
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 secured
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 secured areas of multi-unit dwellings as burglaries.
9 Burglary, as opposed to theft, is not only an offense against
10 property rights, it is an offense against the fundamental sense
11 of security and well-being of the owner whose property has been
12 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 secured parking and storage areas within
3 apartment buildings and condominiums, despite the clear danger
4 posed to the buildings' residents. The legislature also notes
5 that, with respect to the burglary of a parking or storage area
6 within a multi-unit dwelling, it is also the building owner or
7 condominium association whose property has been invaded who may
8 be in the best position to follow through with law enforcement
9 agencies to provide evidence and cooperate with the prosecution
10 of the crime.

11 Accordingly, the purpose of this Act is to:

- 12 (1) Clarify that the secured areas appurtenant to a
13 building, including a multi-unit building, are
14 included as dwellings for the purposes of prosecuting
15 offenses under chapter 708, Hawaii Revised Statutes;
16 and
- 17 (2) Allow the owner of the building, the owner of an
18 individual unit of the building, a property manager,
19 or an authorized representative of the condominium
20 association to act as a complainant for the purpose of



1 investigating and prosecuting a burglary in the first
2 degree in a multi-unit building.

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

6 "Dwelling" means a building, including a multi-unit
7 building, which is used or usually used by a person or persons
8 for lodging[-], and shall include any clearly marked and secured
9 appurtenant parking or storage area, including:

- 10 (1) A fully enclosed and fenced area;
- 11 (2) An area surrounded by a single chain or rope;
- 12 (3) A gated parking lot that is open to the public but
13 requires the pulling of a ticket to enter; and
- 14 (4) An open area that is monitored by a security guard or
15 security cameras."

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

18 "**§708-810 Burglary in the first degree.** (1) A person
19 commits the offense of burglary in the first degree if the
20 person intentionally enters or remains unlawfully in a building,



1 with intent to commit therein a crime against a person or
2 against property rights, and:

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

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

8 (c) The person recklessly disregards a risk that the
9 building is the dwelling of another, and the building
10 is such a dwelling.

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

14 (3) In the case of a dwelling that is a multi-unit
15 building, an owner of the building, an owner of an individual
16 unit of the building, a property manager, or an authorized
17 representative of the condominium association, may act as a
18 complainant.

19 [~~3~~] (4) Burglary in the first degree is a class B
20 felony."



1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

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



Report Title:

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

Description:

Clarifies that the secured areas appurtenant to a building, including a multi-unit building, are included as dwellings for the purposes of prosecuting offenses under chapter 708, HRS. Allows the owner of the building, an owner of an individual unit of the building, a property manager, or an authorized representative of the condominium association to act as a complainant for the purpose of investigating and prosecuting a burglary in the first degree in a multi-unit building. (SD1)

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