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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:**

1 SECTION 1. The purpose of this Act is to clarify the  
2 offense of trespassing on public housing property.

3 SECTION 2. Chapter 356D, Hawaii Revised Statutes, is  
4 amended by adding to part I a new section to be appropriately  
5 designated and to read as follows:

6 "§356D- Closed to the public. (a) Any area within a  
7 housing project that is not a public street, road, highway,  
8 sidewalk, or county or state bus stop, shall be closed to  
9 members of the public where signs are displayed that read:  
10 "Closed to the Public - No Trespassing", or a substantially  
11 similar message; provided that the signs:

12 (1) Contain letters not less than two inches in height;  
13 and

14 (2) Are placed at reasonable intervals along the boundary  
15 line of the areas that are closed to the public in a  
16 manner and position to be clearly noticeable from  
17 outside the boundary line.

18 (b) For the purposes of this section:



1       "Housing project" means a public housing project, elder or  
2 elderly housing, as defined in section 356D-1, or state low-  
3 income housing project, as defined in section 356D-51.

4       "Member of the public" does not include:

- 5       (1) A tenant, as defined in section 356D-1 or 356D-51, who  
6 leases a unit in the subject housing project;
- 7       (2) A household member, as defined in section 356D-1, who  
8 occupies a unit in the subject housing project as a  
9 household member;
- 10       (3) A live-in aide who resides with one or more elderly  
11 persons, or near-elderly persons, or persons with  
12 disabilities, who is determined to be essential to the  
13 care and well-being of the persons, is not obligated  
14 for the support of the person, and would not be living  
15 in the unit in the subject housing project except to  
16 provide the necessary support services;
- 17       (4) A guest of a tenant of the subject housing project;
- 18       (5) A director, officer, employee, agent, representative,  
19 or contractor of the authority who is acting within  
20 the director, officer, employee, agent,  
21 representative, or contractor's respective scope of



1 employment or work, or is discharging an official duty  
2 for the authority;

3 (6) An employee, agent, or contractor of the United States  
4 Department of Housing and Urban Development who is  
5 acting within the scope of the employee, agent, or  
6 contractor's respective employment or work;

7 (7) A person carrying out governmental duties including  
8 but not limited to law enforcement and emergency  
9 medical services;

10 (8) A person participating in a program authorized by the  
11 authority; and

12 (9) A person engaging in constitutionally protected door-  
13 to-door communications or pamphleteering between 9:00  
14 a.m. and 8:00 p.m."

15 SECTION 3. Section 708-814, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "§708-814 Criminal trespass in the second degree. (1) A  
18 person commits the offense of criminal trespass in the second  
19 degree if:



- 1 (a) The person knowingly enters or remains unlawfully in  
2 or upon premises that are enclosed in a manner  
3 designed to exclude intruders or are fenced;
- 4 (b) The person enters or remains unlawfully in or upon  
5 commercial premises after a reasonable warning or  
6 request to leave by the owner or lessee of the  
7 commercial premises, the owner's or lessee's  
8 authorized agent, or a police officer; provided that  
9 this paragraph shall not apply to any conduct or  
10 activity subject to regulation by the National Labor  
11 Relations Act.

12 For the purposes of this paragraph, "reasonable  
13 warning or request" means a warning or request  
14 communicated in writing at any time within a one-year  
15 period inclusive of the date the incident occurred,  
16 which may contain but is not limited to the following  
17 information:

- 18 (i) A warning statement advising the person that the  
19 person's presence is no longer desired on the  
20 property for a period of one year from the date  
21 of the notice, that a violation of the warning



1 will subject the person to arrest and prosecution  
2 for trespassing pursuant to section 708-  
3 814(1)(b), and that criminal trespass in the  
4 second degree is a petty misdemeanor;

5 (ii) The legal name, any aliases, and a photograph, if  
6 practicable, or a physical description, including  
7 but not limited to sex, racial extraction, age,  
8 height, weight, hair color, eye color, or any  
9 other distinguishing characteristics of the  
10 person warned;

11 (iii) The name of the person giving the warning along  
12 with the date and time the warning was given; and

13 (iv) The signature of the person giving the warning,  
14 the signature of a witness or police officer who  
15 was present when the warning was given and, if  
16 possible, the signature of the violator;

17 (c) The person enters or remains unlawfully on  
18 agricultural lands without the permission of the owner  
19 of the land, the owner's agent, or the person in  
20 lawful possession of the land, and the agricultural  
21 lands:



- 1           (i) Are fenced, enclosed, or secured in a manner
- 2           designed to exclude intruders;
- 3           (ii) Have a sign or signs displayed on the unenclosed
- 4           cultivated or uncultivated agricultural land
- 5           sufficient to give notice and reading as follows:
- 6           "Private Property". The sign or signs,
- 7           containing letters not less than two inches in
- 8           height, shall be placed along the boundary line
- 9           of the land and at roads and trails entering the
- 10          land in a manner and position as to be clearly
- 11          noticeable from outside the boundary line; or
- 12          (iii) At the time of entry, are fallow or have a
- 13          visible presence of livestock or a crop:
- 14               (A) Under cultivation;
- 15               (B) In the process of being harvested; or
- 16               (C) That has been harvested;
- 17          (d) The person enters or remains unlawfully on unimproved
- 18          or unused lands without the permission of the owner of
- 19          the land, the owner's agent, or the person in lawful
- 20          possession of the land, and the lands:



- 1 (i) Are fenced, enclosed, or secured in a manner  
2 designed to exclude the general public; or  
3 (ii) Have a sign or signs displayed on the unenclosed,  
4 unimproved, or unused land sufficient to give  
5 reasonable notice and reads as follows: "Private  
6 Property - No Trespassing", "Government Property  
7 - No Trespassing", or a substantially similar  
8 message; provided that the sign or signs shall  
9 contain letters not less than two inches in  
10 height and shall be placed at reasonable  
11 intervals along the boundary line of the land and  
12 at roads and trails entering the land in a manner  
13 and position as to be clearly noticeable from  
14 outside the boundary line.

15 For the purposes of this paragraph, "unimproved  
16 or unused lands" means any land upon which there is no  
17 improvement; construction of any structure, building,  
18 or facility; or alteration of the land by grading,  
19 dredging, or mining that would cause a permanent  
20 change in the land or that would change the basic  
21 natural condition of the land. Land remains



1 "unimproved or unused land" under this paragraph  
2 notwithstanding minor improvements, including the  
3 installation or maintenance of utility poles, signage,  
4 and irrigation facilities or systems; minor  
5 alterations undertaken for the preservation or prudent  
6 management of the unimproved or unused land, including  
7 the installation or maintenance of fences, trails, or  
8 pathways; maintenance activities, including forest  
9 plantings and the removal of weeds, brush, rocks,  
10 boulders, or trees; and the removal or securing of  
11 rocks or boulders undertaken to reduce risk to  
12 downslope properties; or

13 (e) ~~[The person enters or remains unlawfully in or upon~~  
14 ~~the premises of any public housing project or state~~  
15 ~~low income housing project, as defined in section~~  
16 ~~356D-1, 356D-51, or 356D-91, after a reasonable~~  
17 ~~warning or request to leave by housing authorities or~~  
18 ~~a police officer, based upon an alleged violation of~~  
19 ~~law or administrative rule, provided that a warning or~~  
20 ~~request to leave shall not be necessary between 10:00~~  
21 ~~p.m. and 5:00 a.m. at any public housing project or~~





1 ~~state low income housing project that is closed to the~~  
2 ~~public during those hours and has signs, containing~~  
3 ~~letters not less than two inches in height, placed~~  
4 ~~along the boundary of the project property, at all~~  
5 ~~entrances to the property, in a manner and position to~~  
6 ~~be clearly noticeable from outside the boundary of the~~  
7 ~~project property and to give sufficient notice that~~  
8 ~~the public housing project or state low income housing~~  
9 ~~project is closed to the public during those hours.]~~

10 The person is a non-tenant:

11 (i) Who is a member of the public and who enters or  
12 remains without authorization in or upon any area  
13 of a housing project that is closed to the public  
14 as set forth in section 356D- , and has signage  
15 as required by section 356D- ; or

16 (ii) Who enters or remains unlawfully in or upon any  
17 area of a housing project, that is closed to the  
18 public as set forth in section 356D- , after a  
19 reasonable warning or request to leave by the  
20 housing authority or a law enforcement officer as  
21 defined in section 710-1000, based upon an



1           alleged violation of law or administrative rule,  
2           notwithstanding any authorization provided by a  
3           tenant of the subject housing project to the  
4           person.

5           As used in this paragraph:

6           "Authorization" means permission to enter the  
7           subject housing project, which is given to a non-  
8           tenant by a tenant of the subject housing project, or  
9           housing authority.

10           "Housing authority" means a property manager,  
11           resident manager, tenant monitors, security guards, or  
12           others officially designated by the Hawaii public  
13           housing authority, for the subject housing project.

14           "Housing project" means a public housing project,  
15           elder or elderly housing, as defined in section 356D-  
16           1, or state low-income housing project, as defined in  
17           section 356D-51.

18           "Member of the public" does not include:

19           (i) A tenant as defined in section 356D-1 or  
20           356D-51 who leases a unit in the subject  
21           housing project;



- 1           (ii) A household member as defined in section  
2                           356D-1 who occupies a unit in the subject  
3                           housing project as a household member;
- 4           (iii) A live-in aide who resides with one or more  
5                           elderly persons, or near-elderly persons, or  
6                           persons with disabilities, who is determined  
7                           to be essential to the care and well-being  
8                           of the persons, is not obligated for the  
9                           support of the persons, and would not be  
10                          living in the unit except to provide the  
11                          necessary support services;
- 12           (iv) A director, officer, employee, agent,  
13                           representative, or contractor of the Hawaii  
14                           public housing authority who is acting  
15                           within the director, officer, employee,  
16                           agent, representative, or contractor's  
17                           respective scope of employment or work, or  
18                           is discharging an official duty for the  
19                           authority;
- 20           (v) An employee, agent, or contractor of the  
21                           United States Department of Housing and



1 Urban Development who is acting within the  
2 employee, agent, or contractor's respective  
3 scope of the employment or work;

4 (vi) A person carrying out governmental duties  
5 including but not limited to law enforcement  
6 and emergency medical services;

7 (vii) A person participating in a program  
8 authorized by the Hawaii public housing  
9 authority; and

10 (viii) A person engaging in constitutionally  
11 protected door-to-door communications and  
12 pamphleteering between 9:00 a.m. and 8:00  
13 p.m.

14 "Non-tenant" means a person who is not a tenant  
15 as defined in section 356D-1 or 356D-51, and not a  
16 household member as defined in section 356-1 at the  
17 subject housing project.

18 "Reasonable warning or request" means a warning  
19 or request communicated in writing at any time within  
20 a one-year period inclusive of the date the incident



1 occurred, which may contain but is not limited to the  
2 following information:

3 (i) A warning statement advising the person that  
4 the person's presence is no longer desired  
5 in or on the areas of the subject housing  
6 project that are closed to the public for a  
7 period of one year from the date of the  
8 notice, that a violation of the warning will  
9 subject the person to arrest and prosecution  
10 for trespassing pursuant to this paragraph,  
11 and that criminal trespass in the second  
12 degree is a petty misdemeanor;

13 (ii) The legal name, any aliases, and a  
14 photograph, if practicable, or a physical  
15 description, including but not limited to  
16 sex, racial extraction, age, height, weight,  
17 hair color, eye color, or any other  
18 distinguishing characteristics of the person  
19 warned;



- 1            (iii) The name of the person giving the warning
- 2                            along with the date and time the warning was
- 3                            given;
- 4            (iv) The signature of the person giving the
- 5                            warning and, if possible, the signature of
- 6                            the violator; and
- 7            (v) The name and signature of a witness or law
- 8                            enforcement officer as defined in section
- 9                            710-1000 who was present when the warning
- 10                           was given pursuant to this paragraph.

11            (2) Subsection (1) shall not apply to a process server who  
12 enters or remains in or upon the land or premises of another,  
13 unless the land or premises are secured with a fence and locked  
14 gate, for the purpose of making a good faith attempt to perform  
15 their legal duties and to serve process upon any of the  
16 following:

- 17            (a) An owner or occupant of the land or premises;
- 18            (b) An agent of the owner or occupant of the land or
- 19                            premises;
- 20            (c) A lessee of the land or premises.



1        For the purposes of this subsection, "process server" means  
2 any person authorized under the Hawaii rules of civil procedure,  
3 district court rules of civil procedure, Hawaii family court  
4 rules, or section 353C-10 to serve process.

5        [~~3~~] ~~As used in this section:~~

6        ~~"Housing authorities" means resident managers or managers,~~  
7 ~~tenant monitors, security guards, or others officially~~  
8 ~~designated by the Hawaii public housing authority.~~

9        ~~"Process server" means any person authorized under the~~  
10 ~~Hawaii rules of civil procedure, district court rules of civil~~  
11 ~~procedure, Hawaii family court rules, or section 353C-10 to~~  
12 ~~serve process.~~

13        ~~(4)]~~ (3) Criminal trespass in the second degree is a petty  
14 misdemeanor."

15        SECTION 4. This Act does not affect rights and duties that  
16 matured, penalties that were incurred, and proceedings that were  
17 begun before its effective date.

18        SECTION 5. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20        SECTION 6. This Act shall take effect upon its approval.

21



**Report Title:**

Hawaii Public Housing Authority; Trespass

**Description:**

Provides that certain areas within Hawaii Public Housing Authority housing projects are closed to the public and amends criminal trespass in the second degree to permit the prosecution of an unauthorized entry or a violation of a written prohibition to enter into the subject housing projects. Clarifies requirements for signage notifying trespassers of illegal entry. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

