

JAN 22 2010

S.B. NO. 2585

# A BILL FOR AN ACT

RELATING TO HOMELESS ASSISTANCE.

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

SECTION 1. Chapter 356D, Hawaii Revised Statutes, is amended by adding a new section to part VII to be appropriately designated and to read as follows:

"§356D- Office of homelessness; board of homeless programs. (a) There is created the office of homelessness to be placed within the department of human services for administrative purposes. The office of homelessness shall be headed by a director of the office of homelessness, to be appointed by the board of homeless programs without regard to chapter 76 and section 26-34. The compensation of the director of the office of homelessness shall be set by the board of homeless programs.

(b) The office of homelessness shall be headed by a board of homeless programs, to be comprised of five ex-officio voting members as follows:

(1) The superintendent of education or their designee;

(2) The director of human services or their designee;



1        (3) The chairperson of the board of land and natural  
2                    resources or their designee;

3        (4) The executive director of the Hawaii public housing  
4                    authority; and

5        (5) One representative of the counties, to be selected by  
6                    the counties.

7        (c) The office of homelessness shall be responsible for  
8 the administration of this part."

9            SECTION 2. Section 356D, Hawaii Revised Statutes, is  
10 amended by adding a new definition to be appropriately inserted  
11 and to read as follows:

12        "Office" means the office of homelessness."

13            SECTION 3. Section 356D-122, Hawaii Revised Statutes, is  
14 amended to read as follows:

15        "[~~§~~356D-122[~~§~~] **Duties.** (a) In addition to any other  
16 power or duty prescribed by law, the [~~authority~~] office shall  
17 administer and operate homeless facilities and any other program  
18 for the homeless authorized by this part; establish programs for  
19 the homeless; and take any other actions necessary to effectuate  
20 the purposes of this part.

21        (b) The [~~authority~~] office shall adopt rules pursuant to  
22 chapter 91 for the purposes of this part; provided that these



1 rules or any rules relating directly to homelessness authorized  
2 by any statute, shall be exempt from the public notice, public  
3 hearing, and gubernatorial approval requirements of chapter 91,  
4 and shall take effect immediately upon filing with the office of  
5 the lieutenant governor."

6 SECTION 4. Section 356D-123, Hawaii Revised Statutes, is  
7 amended as follows:

8 1. By amending subsections (a) and (b) to read:

9 "(a) Any donor who gives money to a provider agency, to a  
10 homeless facility to or through the [~~authority,~~] office or for  
11 any other program for the homeless authorized by this part,  
12 shall not be liable for any civil damages resulting from the  
13 donation.

14 (b) Any donor who gives land and improvements, or who  
15 leases land and improvements at a nominal consideration, to a  
16 provider agency, to a homeless facility to or through the  
17 [~~authority,~~] office or for any other program for the homeless  
18 authorized by this part, shall not be liable for any civil  
19 damages resulting from the donation except as may result from  
20 the donor's gross negligence or wanton acts or omissions;  
21 provided that, if the donor at the time of donation gave the  
22 [~~authority~~] office a full accounting of all the dangers



1 concerning the land and improvements known to the donor, then  
2 the donor shall not be liable for any civil damages resulting  
3 from the donation."

4 2. By amending subsection (d) to read:

5 "(d) The [authority] office shall be responsible for  
6 inspecting, reviewing, analyzing, qualifying, and determining  
7 that the land, structures, materials, or services donated to the  
8 [authority] office for use by the [authority] office in  
9 facilities for the homeless are reasonably safe for public use."

10 SECTION 5. Section 356D-124, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "[+]§356D-124[+] **Contract or conveyance to the**  
13 **[authority-] office.** Notwithstanding any other law to the  
14 contrary, the board of land and natural resources or other state  
15 agency holding lands and improvements, may contract or otherwise  
16 convey at a nominal consideration, by direct negotiation and  
17 without recourse to public auction, the land and improvements,  
18 or the management, operation, and administrative responsibility  
19 over the land and improvements, to the [authority] office or its  
20 designee. The land and improvements shall be used by the  
21 [authority] office or its designee for homeless facilities or  
22 for any other program for the homeless authorized by this part."



SECTION 6. Section 356D-125, Hawaii Revised Statutes, is amended to read as follows:

"[+]§356D-125[-] **Program administration.** To the extent that appropriations are made available, the [authority] office may contract with a provider agency to administer homeless facilities, or any other program for the homeless created by this part. The selection of provider agencies to administer homeless facilities, or any other program for the homeless authorized by this part, shall not be subject to chapters 42F, 102, 103, and 103F. The selection of provider agencies shall be subject to qualifying standards and criteria established by rule.

In addition, the provider agency shall be qualified by the [authority] office to operate and manage a homeless facility, or any other program for the homeless authorized by this part, pursuant to standards and criteria established by rules for eligibility."

SECTION 7. Section 356D-126, Hawaii Revised Statutes, is amended to read as follows:

"[+]§356D-126[-] **Time limits.** To the extent that appropriations are made available, a provider agency shall provide shelter or any other program assistance authorized by



1 this part to eligible homeless families and homeless individuals  
2 not later than two days, or such time as is set by rule which  
3 shall not be later than seven days, after they apply and qualify  
4 for the shelter or other program assistance. These time limits  
5 may be waived at the discretion of the [authority] office for a  
6 maximum period of fourteen days for the purpose of implementing  
7 repairs to the subject shelter, that the [authority] office  
8 deems major or extensive."

9 SECTION 8. Section 356D-127, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 " [H] §356D-127 [H] **Determination of eligibility and need.**

12 (a) The provider agency operating and managing a homeless  
13 facility, or any other program for the homeless authorized by  
14 this part, or the [authority] office operating and managing its  
15 own homeless facility, shall be responsible for determining if  
16 an applicant is eligible for shelter or other services at the  
17 homeless facility or through any other program for the homeless,  
18 pursuant to standards and criteria established by rule.

19 (b) The provider agency or the [authority] office  
20 operating and managing its own homeless facility shall determine  
21 the degree of need for each homeless family or individual and in  
22 its determination shall consider the resources available and the



1 number of potential eligible applicants in the area served by  
2 the homeless facility or other program for the homeless  
3 authorized by this part.

4 (c) The ~~[authority]~~ office may establish by rule standards  
5 and criteria for eligibility, need, and priority for each  
6 program; provided that the ~~[authority]~~ office may establish by  
7 rule exceptions to these eligibility requirements based on  
8 special circumstances."

9 SECTION 9. Section 356D-128, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "[+]§356D-128[+] Abuse of assistance. (a) The provider  
12 agency operating and managing a homeless facility, or any other  
13 program for the homeless authorized by this part, or the  
14 ~~[authority]~~ office operating and managing its own homeless  
15 facility, shall be responsible for determining whether a  
16 participant is no longer eligible for shelter or other services  
17 at the homeless facility or through any other program for the  
18 homeless, pursuant to standards and criteria established by  
19 rule.

20 (b) Pursuant to rule and the right of due process, the  
21 ~~[authority]~~ office or its designee, or provider agencies  
22 together with the ~~[authority,]~~ office, may act to bar homeless



1 families or individuals from participating further in any  
2 homeless facility, may issue a writ of possession, and take such  
3 other actions as provided by rule.

4       The enforcement of a writ of possession shall be effected  
5 either by an officer appointed by the [authority,] office who  
6 shall have all of the powers of a police officer for all action  
7 in connection with the enforcement of the writ, or any other law  
8 enforcement officer of the State or any county, whose duty it  
9 shall be to enforce the writ. The person enforcing the writ  
10 shall remove all persons from the premises and put the  
11 [authority] office or its designee, or the provider agency  
12 designated by the [authority,] office, in full possession  
13 thereof.

14       Upon eviction, the household goods and personal effects of  
15 the person against whom the writ is entered, and those of any  
16 persons using the premises incident to the person's holding, may  
17 be removed from the premises immediately and sold or otherwise  
18 disposed of by the [authority] office or its designee, or the  
19 provider agency. If the action is taken, the [authority] office  
20 or its designee, or the provider agency, shall have a lien on  
21 the property so removed for the expenses incurred by it in  
22 moving the property.





1           (c) Any person who enters or remains unlawfully in or upon  
2 the premises or living quarters of any homeless facility, or any  
3 other program for the homeless authorized by this part, after  
4 reasonable warning or request to leave by that provider agency's  
5 agents, the ~~[authority]~~ office or its designee, or a police  
6 officer, shall be guilty of a misdemeanor; provided that the  
7 offense in this subsection shall be in addition to any other  
8 applicable offense in the Hawaii Penal Code. A warning or  
9 request shall only be issued if the person has engaged in  
10 unlawful conduct or has violated house rules and regulations;  
11 provided that the warning or request related to a violation of  
12 house rules shall be issued only if that provider agency, or the  
13 ~~[authority]~~ office or its designee, has filed a copy of its  
14 current house rules governing tenancy or participation at the  
15 shelter, facility, or program, and any changes thereto, with the  
16 director of commerce and consumer affairs. The house rules  
17 shall be reasonable and a copy shall be provided to each tenant  
18 or participant. The warning or request shall supersede any  
19 invitation by a tenant or participant at the shelter, facility,  
20 or program to that person to visit the premises or living  
21 quarters."



SECTION 10. Section 356D-130, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) For the purposes of this section, "emergency or transitional shelter volunteer" means an individual who:

(1) Is a tenant at an emergency or transitional shelter administered pursuant to this part;

(2) Is not an employee of the provider agency operating or managing the shelter;

(3) Is under the direction of the provider agency operating or managing the shelter and not the [authority] office or the State; and

(4) Provides up to eighty hours of volunteer labor or services per month to the provider agency operating or managing the shelter, notwithstanding payment of stipends or credits for the labor and services."

SECTION 11. Section 356D-131, Hawaii Revised Statutes, is amended to read as follows:

"[+]§356D-131[+] **Annual performance audits.** (a) The [authority] office shall require any provider agency that dispensed shelter or assistance for any homeless facility or any other program for the homeless authorized by this part to submit to the [authority] office a financial audit and report on an



1 annual basis conducted by a certified public accounting firm.  
2 This audit and report shall contain information specific to the  
3 funds received under state homeless program contracts. The  
4 audit shall include recommendations to address any problems  
5 found.

6 (b) Continuing contracts with provider agencies to  
7 participate in any program for the homeless authorized by this  
8 part shall require that the provider agency address the  
9 recommendations made by the auditing agency, subject to  
10 exceptions as set by the ~~[authority.]~~ office.

11 (c) Failure to carry out the recommendations made by the  
12 auditing agency may be grounds for the ~~[authority]~~ office to bar  
13 a provider agency from further contracts for programs authorized  
14 by this part until the barred provider has addressed all  
15 deficiencies."

16 SECTION 12. Section 356D-134, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "[~~f~~]**\$356D-134**[~~f~~] **Homeless shelter stipends.** (a) The  
19 stipend limits per shelter unit of zero bedrooms shall be  
20 adjusted by the ~~[authority]~~ office annually on the first day of  
21 July pursuant to standards established by rule which may  
22 consider changes in the cost of operating homeless facilities,



1 the fair market rents, the consumer price index, or other  
2 relevant factors. A "shelter unit of zero bedrooms" means a  
3 living unit that is a studio unit or a single-room occupancy  
4 unit. The homeless shelter stipend at transitional shelters for  
5 larger shelter units shall be related to the difference in unit  
6 size, pursuant to standards established by rule.

7 (b) The [authority] office may make or may contract to  
8 make homeless shelter stipend payments on behalf of one or more  
9 homeless families or individuals to a provider agency operating  
10 or managing an emergency or transitional shelter or, in the case  
11 that the [authority] office itself operates and manages a  
12 homeless facility, to the [authority] office in amounts and  
13 under circumstances as provided by rule. The contract may  
14 specify a minimum total amount of homeless shelter stipends to  
15 be received by a provider agency for making its shelter and  
16 services available to eligible homeless families or individuals,  
17 pursuant to rule.

18 (c) In making homeless shelter stipend payments to a  
19 provider agency, the [authority] office may establish minimum  
20 services to be provided by the provider agency to homeless  
21 families or individuals at the agency's shelter. The  
22 [authority] office may also direct provider agencies to



1 establish and manage a savings account program as described in  
2 subsection (d). Additionally, the [authority] office may direct  
3 provider agencies to subcontract for outreach services from  
4 other private agencies specializing in programs for the  
5 unsheltered homeless.

6 (d) Provider agencies and the [authority] office may  
7 establish and collect shelter and services payments from  
8 homeless families or individuals in addition to the amount  
9 received in homeless shelter stipend payments pursuant to rule.  
10 Provider agencies and the [authority] office may also set aside  
11 a portion of the payments in a savings account to be made  
12 available to homeless families or individuals when these  
13 families and individuals vacate the shelter."

14 SECTION 13. Section 356D-135, Hawaii Revised Statutes, is  
15 amended as follows:

16 1. By amending subsection (a) to read:

17 "(a) In addition to any other duties prescribed by law,  
18 the [authority] office shall develop, in consultation with the  
19 four counties, a procedure for identifying locations that shall  
20 be used for temporary emergency shelters for homeless  
21 individuals and families. The [authority] office shall actively  
22 partner with and monitor the efforts of the counties."



2. By amending subsections (c) and (d) to read:

"(c) With regard to the former Barbers Point Naval Air Station, the ~~[authority]~~ office shall work with landowners and the local redevelopment authority on the use of barracks and other facilities located in the Kalaeloa community development district that are suitable for temporary emergency housing for homeless individuals and families.

(d) The ~~[authority]~~ office shall submit an annual report to the legislature detailing the activities and outcomes under this section no later than twenty days prior to the convening of each regular session beginning with the 2008 regular session."

SECTION 14. Section 356D-140, Hawaii Revised Statutes, is amended to read as follows:

"~~[§] §356D-140 [§]~~ **Additional powers.** The powers conferred upon the ~~[authority]~~ office by this part shall be in addition and supplemental to the powers conferred by any other law, and nothing in this part shall be construed as limiting any powers, rights, privileges, or immunities conferred."

SECTION 15. Section 356D-143, Hawaii Revised Statutes, is amended to read as follows:

"~~[§] §356D-143 [§]~~ **Hale Kokua program; established.** There is established, within the ~~[authority,]~~ office, a homeless



1 assistance program known as the Hale Kokua program, to provide  
2 incentives and assistance to private homeowners throughout the  
3 State who set aside existing dwelling units, or construct or  
4 renovate dwelling units, for rental for a period of five years  
5 by families or individuals classified as employed but homeless.  
6 The [authority] office shall administer the Hale Kokua program  
7 and adopt the standards and framework necessary to implement the  
8 program."

9 SECTION 16. Section 356D-144, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 " [H] §356D-144 [H] **Powers and duties.** (a) The [authority]  
12 office may contract with private sector agencies to carry out  
13 the duties and responsibilities of the program.

14 Notwithstanding any other law to the contrary, any  
15 contracts entered into by the [authority] office with a private  
16 sector agency pursuant to this subsection shall not be subject  
17 to chapters 76 and 89."

18 (b) The duties of the [authority] office or contracted  
19 agency shall include:

20 (1) Carrying out the requirements of the Hale Kokua  
21 program under this subpart;



- 1           (2) Developing and adopting the requirements, eligibility,  
2           registration, background check, initial screening  
3           procedures, and procedures for follow-up after  
4           placement to determine the ability to make rental  
5           payments and the need for social services and  
6           referrals for homeless families and individuals to  
7           qualify them as tenants under this program;
- 8           (3) Developing and adopting the requirements,  
9           qualifications, and registration procedures for  
10          property owners who provide rental housing to  
11          qualified homeless tenants; provided that priority  
12          shall be given to those not requesting construction  
13          grants;
- 14          (4) Developing appropriate procedures to address potential  
15          liabilities of the State;
- 16          (5) Adopting procedures to place qualified homeless  
17          tenants with property owners participating in the  
18          program. Participating property owners shall  
19          interview and make final tenant selection from lists  
20          of prospective tenants compiled by the [authority]  
21          office or the contracted agency;





1           (6)   Establishing the procedures and requirements for the  
2                   disbursement of building improvement grants and rental  
3                   subsidies and the amounts thereof to property owners  
4                   participating in the program;

5           (7)   Working with the counties to develop and propose  
6                   uniform incentives to encourage and facilitate the  
7                   participation of property owners, including real  
8                   property tax waivers or reductions, and exemptions in  
9                   zoning or building code requirements which shall be  
10                  conditioned on participation in the program and which  
11                  shall lapse when program participation ends;

12          (8)   Monitoring the financial status and progress of  
13                   homeless tenants and cooperating with other agencies  
14                   in establishing and coordinating job training and  
15                   other programs to help tenants to progress toward  
16                   self-sufficiency;

17          (9)   Promoting and assisting in the development of  
18                   employer-employee relationships between homeless  
19                   tenants and participating property owners, including  
20                   but not limited to tenant caretaker, housekeeper, or  
21                   groundskeeper employment situations;



1       (10) Working towards securing financial, in-kind, and  
2           administrative assistance from law enforcement and  
3           other state and county agencies and the private sector  
4           to implement the program;

5       (11) Working towards securing funding assistance from  
6           federal agencies and programs involved in housing  
7           development, job-training, or homeless assistance;

8       (12) Monitoring the progress of the Hale Kokua program, and  
9           collecting annual statistics showing the numbers of  
10          homeless people, homeless families, and homeless  
11          children, using appropriate measurement systems; and

12      (13) Preparing recommendations to improve and expand the  
13          program, including but not limited to incentives for  
14          participating property owners to sign up for  
15          additional terms."

16      SECTION 17. Section 356D-145, Hawaii Revised Statutes, is  
17      amended by amending subsection (a) to read as follows:

18      "(a) The [~~authority~~] office shall limit participation to  
19      not more than ten property owners within each census tract at  
20      any given period in time, without regard to the existence or  
21      operation of shelters and other facilities to aid the homeless  
22      in the tract. The [~~authority~~] office or contracted agency shall



1 notify prospective participants registered on the waiting list  
2 in each census tract of the opportunity to participate in the  
3 program as these opportunities may arise in each tract."

4 SECTION 18. Section 356D-146, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6 "(a) Any property owner who withdraws without just cause  
7 from the Hale Kokua program prior to the end of the five-year  
8 period shall return the state grant for construction  
9 improvements within ninety days of the date of withdrawal. The  
10 ~~[authority]~~ office shall effect the recovery of the grant,  
11 including but not limited to the filing of liens against the  
12 real property of withdrawing property owners. The ~~[authority]~~  
13 office shall be awarded reasonable attorneys' fees and costs as  
14 determined by the court in any action brought to enforce this  
15 subpart."

16 SECTION 19. All rights, powers, functions, and duties of  
17 the Hawaii public housing authority are transferred to the  
18 office of homelessness.

19 All officers and employees whose functions are transferred  
20 by this Act shall be transferred with their functions and shall  
21 continue to perform their regular duties upon their transfer,  
22 subject to the state personnel laws and this Act.



1       No officer or employee of the State having tenure shall  
2       suffer any loss of salary, seniority, prior service credit,  
3       vacation, sick leave, or other employee benefit or privilege as  
4       a consequence of this Act, and such officer or employee may be  
5       transferred or appointed to a civil service position without the  
6       necessity of examination; provided that the officer or employee  
7       possesses the minimum qualifications for the position to which  
8       transferred or appointed; and provided that subsequent changes  
9       in status may be made pursuant to applicable civil service and  
10      compensation laws.

11      An officer or employee of the State who does not have  
12      tenure and who may be transferred or appointed to a civil  
13      service position as a consequence of this Act shall become a  
14      civil service employee without the loss of salary, seniority,  
15      prior service credit, vacation, sick leave, or other employee  
16      benefits or privileges and without the necessity of examination;  
17      provided that such officer or employee possesses the minimum  
18      qualifications for the position to which transferred or  
19      appointed.

20      If an office or position held by an officer or employee  
21      having tenure is abolished, the officer or employee shall not  
22      thereby be separated from public employment, but shall remain in



1 the employment of the State with the same pay and classification  
2 and shall be transferred to some other office or position for  
3 which the officer or employee is eligible under the personnel  
4 laws of the State as determined by the head of the department or  
5 the governor.

6 SECTION 20. All appropriations, records, equipment,  
7 machines, files, supplies, contracts, books, papers, documents,  
8 maps, and other personal property heretofore made, used,  
9 acquired, or held by the Hawaii public housing authority  
10 relating to the functions transferred to the office of  
11 homelessness shall be transferred with the functions to which  
12 they relate.

13 SECTION 21. All rules, policies, procedures, guidelines,  
14 and other material adopted by the Hawaii public housing  
15 authority for purpose of part VII of chapter 356D, Hawaii  
16 Revised Statutes, shall remain in full force and affect until  
17 adopted, amended, or repealed by the office of homelessness  
18 established by this Act.

19 SECTION 22. All deeds, leases, contracts, loans,  
20 agreements, permits, or other documents executed or entered into  
21 by or on behalf of the Hawaii public housing authority shall be  
22 deemed assumed for the duration of the deeds, leases, contracts,




1 loans, agreements, permit by the office of homelessness  
2 established by this Act.

3 SECTION 23. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 24. This Act shall take effect on July 1, 2010.

6

INTRODUCED BY:

Norman Satom /  




**Report Title:**

Office of Homelessness

**Description:**

Establish an Office of Homelessness to assume jurisdiction over homeless assistance from the Hawaii public housing authority; establish a board or governing body with broad participation (DOE, DHS, HPHA, DLNR, C&C).

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