



GOV. MSG. NO. 811

EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

July 13, 2009

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fifth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith SB1160 SD2 HD2 CD1, without my approval, and with the statement of objections relating to the measure.

SB1160 SD2 HD2 CD1

A BILL FOR AN ACT  
RELATING TO THE HAWAII PUBLIC HOUSING  
AUTHORITY.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle", written over a horizontal line.

LINDA LINGLE

EXECUTIVE CHAMBERS

HONOLULU

July 13, 2009

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 1160

Honorable Members  
Twenty-Fifth Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 1160, entitled "A Bill for an Act Relating to the Hawaii Public Housing Authority."

The purpose of this bill is to make the administration of public housing by the Hawaii Public Housing Authority (HPHA) more efficient.

This bill is objectionable because section 4 adds a new subsection to section 356D-93, Hawaii Revised Statutes, that requires evictions from State low-income housing be conducted by a hearings officer appointed by HPHA. The requirement that evictions from State low-income housing be conducted by a hearings officer conflicts with section 356D-44(c), Hawaii Revised Statutes, which states that State low-income housing projects shall be subject to chapter 521, Hawaii Revised Statutes. Chapter 521, the "Residential Landlord-Tenant Code," provides for eviction through summary possession proceedings or other proper action. Section 666-6, Hawaii Revised Statutes, requires that summary possession actions shall be brought in the district court of the circuit in which the property is situated. The bill does not amend section 356D-44(c) and, therefore, creates a conflict as to whether State low-income housing evictions are to be handled through judicial procedure or administrative procedure.

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SENATE BILL NO. 1160  
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Section 4 of the bill is also objectionable in requiring that in an eviction hearing, where the tenant has custody of a school-aged child or children, the eviction board or hearings officer shall:

solicit information regarding the tenant's regular participation in school activities or meetings during the current and previous school year from the school or schools in which the child or children are or were enrolled. This information shall be considered in determining the findings, conclusions, decision, and order.

The requirement in section 4 that the hearings officer and eviction board must solicit information about a tenant's involvement in the tenant's child's school activities and use this information in making findings of facts, conclusions of law, and the decision and order in an eviction hearing is objectionable. There is no rational relationship between a tenant's involvement in their child's school activities and whether or not the tenant has violated the rental agreement with HPHA.

Section 6 of the bill amends HPHA's general powers in section 356D-4, Hawaii Revised Statutes, to state that the HPHA "shall not sell any land developed for any public housing project," but this bill does not amend section 356D-8(c), Hawaii Revised Statutes, which states in relevant part that HPHA "may sell, exchange, transfer, assign, or pledge, any property, real or personal, or any interest therein to any person or government." There does not appear to be any justification for a blanket prohibition against a sale when "exchange, transfer, assign, or pledge" would still be authorized.

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For the foregoing reasons, I am returning Senate Bill  
No. 1160 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read "L. Lingle", with a stylized, looping flourish at the end.

LINDA LINGLE  
Governor of Hawaii

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## A BILL FOR AN ACT

RELATING TO THE HAWAII PUBLIC HOUSING AUTHORITY.

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

**PART I**

SECTION 1. The purpose of this part is to make the administration of housing projects by the Hawaii public housing authority more efficient by:

- (1) Authorizing the Hawaii public housing authority to assess all the units in a state public housing project a fee for the common area expenses of the housing project;
- (2) Eliminating most procedural requirements preliminary to hearings for evictions of tenants of public housing projects;
- (3) Requiring written notice to delinquent tenants in accordance with federal law;
- (4) Requiring evictions from state low-income housing to be conducted by a hearings officer appointed by the Hawaii public housing authority;



- 1 (5) Clarifying that for federal low-income housing,  
2 hearing shall be conducted by an eviction board;
- 3 (6) Authorizing an eviction board or hearings officer to  
4 consider a tenant's involvement in their child's  
5 school in making a determination; and
- 6 (7) Prohibiting the Hawaii public housing authority from  
7 selling land developed for any public housing project.

8 SECTION 2. Chapter 356D, Hawaii Revised Statutes, is  
9 amended by adding a new section to be appropriately designated  
10 and to read as follows:

11 "§356D- Assessments for common area expenses. (a) In  
12 accordance with rules adopted by the authority pursuant to  
13 chapter 91, at least one per cent of common area expenses for a  
14 state public housing project shall be assessed against all the  
15 units in the state public housing project.

16 (b) If any common area expense is caused by the misconduct  
17 of any unit resident, the authority may assess that expense  
18 exclusively against the unit resident.

19 (c) The authority, either directly or through its managing  
20 agent or resident manager, shall notify the unit residents of a  
21 state public housing project in writing of common area expense  
22 assessment increases at least thirty days prior to an increase."



1 SECTION 3. Section 356D-92, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§356D-92 Termination and eviction. (a) Except as  
4 otherwise provided, the authority may terminate any lease,  
5 rental agreement, permit, or license covering the use and  
6 occupation of any dwelling unit or other premises located within  
7 a public housing project and evict from any premises any tenant,  
8 licensee, or other occupant for any of the following reasons:

9 (1) Failure to pay rent when due;

10 (2) Violation of any of the provisions of a lease, rental  
11 agreement, permit, or license;

12 (3) Violation of any of the rules of the authority;

13 (4) Failure to maintain the dwelling unit in a clean,  
14 sanitary, and habitable condition; or

15 (5) The existence of any other circumstances giving rise  
16 to an immediate right to possession by the authority.

17 (b) When any tenant has been delinquent in payment of  
18 rent, the authority, either directly or through its managing  
19 agent, shall provide the tenant with a written notice [~~no later~~  
20 ~~than forty five days from the date of delinquency~~] in accordance  
21 with requirements imposed under federal law that shall inform  
22 the tenant of the delinquency [~~and schedule a meeting between~~



1 ~~the tenant and the authority or its agent. The written notice~~  
2 ~~shall:~~

3 ~~(1) Inform the tenant that continued delinquency shall~~  
4 ~~result in the tenant's eviction;~~

5 ~~(2) Inform the tenant of the tenant's right to apply for~~  
6 ~~an interim adjustment in rent;~~

7 ~~(3) Explain to the tenant the steps of the grievance and~~  
8 ~~eviction processes and how the processes protect the~~  
9 ~~tenant;~~

10 ~~(4) Provide the tenant with a sample letter for demanding~~  
11 ~~a grievance hearing;~~

12 ~~(5) Set forth the location, date, and time, which shall be~~  
13 ~~no earlier than fourteen days from the date of the~~  
14 ~~written notice, at which the tenant may meet with the~~  
15 ~~authority or its agent to discuss the delinquency in~~  
16 ~~rent; and~~

17 ~~(6) Inform the tenant that the tenant shall either attend~~  
18 ~~the meeting or, if applicable, contact the authority~~  
19 ~~or the authority's agent before the meeting time to~~  
20 ~~reschedule the meeting.~~

21 ~~(c) At the meeting described in subsection (b), the~~  
22 ~~authority or its agent shall:~~





1 ~~(1) Inquire into the cause of the tenant's delinquency and~~  
2 ~~offer suggestions, if any, that the authority may feel~~  
3 ~~appropriate to address the causes of delinquency;~~

4 ~~(2) Consider whether a reasonable payment plan is~~  
5 ~~appropriate for the tenant's situation and, if~~  
6 ~~appropriate, offer a payment plan to the tenant; and~~

7 ~~(3) Inform the tenant of and explain the issues as~~  
8 ~~required under subsection (b) (1), (2), and (3).~~

9 ~~(d) The authority shall develop a checklist outlining all~~  
10 ~~of the requirements listed in subsection (c). The authority or~~  
11 ~~its agent and the tenant shall complete, sign, and date the~~  
12 ~~checklist to memorialize the meeting.~~

13 ~~(e) If the tenant fails to attend or reschedule the~~  
14 ~~meeting provided for in subsection (b), the authority shall~~  
15 ~~provide the tenant with a second written notice. The notice~~  
16 ~~shall inform the tenant that:~~

17 ~~(1) The authority shall proceed to terminate the tenant's~~  
18 ~~tenancy because of the tenant's outstanding rent~~  
19 ~~delinquency and the tenant's failure to respond to the~~  
20 ~~authority's written notice issued pursuant to~~  
21 ~~subsection (b);~~



1       ~~(2) The tenant has ten business days from receipt of the~~  
2           ~~second written notice to request a grievance hearing,~~  
3           ~~and~~

4       ~~(3) If the tenant fails to request a grievance hearing~~  
5           ~~within ten business days, the authority has the right~~  
6           ~~to proceed with the eviction hearing pursuant to~~  
7           ~~section 356D-93.~~

8       ~~(f) If the tenant meets with the authority as provided for~~  
9       ~~in subsection (b), the authority shall decide, based upon the~~  
10       ~~facts discussed at the meeting, what action is appropriate to~~  
11       ~~address the tenant's case. The authority shall notify the~~  
12       ~~tenant of its decision in writing. If the authority decides to~~  
13       ~~proceed with an action to terminate the tenancy, the authority~~  
14       ~~shall further inform the tenant in the same written notice] and~~  
15       ~~provide that:~~

16       (1) The tenant has ten business days from receipt of  
17           [~~this~~] the notice to request a grievance hearing; and

18       (2) If the tenant fails to request a grievance hearing  
19           within ten business days, the authority has the right  
20           to proceed with the eviction hearing pursuant to  
21           section 356D-93."



1 SECTION 4. Section 356D-93, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[+]§356D-93[+] Hearings. (a) Where the authority  
4 proposes to terminate a lease or rental agreement and evict a  
5 tenant under section 356D-92, a hearing shall be held to  
6 determine whether cause exists for the action. The authority  
7 shall give written notice to the person concerned specifying the  
8 reason for which the eviction is proposed and fixing the date  
9 and place of hearing. The written notice shall further inform  
10 the tenant of the right to inspect and copy the tenant file at  
11 the tenant's expense before the hearing is held. The notice  
12 shall be given at least five days before the date set for the  
13 hearing. At the hearing, before final action is taken, the  
14 person concerned shall be entitled to be heard in person or  
15 through counsel, and shall be accorded a full and fair hearing  
16 in accordance with the requirements of a contested case hearing  
17 provided for under sections 91-9 and 91-10 to 91-13. This full  
18 and fair hearing shall be deemed to be a contested case hearing  
19 before the authority that is required pursuant to chapter 91.

20 (b) [Hearings] For federal low-income housing, hearings  
21 shall be conducted by an eviction board appointed by the  
22 authority. The eviction board shall consist of not fewer than



1 three persons, of which one member shall be a tenant. At least  
2 one eviction board shall be established in each county of the  
3 State. The findings, conclusions, decision, and order of the  
4 eviction board shall be final unless an appeal is taken as  
5 hereinafter provided.

6 (c) For state low-income housing, hearings shall be  
7 conducted by a hearings officer appointed by the authority. At  
8 least one hearings officer shall be appointed in each county of  
9 the State. The findings, conclusions, decision, and order of  
10 the hearings officer shall be final unless an appeal is taken as  
11 hereinafter provided.

12 (d) In a hearing under subsection (a) that involves a  
13 tenant who has custody of a school age child or children  
14 residing with the tenant, the eviction board or hearings officer  
15 shall solicit information regarding the tenant's regular  
16 participation in school activities or meetings during the  
17 current and previous school year from the school or schools in  
18 which the child or children are or were enrolled. This  
19 information shall be considered in determining the findings,  
20 conclusions, decision, and order.

21 ~~[-e-]~~ (e) The eviction board or hearings officer shall  
22 have the same powers respecting administering oaths, compelling



1 the attendance of witnesses and the production of documentary  
2 evidence, and examining witnesses, as are possessed by circuit  
3 courts. In case of disobedience by any person of any order of  
4 the eviction board, hearings officer, or of any subpoena issued  
5 by the eviction board[7] or hearings officer, or the refusal of  
6 any witness to testify to any matter regarding which the witness  
7 may lawfully be questioned, any circuit judge, on application by  
8 the eviction board[7] or hearings officer, shall compel  
9 obedience as in the case of disobedience of the requirements of  
10 a subpoena issued by a circuit court, or a refusal to testify  
11 therein."

12 SECTION 5. Section 356D-94, Hawaii Revised Statutes, is  
13 amended by amending subsection (a) to read as follows:

14 "(a) If it is proven to the satisfaction of the eviction  
15 board or hearings officer that there is cause to terminate a  
16 lease or rental agreement and evict the tenant, the authority  
17 shall provide the tenant with a written notice of the  
18 authority's decision to terminate the tenancy. The notice shall  
19 inform the tenant that a writ of possession may be issued by the  
20 authority within ten business days. The notice shall also  
21 inform the tenant whether the grounds for eviction are  
22 considered curable and, if so, what the tenant must do to remedy



1 the grounds, by when it must be done, and what the tenant must  
2 do to document for the authority that the grounds have been  
3 remedied."

4 PART II

5 SECTION 6. Section 356D-4, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "[~~H~~]§356D-4[~~I~~] General powers of the authority. (a) The  
8 authority may:

- 9 (1) Sue and be sued;  
10 (2) Have a seal and alter the same at pleasure;  
11 (3) Make and execute contracts and other instruments  
12 necessary or convenient to the exercise of its powers;  
13 and  
14 (4) Adopt bylaws and rules in accordance with chapter 91  
15 for its organization, internal management, and to  
16 carry into effect its purposes, powers, and programs.

17 (b) In addition to other powers conferred upon it, the  
18 authority may do all things necessary and convenient to carry  
19 out the powers expressly provided in this chapter.

20 (c) The authority shall not sell any land developed for  
21 any public housing project."



1       SECTION 7. 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 8. If any provision of this Act, or the  
5 application thereof to any person or circumstance is held  
6 invalid, the invalidity does not affect other provisions or  
7 applications of the Act, which can be given effect without the  
8 invalid provision or application, and to this end the provisions  
9 of this Act are severable.

10       SECTION 9. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12       SECTION 10. This Act shall take effect on July 1, 2009.

