

S.B. NO. 1105

JAN 28 2015

A BILL FOR AN ACT

RELATING TO THE HAWAII PUBLIC HOUSING AUTHORITY.

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

1 SECTION 1. The purpose of this Act is to enhance the
2 cleanliness, upkeep and safety of federal and state low-income
3 public housing projects by authorizing the Hawaii public housing
4 authority to timely dispose of personal property abandoned or
5 seized in or at any federal, elder or elderly housing, and state
6 low-income housing projects, including property remaining upon
7 eviction.

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

11 "§356D- Disposition of property abandoned, seized, or
12 remaining. (a) The authority may sell, donate, or otherwise
13 dispose of personal property abandoned or seized in or at any
14 federal, elder or elderly housing, or state low-income housing
15 project, as defined in section 356D-1, 356D-51, or 356D-91,
16 including property remaining upon eviction, upon compliance with
17 the requirements of this section.

1 (b) The authority shall send notice by certified mail, at
2 least five calendar days prior to disposition of the abandoned
3 or seized property determined, in good faith, by the authority
4 to be of value, to the address of the owner of the property
5 abandoned or seized if the owner is known or can be
6 determined. The notice shall apprise the owner of the identity
7 and location of the property abandoned or seized and of the
8 intent of the authority to sell, donate, or otherwise dispose of
9 the property. If the identity or the address of the owner is
10 unknown or cannot be determined, the notice shall be posted on
11 the premises on which the property was abandoned or seized.

12 (c) If the abandoned or seized property has an estimated
13 value of \$500 or more per item, the authority shall also give
14 public notice of the disposition at least once countywide or in
15 a publication of local circulation in the county in which the
16 property was abandoned or seized; provided that the disposition
17 shall not take place fewer than five days after the notice of
18 intent to dispose of the property. The value of the items shall
19 be estimated at the discretion of the authority.

20 (d) The sale of abandoned or seized property having an
21 estimated value of \$500 or more per item as estimated at the
22 discretion of the authority shall be by public auction through

1 oral offers in the county in which the property was abandoned or
2 seized. If no bid is received, the property may be disposed of
3 as the authority deems appropriate.

4 (e) Any person entitled to the abandoned or seized
5 property determined to be of value, may repossess the property
6 prior to its disposition upon proof of entitlement and payment
7 of all unpaid rent, debts, charges, and fines owed to the
8 authority and all handling, storage (not less than \$25 per day),
9 appraisal, advertising, and any other expenses incurred in
10 connection with the proposed disposition of the abandoned or
11 seized property.

12 (f) The requirements of notice by certified mail, public
13 notice and public auction pursuant to subsections (c) and (d)
14 shall not apply when the value of the abandoned or seized
15 property is less than \$500 per item. Such property may be
16 disposed of as the authority deems appropriate.

17 (g) The proceeds of the sale of property abandoned or
18 seized, or remaining upon eviction, after deduction of all
19 unpaid rent, debts, charges, and fines owed to the authority,
20 and all expenses of handling, storage, appraisal, advertising,
21 and other sale expenses, shall be first offset against any
22 amounts owed by the owner to the authority.

1 (h) When the tenant has quit the premises as defined in
2 section 521-8, any property in or at the premises left unsold
3 after conformance with subsections (a) through (g), or otherwise
4 abandoned by the tenant and determined by the authority, in good
5 faith, to be of no value may be disposed of at the authority's
6 discretion without liability to the authority.

7 **\$356D- Disposition of surplus proceeds.** After the sale of
8 property abandoned or seized, including property remaining upon
9 an ordered eviction or writ of possession, the authority shall
10 apply the proceeds as provided in section 356D- . If the
11 balance is not claimed by the former tenant or owner within
12 thirty days after the sale thereof, then the balance shall be
13 paid over to the director of finance and shall be kept by the
14 director in a special deposit for a period not to exceed six
15 months. If claimed by the former tenant or owner during that
16 period, it shall be paid to the former tenant or owner. If no
17 claim is made during the period, the sum shall become a
18 government realization and shall be paid into the general fund."

19 SECTION 3. Section 356D-94, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "[~~f~~] **\$356D-94 [~~f~~]** **Eviction.** (a) If it is proven to the
22 satisfaction of the eviction board that there is cause to

1 terminate a lease or rental agreement and evict the tenant, the
2 authority shall provide the tenant with a written notice of the
3 authority's decision to terminate the tenancy. The notice shall
4 inform the tenant that a writ of possession may be issued by the
5 authority within ten business days. The notice shall also
6 inform the tenant whether the grounds for eviction are
7 considered curable and, if so, what the tenant must do to remedy
8 the grounds, by when it must be done, and what the tenant must
9 do to document for the authority that the grounds have been
10 remedied.

11 (b) When the grounds for termination of the tenancy may be
12 cured by the tenant, the tenant shall have ten business days
13 from receipt of the notice provided for in subsection (a) to
14 cure the grounds. If the grounds are cured within the ten-day
15 period, no writ of possession may be issued. If the grounds are
16 not cured within the ten-day period, the authority may issue a
17 writ of possession forthwith.

18 (c) The authority may adopt rules pursuant to chapter 91
19 to define curable and noncurable grounds for eviction. The
20 authority may consider a tenant's history in determining
21 noncurable grounds for eviction. A tenant's history may include

1 chronic or consistent delinquency, or repeated violations of the
2 terms of the rental agreement.

3 (d) Enforcement of the order by a writ of possession shall
4 be effected either by an officer appointed by the authority, who
5 shall have all of the powers of a police officer for all action
6 in connection with the enforcement of the order, or by a sheriff
7 or any other law enforcement officer of the State or any county,
8 whose duty it shall be to carry out the order. The person
9 enforcing the order shall remove all persons from the premises
10 and put the authority in full possession thereof.

11 ~~[(e) Upon eviction, the household goods and personal~~
12 ~~effects of the person against whom the order is entered, and~~
13 ~~those of any persons using the premises incident to the person's~~
14 ~~holding, may be removed from the premises and stored by the~~
15 ~~authority. If the action is taken, the authority shall have a~~
16 ~~lien on the property so taken for the expenses incurred by it in~~
17 ~~moving and storing the same, and the authority is authorized to~~
18 ~~sell or otherwise dispose of the property if unclaimed after~~
19 ~~thirty days.] "~~

20 SECTION 4. Section 356D-56.1, Hawaii Revised Statutes, is
21 repealed.

1 ~~["§356D-56.1] Disposition of abandoned or seized~~
2 ~~property. (a) The authority may sell, donate, or otherwise~~
3 ~~dispose of property abandoned or seized in or around any state~~
4 ~~low-income housing project upon compliance with the requirements~~
5 ~~of this section.~~

6 ~~(b) The authority shall send notice by certified mail, at~~
7 ~~least five calendar days prior to disposition of the abandoned~~
8 ~~or seized property, to the address of the owner of the property~~
9 ~~abandoned or seized if the owner is known or can be~~
10 ~~determined. The notice shall apprise the owner of the identity~~
11 ~~and location of the property abandoned or seized and of the~~
12 ~~intent of the authority to sell, donate, or otherwise dispose of~~
13 ~~the property. If the identity or the address of the owner is~~
14 ~~unknown or cannot be determined, the notice shall be posted on~~
15 ~~the premises on which the property was abandoned or seized.~~

16 ~~(c) If the abandoned or seized property has an estimated~~
17 ~~value of \$500 or more per item, the authority shall also give~~
18 ~~public notice of the disposition at least once statewide or in a~~
19 ~~publication of local circulation in the county in which the~~
20 ~~property was abandoned or seized; provided that the disposition~~
21 ~~shall not take place fewer than five days after the notice of~~

1 ~~intent to dispose of the property. The value of the items shall~~
2 ~~be estimated at the discretion of the authority.~~

3 ~~(d) The sale of abandoned or seized property having an~~
4 ~~estimated value of \$500 or more per item as estimated at the~~
5 ~~discretion of the authority shall be by public auction through~~
6 ~~oral offers in the county in which the property was abandoned or~~
7 ~~seized. If no bid is received, the property may be disposed of~~
8 ~~as the authority deems appropriate.~~

9 ~~(e) Any person entitled to the abandoned or seized~~
10 ~~property may repossess the property prior to its disposition~~
11 ~~upon proof of entitlement and payment of all unpaid rent, debts,~~
12 ~~charges, and fines owed to the authority and all handling,~~
13 ~~storage (not less than \$25 per day), appraisal, advertising, and~~
14 ~~any other expenses incurred in connection with the proposed~~
15 ~~disposition of the abandoned or seized property.~~

16 ~~(f) The requirement of public notice and public auction~~
17 ~~pursuant to subsections (c) and (d) shall not apply when the~~
18 ~~value of the abandoned or seized property is less than \$500 per~~
19 ~~item. Such property may be disposed of as the authority deems~~
20 ~~appropriate.~~

21 ~~(g) The proceeds of the sale of abandoned or seized~~
22 ~~property, after deduction of all unpaid rent, debts, charges,~~

1 ~~and fines owed to the authority, and all expenses of handling,~~
2 ~~storage, appraisal, advertising, and other sale expenses, shall~~
3 ~~be first offset against any amounts owed by the owner to the~~
4 ~~State. Any amount remaining shall be held in trust for the~~
5 ~~owner of the property for thirty days, after which time the~~
6 ~~proceeds shall be paid into the authority's appropriate special~~
7 ~~fund.~~

8 ~~(h) The State, its officers, employees, and agents shall~~
9 ~~not be liable to the owner of abandoned or seized property for~~
10 ~~actions taken pursuant to this section."]~~

11 SECTION 5. Section 356D-57, Hawaii Revised Statutes, is
12 repealed.


13 ~~["§356D-57] Disposition of surplus proceeds. After the~~
14 ~~sale, the authority shall apply the proceeds as provided in~~
15 ~~section 356D-56. The balance, if any remaining, shall be paid~~
16 ~~over to the former resident or occupant. If the balance is not~~
17 ~~claimed by the former resident or occupant within thirty days~~
18 ~~after the sale thereof, then the balance shall be paid over to~~
19 ~~the director of finance and shall be kept by the director in a~~
20 ~~special deposit for a period not to exceed six months. If~~
21 ~~claimed by the former resident or occupant during that period,~~
22 ~~it shall be paid to the former resident or occupant. If no~~

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~~claim is made during the period, the sum shall become a~~
~~government realization and shall be paid into the general~~
~~fund."]~~

SECTION 6. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

INTRODUCED BY: 

BY REQUEST

1 **Report Title:**

2 Hawaii Public Housing Authority; Disposition of Property
3 Abandoned, Seized, or Remaining at Federal and State Public
4 Housing Properties
5

6 **Description:**

7 Expands the Hawaii Public Housing Authority's authority to
8 dispose of property seized, abandoned, or remaining in federal,
9 elder or elderly, or state low-income housing projects,
10 including property remaining upon eviction.

JUSTIFICATION SHEET

DEPARTMENT: Human Services

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

PURPOSE: To expand the Hawaii Public Housing Authority's (HPHA) authority to dispose of personal property seized or abandoned in or at federal, elder or elderly or state low-income housing projects, including property remaining upon eviction.

MEANS: Add two new sections to part I of chapter 356D, Hawaii Revised Statutes (HRS) and amend section 356D-94, HRS, and repeal sections 356D-56.1, HRS, and 356D-57, HRS.

JUSTIFICATION: Currently, the HPHA is limited to removing abandoned or seized personal property at state low-income housing projects and may only do so in federal low-income public housing after an eviction. This measure expands the HPHA's authority to remove personal property abandoned, seized or remaining at state and federal, elder and elderly, and low-income housing projects, including personal property remaining upon eviction. This will allow the HPHA to timely dispose of abandoned or unwanted property throughout all HPHA housing projects and provide for safer and cleaner environments.

Impact on the public: There should be a positive impact on the public, including public housing tenants as well as the larger community within which public housing projects sit. By eliminating abandoned and unwanted property from evicted tenants more expeditiously, more needy families can attain public housing in a quicker manner.

Impact on the department and other agencies: None.

GENERAL FUNDS: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: HMS 220; HMS 229.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.