
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 real
3 properties at reasonable times in the regular course of their
4 work to conduct a survey of common property boundaries that are
5 used to determine the legal interests of parties in real
6 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,
14 prohibiting the land surveyor from conducting a land survey
15 required to ensure the public's interest in maintaining a sound
16 and uniform real property system.



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

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

10 "§464- Professional land surveyor right of entry to
11 private property; notification; identification. (a) A
12 professional land surveyor licensed pursuant to this chapter,
13 and any assistant under the direct supervision of the
14 professional land surveyor, may enter the private property of
15 the landowner of the real property to be surveyed and any
16 adjoining lands, but not any building, structure, residence, or
17 vehicle, at reasonable times to perform land surveying at the
18 request of the landowner of, or person with an interest in, the
19 real property to be surveyed after providing a written notice no
20 less than ten days before the proposed date of entry.

21 (b) The written notice shall include:



- 1 (1) The date and time the entry is scheduled to occur;
- 2 (2) A description of the work to be performed;
- 3 (3) The approximate duration of the entry;
- 4 (4) A statement that the landowner of the real property to
5 be surveyed and the landowners of adjoining lands may
6 refuse entry by making a timely written objection;
- 7 (5) A statement of the date, time, and method by which the
8 landowner of the real property to be surveyed and the
9 landowners of adjoining lands may object; and
- 10 (6) A statement of the date, time, and method by which the
11 landowner of, or person with an interest in, the real
12 property to be surveyed and the landowner or occupier
13 of adjoining lands may notify of a disruption or
14 interference with operations on the properties
15 involved.
- 16 (c) The written notice shall be sent to the last known
17 address of the landowner of, or person with an interest in, the
18 real property to be surveyed and the landowner or occupier of
19 adjoining lands to be accessed. Notice sent by certified mail
20 shall be deemed sufficient notice for purposes of this section.



1 (d) An objection shall be expressly communicated to the
2 professional land surveyor in writing no later than seventy-two
3 hours before the date the survey work is to be performed. If
4 the landowner of the real property to be surveyed or a landowner
5 of adjoining lands makes a timely objection, the professional
6 land surveyor, and any assistant under the direct supervision of
7 the professional land surveyor, shall not be authorized to enter
8 the private property of the objecting landowner pursuant to this
9 section. If the landowner of the real property to be surveyed
10 or a landowner of adjoining lands does not make a timely
11 objection, the professional land surveyor, and any assistant
12 under the direct supervision of the professional land surveyor,
13 shall be authorized to enter the private property of the
14 landowner pursuant to this section.

15 (e) When the landowner of, or person with an interest in,
16 the real property to be surveyed or the landowner or occupier of
17 adjoining lands gives notice to the professional land surveyor
18 that the surveying may disrupt or interfere with operations on
19 the properties involved, the professional land surveyor shall
20 meet with the landowner, person with interest, or occupier to



1 negotiate a mutually agreeable date and time to perform the land
2 surveying.

3 (f) The professional land surveyor or professional land
4 surveyor's assistant shall carry:

5 (1) A government-issued photo identification;

6 (2) A copy of the written notice submitted pursuant to
7 this section; and

8 (3) The land surveyor's:

9 (A) Certificate of licensure with the license number
10 issued pursuant to this chapter, or a facsimile
11 thereof; or

12 (B) Seal or stamp, or facsimile thereof, authorized
13 pursuant to section 464-11."

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

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

17 (a) A process server who enters or remains in or upon the
18 land or premises of another, unless the land or
19 premises are secured with a fence and locked gate, for
20 the purpose of making a good faith attempt to perform



1 their legal duties and to serve process upon any of
2 the following:

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

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

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

8 (b) A professional land surveyor, or assistant under the
9 direct supervision of the professional land surveyor,
10 who enters or remains in or upon the land or premises
11 of another for the purpose of performing land
12 surveying at the request of the landowner of, or
13 person with an interest in, the real property to be
14 surveyed."

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

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

18 (a) A process server who enters or remains in or upon the
19 land or premises of another, unless the land or
20 premises are secured with a fence and locked gate, for
21 the purpose of making a good faith attempt to perform



1 the process server's legal duties and to serve process
2 upon any of the following:

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

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

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

8 For the purposes of this ~~[subsection,]~~ paragraph,
9 "process server" means any person authorized under the
10 Hawaii rules of civil procedure, district court rules
11 of civil procedure, Hawaii family court rules, or
12 section 353C-10 to serve process~~[-];~~ or

13 (b) A professional land surveyor, or assistant under the
14 direct supervision of the professional land surveyor,
15 who enters or remains in or upon the land or premises
16 of another for the purpose of performing land
17 surveying at the request of the landowner of, or
18 person with an interest in, the real property to be
19 surveyed."



1 SECTION 5. 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 6. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

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



Report Title:

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

Description:

Authorizes professional land surveyors, and any assistant under the direct supervision of the professional land surveyor, to enter any private property to perform land surveying, subject to certain provisions regarding notice, objections, and identification. Shields professional 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.

