (1) The certificate of licensure with the license number  
20 issued pursuant to this chapter, or a facsimile  
21 thereof; or



1        (2) A seal or stamp, or facsimile thereof, authorized  
 2                    pursuant to section 464-11; and  
 3 a copy of the notice submitted pursuant to this section."

4            SECTION 3. Section 708-813, Hawaii Revised Statutes, is  
 5 amended by amending subsection (2) to read as follows:

6            "(2) Subsection (1) shall not apply to [a]:

7            (a) A process server who enters or remains in or upon the  
 8                    land or premises of another, unless the land or  
 9                    premises are secured with a fence and locked gate, for  
 10                    the purpose of making a good faith attempt to perform  
 11                    their legal duties and to serve process upon any of  
 12                    the following:

13            [~~a~~] (i) An owner or occupant of the land or  
 14                    premises;

15            [~~b~~] (ii) An agent of the owner or occupant of the  
 16                    land or premises; or

17            [~~c~~] (iii) A lessee of the land or premises[~~]~~; or

18            (b) A professional land surveyor, or assistant under the  
 19                    direct supervision of the land surveyor, who enters or  
 20                    remains in or upon the land or premises of another, in  
 21                    accordance with section 464- , for the purpose of



1           performing land surveying at the request of the  
 2           landowner of, or person with an interest in, the real  
 3           property to be surveyed."

4           SECTION 4. Section 708-814, Hawaii Revised Statutes, is  
 5 amended by amending subsection (2) to read as follows:

6           "(2) Subsection (1) shall not apply to [a]:

7           (a) A process server who enters or remains in or upon the  
 8           land or premises of another, unless the land or  
 9           premises are secured with a fence and locked gate, for  
 10           the purpose of making a good faith attempt to perform  
 11           the process server's legal duties and to serve process  
 12           upon any of the following:

13           ~~[(a)]~~ (i) An owner or occupant of the land or  
 14           premises;

15           ~~[(b)]~~ (ii) An agent of the owner or occupant of the  
 16           land or premises; or

17           ~~[(c)]~~ (iii) A lessee of the land or premises.

18           For the purposes of this ~~[subsection,]~~ paragraph,  
 19           "process server" means any person authorized under the  
 20           Hawaii rules of civil procedure, district court rules



1 of civil procedure, Hawaii family court rules, or  
2 section 353C-10 to serve process[-]; or

3 (b) A professional land surveyor, or assistant under the  
4 direct supervision of the land surveyor, who enters or  
5 remains in or upon the land or premises of another, in  
6 accordance with section 464- , for the purpose of  
7 performing land surveying at the request of the  
8 landowner of, or person with an interest in, the real  
9 property to be surveyed."

10 SECTION 5. This Act does not affect rights and duties that  
11 matured, penalties that were incurred, and proceedings that were  
12 begun before its effective date.

13 SECTION 6. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15 SECTION 7. This Act shall take effect on June 30, 3000.



**Report Title:**

Land Surveyors; Assistants; Right of Entry; Private Property;  
Trespass

**Description:**

Authorizes professional land surveyors and their assistants to enter private property to perform land surveying, subject to certain provisions. Shields land surveyors and their assistants from prosecution under criminal trespass laws when performing their duties. Effective 6/30/3000. (HD2)

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

