



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2025**

ON THE FOLLOWING MEASURE:

H.B. NO. 224, RELATING TO PROPERTY RIGHTS.

BEFORE THE:

HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

DATE: Thursday, January 30, 2025 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 329

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Michael F. Minkin, Deputy Attorney General

Chair Matayoshi and Members of the Committee:

The Department of the Attorney General (Department) respectfully opposes this bill.

The purpose of this bill is to create a system whereby law enforcement officers can quickly remove unauthorized occupants, colloquially known as squatters, from a residence.

The Department is concerned, however, that, in doing so, this bill requires law enforcement officers to make determinations typically reserved for a court or hearings officer. This bill sets forth requirements that must be met before a person can be removed from a residence, requirements that must be verified by responding law enforcement officers. In verifying these requirements, a law enforcement officer would need to determine, among other things, whether an individual is a current or former tenant pursuant to chapter 521, Hawaii Revised Statutes (HRS), and whether there is any pending or ongoing litigation related to the dwelling or premises between the owner and any known authorized resident. By asking law enforcement officers to step outside the scope of their core competencies and prescribed duties to investigate and adjudicate civil actions, this bill would allow for the short-circuiting of the judicial process and the due process rights inherent therein.

Notably, in instances where tenant rights are not implicated, there is already a method whereby unauthorized persons may be removed from a residence. Namely,

arrest for Criminal Trespass in the First Degree under section 708-813(1)(a), HRS, which criminalizes entering or remaining unlawfully in a dwelling or in or upon the premises of a hotel or apartment building, and arrest for Unauthorized Entry in a Dwelling in the Second Degree under section 708-812.6, HRS, which criminalizes unauthorized entry into a dwelling when another person is present therein. These existing criminal offenses, already enforced by state and county law enforcement, allow for removal of unauthorized persons from a residence and do not require law enforcement officers to navigate the complexities of the legal system or to determine the status of litigation.

As this bill asks law enforcement officers to make what are traditionally judicial determinations, it also grants law enforcement officers some measure of immunity for those determinations, with the bill stating that law enforcement officers shall not be liable to any unlawful occupant or any other party for property loss, destruction, or damage. However, it is not clear that this immunity extends to instances where the law enforcement officer mistakenly determines a person to be an unlawful occupant and the person is, in fact, a lawful tenant.

While creating an avenue for the expeditious removal of unlawful occupants from a residence, this bill also contemplates that such a process may be subject to abuse by bad actors. This bill seeks to prevent such abuse through two methods. The first is by providing that any owner or authorized agent of an owner who submits a fraudulent complaint for removal or who knowingly includes false information in a complaint that results in the removal of a rightful occupant will be guilty of the crime of Perjury under section 710-1060, HRS. Page 5, lines 7-14. The second method is the creation of a civil cause of action for wrongful removal of a rightful occupant, which contemplates monetary damages and restoration to rightful possession of a dwelling. Page 5, lines 15-21. With respect to the first method of preventing abuse, while the intent to make an owner who submits a fraudulent complaint subject to the penalty of Perjury is clear, it does not appear that this is what the bill actually accomplishes. Merely stating that person who submits a fraudulent complaint commits Perjury does not relieve the state of its burden of proving each and every element of the crime of Perjury beyond a

reasonable doubt and, on its face, submitting a fraudulent complaint would not appear to satisfy the element of Perjury of a false claim made under oath. To achieve the goal of the bill would require writing into the Perjury statute an alternative means to commit Perjury that is satisfied by submitting a false complaint for removal of unauthorized occupant, or creating a new statute that criminalizes submitting a false complaint for removal of unauthorized occupant.

In summation, while components of this bill may be feasibly implemented without issue, the Department opposes this bill in that it calls for law enforcement to evade judicial review and in doing so, it does not adequately protect due process.

PUBLIC DEFENDER

DEFENDER COUNCIL
1130 NORTH NIMITZ HIGHWAY
SUITE A-254
HONOLULU, HAWAII 96817

HONOLULU OFFICE
1130 NORTH NIMITZ HIGHWAY
SUITE A-254
HONOLULU, HAWAII 96817

APPELLATE DIVISION
TEL. No. (808) 586-2080

DISTRICT COURT DIVISION
TEL. No. (808) 586-2100

FAMILY COURT DIVISION
TEL. No. (808) 586-2300

FELONY DIVISION
TEL. No. (808) 586-2200

FACSIMILE
(808) 586-2222



STATE OF HAWAII
OFFICE OF THE PUBLIC DEFENDER

January 29, 2025

LATE

ASSISTANT PUBLIC DEFENDER

HILO OFFICE
275 PONAHAHAWA STREET
SUITE 201
HILO, HAWAII 96720
TEL. No. (808) 974-4571
FAX No. (808) 974-4574

KONA OFFICE
75-1000 HENRY STREET
SUITE #209
KAILUA-KONA HI 96740
TEL. No. (808) 327-4650
FAX No. (808) 327-4651

KAUAI OFFICE
3060 EIIWA STREET
SUITE 206
LIHUE, HAWAII 96766
TEL. No. (808) 241-7128
FAX No. (808) 274-3422

MAUI OFFICE
81 N. MARKET STREET
WAILUKU, HAWAII 96793
TEL. No. (808) 984-5018
FAX No. (808) 984-5022

HB224: RELATING TO PROPERTY RIGHTS

Chair Matayoshi, Vice-Chair Chun, and Members of the Committee on Consumer Protection & Commerce

The Office of the Public Defender (OPD) **opposes the amendment to HRS § 708-821(1) in the bill** as unnecessary.

In Section 2 of the bill an amendment to subsection 1 of HRS § 708-821, Criminal Property Damage in the Second Degree, is proposed with the addition of subsection (c) as follows:

- (c) The person, while unlawfully trespassing in or upon a dwelling or premises pursuant to section 708-813, intentionally or knowingly damages the dwelling or property therein in an amount exceeding \$999; or

The OPD believes that the situation contemplated in proposed subsection (c) is already covered under HRS § 708-810, Burglary in the First Degree. That statute states in relevant part:

- (1) A person commits the offense of burglary in the first degree if the person intentionally enters or remains unlawfully in a building, with intent to commit therein a crime against person or property rights, and;
* * *

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

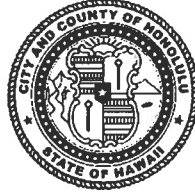
Burglary in the First Degree is a Class B felony while Criminal Property Damage in the Second Degree, the subject of the instant bill, is a Class C felony. As such, a person who committed the conduct described in proposed subsection (c) of the instant bill could be charged with Burglary in the First Degree, a more serious charge. In instances where the

same act can be charged under two separate statutory provisions, charging under the more serious charge would violate the Hawai'i Supreme Court's holding in State v. Modica, 58 Haw, 249, 567 P.2d 420 (1977) which held that where the same act under the same circumstances is punishable as either a felony or misdemeanor, under either of two statutory provision, and elements of proof essential to either are exactly the same, conviction under the felony statute violates due process and equal protection. Thus, if the proposed amendment to the criminal property damage statute is allowed, persons charged with or convicted of Burglary in the First Degree under HRS § 708-810(1)(c) could seek dismissal of the charge or conviction as Modica violation. Thus, the OPD respectfully submits that the proposed amendment to HRS § 708-821 should be stricken from the bill.

Thank you for the opportunity to comment on this measure.

HONOLULU POLICE DEPARTMENT
KA 'OIHANA MĀKA'I O HONOLULU
CITY AND COUNTY OF HONOLULU
801 SOUTH BERETANIA STREET • HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 • WEBSITE: www.honolulu.hpd.org

RICK BLANGIARDI
MAYOR
MEIA



ARTHUR J. LOGAN
CHIEF
KAHU MĀKA'I

KEITH K. HORIKAWA
RADE K. VANIC
DEPUTY CHIEFS
HOPE LUNA NUI MĀKA'I

OUR REFERENCE RP-TS

January 30, 2025

LATE

The Honorable Scot Z. Matayoshi, Chair
and Members
Committee on Consumer Protection
and Commerce
House of Representatives
415 South Beretania Street, Room 329
Honolulu, Hawai'i 96813

Dear Chair Matayoshi and Members:

SUBJECT: House Bill No. 224, Relating to Property Rights

I am Major Randall Platt of District 3 ('Aiea/Pearl City/Waipahu) of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD opposes House Bill No. 224, Relating to Property Rights, for several reasons. First, the bill requires enforcing officers to verify the legal owner of the dwelling or authorized agent of the owner. This would involve an in-depth search of records and documents that are not regularly available to officers. Furthermore, identifying tenants or former tenants, as the bill suggests, and determining if there are ongoing or pending litigation cases require an in-depth investigation into matters that are civil in nature and are not under the purview of criminal law enforcement entities.

Second, the bill suggests that officers shall be paid for their services which implies this activity would be done by off-duty law enforcement officers. This would not be in the best interest of the HPD as these officers would not be supervised and acting alone without departmental resources.

Lastly, to ensure the proposed bill requirements are met, the HPD would have to develop, maintain, and staff a separate team of officers just to meet the requirements of document verification and all other checks required to enforce this bill. The Sheriffs Division of the State Department of Law Enforcement currently conducts evictions and would be better suited to enforce this type of law. Excluding the HPD as an enforcement entity for this bill is recommended.

The Honorable Scot Z. Matayoshi, Chair
and Members
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January 30, 2025

The HPD urges you to oppose House Bill No. 224, Relating to Property Rights.

Thank you the opportunity of testify.

Sincerely,

A handwritten signature in black ink, appearing to read 'Randall Platt', written in a cursive style.

Randall Platt, Major
District 3

APPROVED:

A handwritten signature in black ink, appearing to read 'Arthur J. Logan', written in a cursive style.

Arthur J. Logan
Chief of Police

Jan. 30, 2025, 2 p.m.
Hawaii State Capitol
Conference Room 329 and Videoconference

To: House Committee on Consumer Protection & Commerce
Rep. Scot Z. Matayoshi, Chair
Rep. Cory M. Chun, Vice Chair

From: Grassroot Institute of Hawaii
Ted Kefalas, Director of Strategic Campaigns

RE: TESTIMONY IN SUPPORT OF HB224 — RELATING TO PROPERTY RIGHTS

Aloha Chair, Vice Chair and other members of the committee,

The Grassroot Institute of Hawaii **supports** [HB224](#), which would establish a procedure for removing unlawful occupants, otherwise known as squatters, from dwellings or premises with the assistance of law enforcement.

Squatting is more than just trespassing. It occurs when a person — or persons — occupy another's property without any legal claim and without the consent or permission from the owner.

This bill is needed because trespassing is a criminal offense, but removing squatters is treated as a landlord-tenant dispute. However, squatters are not actually tenants and have no incentive to cooperate, making landlord-tenant laws an ineffective way to approach the problem.

In addition, the civil process of eviction can be expensive and time-consuming, so property owners can be locked out of their own homes for months or years while trying to remove an unlawful occupant.

In the meantime, the unlawful tenant can cause damage to the property or accumulate utility bills and other costs that will fall onto the property owner.

In Hawaii, squatters can cause problems for the community by [trashing](#) the property or using it as a base for criminality, making this an issue of public safety in addition to one of property rights. For example,

neighborhood watch groups on Hawaii Island [appealed](#) a few years ago to local lawmakers for help in reducing squatting after seeing an increase in criminal behavior from squatters — including assault and drug trafficking.

Other states facing similar problems have turned to legislation such as the bill you are considering today, HB224, in order to streamline the eviction process for unlawful occupants.

According to a recent [report](#) from the Pacific Legal Foundation, the time required to remove unlawful tenants in Georgia, which adopted such a law in April 2024, has dropped from an average of eight months to less than two weeks

The PLF report noted that as of May 2024, Alabama, California, Florida, Georgia, Nevada, Tennessee, Washington and West Virginia had passed laws that criminalize squatting, while 11 other states have introduced bills to do so.

Grassroot recommends that Hawaii pass such a law as well. HB224 would not only reaffirm property rights, but also enable the counties to more quickly deal with the health and safety concerns posed by criminal trespassing and squatting.

Thank you for the opportunity to testify.

Ted Kefalas
Director of Strategic Campaigns
Grassroot Institute of Hawaii



808-733-7060



1259 A'ala Street, Suite 300
Honolulu, HI 96817



808-737-4977

January 30, 2025

The Honorable Scot Z. Matayoshi, Chair

House Committee on Consumer Protection & Commerce
State Capitol, Conference Room 329 & Videoconference

LATE

RE: House Bill 224, Relating to Property Rights

HEARING: Thursday, January 30, 2025, at 2:00 p.m.

Aloha Chair Matayoshi, Vice Chair Chun, and Members of the Committee:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawaii and its over 10,000 members. HAR **supports** House Bill 224, which establishes a procedure for immediately removing an unlawful occupant of a dwelling or premises with assistance from law enforcement. Provides that an unlawful occupant of a dwelling or premises is civilly liable for unpaid utility bills. Provides that a person who trespasses in or upon a dwelling or premises and intentionally or knowingly damages property in an amount exceeding \$999 commits a felony of criminal property damage in the second degree. Requires the Department of the Attorney General to develop, publish, and make available a complaint form to remove unlawful occupants of residential dwellings.

Squatting occurs when an unlawful occupant resides in an abandoned, vacant, or unoccupied property. During this time, squatters can cause significant property damage or engage in activities that pose safety risks to property owners, real estate professionals, and the surrounding community.¹ In some cases, squatters have even presented fraudulent rental agreements, forcing property owners and real estate professionals into a lengthy and costly eviction process.

This measure provides a much-needed solution by creating a clear and efficient process for property owners to reclaim their premises while ensuring that unlawful occupants are held accountable. We believe this measure will help protect property rights, enhance community safety, and prevent unnecessary financial and legal burdens on property owners.

Mahalo for the opportunity to provide testimony on this measure.

¹ Miller, Ashley. (August 23, 2024). Civil Beat. Honolulu Struggles to Find a Remedy for Abandoned Homes Taken by Squatters. <https://www.civilbeat.org/2024/08/honolulu-struggles-to-find-a-remedy-for-abandoned-homes-taken-over-by-squatters/>



HB-224

Submitted on: 1/29/2025 10:14:47 AM

Testimony for CPC on 1/30/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Michael EKM Olderr	Individual	Oppose	Written Testimony Only

Comments:

I am against this bill. This is another see-through attempt to criminalize the homeless without considering humane alternatives because of inconvenience. This bill would deteriorate squatters' rights in a state with an abundance of vacant homes left alone to fall apart because the owner has 10 houses in 10 states and only comes by once every other year. The homeless and squatters are not the problem here. It is the idea that property value must be protected over the value of human life. Defer this bill.

HB-224

Submitted on: 1/29/2025 12:41:20 PM

Testimony for CPC on 1/30/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lila Mower	Individual	Support	Written Testimony Only

Comments:

support

HB-224

Submitted on: 1/29/2025 1:51:42 PM

Testimony for CPC on 1/30/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Gregory Misakian	Individual	Support	Remotely Via Zoom

Comments:

I support HB224.

Gregory Misakian

Noreen Fernandez

RE: Written Testimony HB224

LATE

January 29, 2025

My name is Noreen Fernandez and I am a retired elementary school teacher and a concerned resident from Kaimuki. I am submitting this written testimony in support of HB224 relating to property rights. I would like to present my personal experience that have occurred at a neighboring property that has affected me and caused me to contact Representative Sayama's office.

I have lived in Kaimuki my entire life and have watched the neighborhood change over the years. The house next to mine was purchased in the early 90's by an individual who used it as an investment property. The house was divided into numerous living spaces and each space was rented so that the rental income could be maximized. Living next to this house was okay until 2020 when COVID struck. During this time, tenants were not required to pay rent and could not be evicted. Additionally, electrical power and water service could not be turned off. Because of this law, the tenants decided they were not going to pay rent because they didn't fear being evicted. The owner provided power and water until his funds ran out in 2022 and both water and power were shut off. The tenants brought in multiple generators to provide power and brought in their own water. Even though they have some power and water, on multiple occasions I have caught people stealing water and electricity from my house and other neighbors have reported theft of power and water from their homes too. In addition to the theft, the noise and fumes from the generators are a constant nuisance that results in daily calls to the police to have the generators turned off. The tenants have turned the water supply back on after the Board of Water Supply had turned it off resulting in the BWS filling the meter box with concrete. Drug use, car and moped theft, loose dogs, and rats are also constant problems.

Police were called multiple times to have people removed. The police know this house is a problem but they say that this is a civil problem and there is nothing they can do. The owner has been in court for years trying to have the tenants removed but this seems to be a long and costly process. It seems HB244 will help to solve this problem by giving the owner more rights and law enforcement more power to remove illegal occupants. Because of this, I'm in favor of HB244.

Thank you reading my testimony and hope you will consider it to help solve this problem.

LATE

HB-224

Submitted on: 1/30/2025 12:40:07 PM

Testimony for CPC on 1/30/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lois Crozer	Individual	Support	Written Testimony Only

Comments:

Too many people are afraid to rent out their properties due to irresponsible tenants. I've heard so many horror stories. The homeowner needs more rights. They are the ones paying the mortgage, and it's THEIR property!