
A BILL FOR AN ACT

RELATING TO CRIME.

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

1 SECTION 1. The legislature finds that there has been an
2 increase in criminal acts by non-residents within the restricted
3 areas of multi-unit dwellings. As the number of multi-unit
4 dwellings continues to rise in the foreseeable future, the
5 efforts of law enforcement agencies and county prosecuting
6 offices need to be directed, whenever possible, toward
7 investigating and prosecuting the criminal acts of non-residents
8 within the restricted areas of multi-unit dwellings as
9 burglaries. Burglary, as opposed to theft, is not only an
10 offense against property rights, it is an offense against the
11 fundamental sense of security and well-being of the owner whose
12 property has been unlawfully entered.

13 Pursuant to section 708-810, Hawaii Revised Statutes,
14 burglary of a dwelling is a class B felony, regardless of the
15 value of any property stolen or damaged or any other crime
16 committed or attempted during the unlawful entry. The
17 legislature notes with concern the frequent reluctance of county



1 law enforcement and prosecutor's offices to investigate and
2 prosecute burglaries of restricted parking and storage areas
3 within apartment buildings and condominiums, despite the clear
4 danger posed to the buildings' residents. The legislature also
5 notes that, with respect to the burglary of a parking or storage
6 area within a multi-unit dwelling, it is also the building's
7 owner or condominium association whose property has been invaded
8 and who may be in the best position to follow through with law
9 enforcement agencies to provide evidence and cooperate with the
10 prosecution of the crime.

11 Accordingly, the purpose of this Act is to:

- 12 (1) Clarify that the definition of "dwelling", as it
13 relates to offenses against property rights, includes
14 multi-unit buildings and connected parking or storage
15 areas that are restricted to residents; and
- 16 (2) Allow the owner of a multi-unit building, owner of an
17 individual unit, a property manager, or an authorized
18 representative of the condominium association to act
19 as a complainant for the purpose of investigating and
20 prosecuting an offense of burglary in the first degree
21 in a multi-unit building.



1 SECTION 2. Section 708-800, Hawaii Revised Statutes, is
2 amended by amending the definition of "dwelling" to read as
3 follows:

4 ""Dwelling" means a building [which], including a
5 multi-unit building, that is used or usually used by a person or
6 persons for lodging. "Dwelling" includes any connected parking
7 or storage areas, access to which is clearly restricted to
8 residents by means of signage or security apparatus, or both."

9 SECTION 3. Section 708-810, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§708-810 Burglary in the first degree.** (1) A person
12 commits the offense of burglary in the first degree if the
13 person intentionally enters or remains unlawfully in a building,
14 with intent to commit therein a crime against a person or
15 against property rights, and:

16 (a) The person is armed with a dangerous instrument in the
17 course of committing the offense;

18 (b) The person intentionally, knowingly, or recklessly
19 inflicts or attempts to inflict bodily injury on
20 anyone in the course of committing the offense; or



1 (c) The person recklessly disregards a risk that the
2 building is the dwelling of another, and the building
3 is such a dwelling.

4 (2) An act occurs "in the course of committing the
5 offense" if it occurs in effecting entry or while in the
6 building or in immediate flight therefrom.

7 (3) In the case of a dwelling that is a multi-unit
8 building, the owner of the multi-unit building, owner of an
9 individual unit, a property manager, or an authorized
10 representative of the condominium association may act as a
11 complainant.

12 [~~3~~] (4) Burglary in the first degree [~~is~~] shall be a
13 class B felony."

14 SECTION 4. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 5. This Act shall take effect on July 1, 3000.

Report Title:

Burglary; Multi-Unit Building; Dwelling; Appurtenant; Restricted Areas

Description:

Clarifies that the definition of "dwelling", as it relates to offenses against property rights, includes multi-unit buildings and connected parking or storage areas that are restricted to residents. Allows the owner of a multi-unit building, an owner of an individual unit, a property manager, or an authorized representative of the condominium association to act as a complainant for the purpose of investigating and prosecuting an offense of burglary in the first degree in a multi-unit building. Effective 7/1/3000. (HD1)

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