

JAN 19 2018

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## A BILL FOR AN ACT

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RELATING TO THE HAWAII PUBLIC HOUSING AUTHORITY.

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

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

4               "PART     .   STATE LOW-INCOME HOUSING; EVICTIONS

5               §356D-A   Definitions. As used in this part:

6               "Party" means each person or agency named or admitted as a  
7       party or properly seeking and entitled as of right to be  
8       admitted as a party in any court or agency proceeding.

9               "State low-income housing project" means any state family  
10      or state elder or elderly low-income housing project or projects  
11      owned, managed, administered, or operated by the authority as  
12      codified in sections 356D-44 and 356D-71.

13              "Tenant" means any person occupying a dwelling  
14      accommodation or living quarters in any state low-income housing  
15      project, under or by virtue of any tenancy, lease, or rental  
16      agreement under or from the authority.



1       §356D-B Termination and eviction. (a) Except as  
2 otherwise provided, the authority may terminate any lease,  
3 rental agreement, permit, or license covering the use and  
4 occupation of any dwelling unit or other premises located within  
5 a state low-income housing project and evict from any premises  
6 any tenant, licensee, or other occupant for any of the following  
7 reasons:

8       (1) Failure to pay rent when due;

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

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

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

14       (5) Upon a third violation of section 356D-6.5; provided  
15 that a violation of any of these terms by a  
16 nonresident, a guest who is visiting a resident, or by  
17 any member of the resident's household shall be deemed  
18 a violation by the resident; or

19       (6) The existence of any other circumstances giving rise  
20 to an immediate right to possession by the authority.



1 (b) When any lease, rental agreement, permit, or license  
2 is subject to termination pursuant to subsection (a), the  
3 authority, either directly or through its managing agent, shall  
4 provide the tenant with a written notice that shall inform the  
5 tenant of any violation or failure and, if a delinquency, the  
6 amount of that delinquency.

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



1 shall be deemed to be a contested case hearing before the  
2 authority that is required pursuant to chapter 91.

3 (b) Hearings shall be conducted by an eviction board  
4 appointed by the authority. The eviction board shall consist of  
5 not fewer than one person, and no more than three persons, of  
6 which one member shall be a tenant. If feasible, the eviction  
7 board may conduct hearings using video conferencing technology;  
8 provided that these hearings shall be conducted pursuant to  
9 chapter 91. The findings, conclusions, decision, and order of  
10 the eviction board shall be final unless an appeal is taken  
11 pursuant to section 91-14.

12 (c) The eviction board shall have the same powers  
13 respecting administering oaths, compelling the attendance of  
14 witnesses and the production of documentary evidence, and  
15 examining witnesses, as are possessed by circuit courts. In  
16 case of disobedience by any person of any order of the eviction  
17 board, or of any subpoena issued by the eviction board, or the  
18 refusal of any witness to testify to any matter regarding which  
19 the witness may lawfully be questioned, any circuit judge, on  
20 application by the eviction board, may compel compliance with  
21 such order or subpoena, or compel testimony.



1       §356D-D Eviction. (a) If it is proven to the  
2 satisfaction of the eviction board that there is cause to  
3 terminate a lease, rental agreement, permit, or license and  
4 evict the tenant, the authority shall provide the tenant with a  
5 written notice of the authority's decision to terminate the  
6 tenancy. The notice shall inform the tenant that a writ of  
7 possession may be issued by the authority within ten business  
8 days. The notice shall also inform the tenant whether the  
9 grounds for eviction are considered curable and, if so, what the  
10 tenant must do to remedy the grounds, by when it must be done,  
11 and what the tenant must do to document for the authority that  
12 the grounds have been remedied.

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

20       (c) The authority may adopt rules pursuant to chapter 91  
21 to define curable and noncurable grounds for eviction. The



1 authority may consider a tenant's history in determining  
2 noncurable grounds for eviction. A tenant's history may include  
3 chronic or consistent delinquency, or repeated violations of the  
4 terms of the lease, rental agreement, permit, or license.

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

14 (e) Upon eviction, the household goods and personal  
15 effects of the person against whom the order is entered, and  
16 those of any persons using the premises incident to the person's  
17 holding, may be removed from the premises and stored by the  
18 authority. If the action is taken, the authority shall have a  
19 lien on the property so taken for the expenses incurred by it in  
20 moving and storing the same, and the authority is authorized to



1 sell or otherwise dispose of the property if unclaimed after  
2 thirty days.

3       **§356D-E Ex parte motion.** If a tenant cannot be served  
4 with an order of eviction or writ of possession, and the facts  
5 shall appear by affidavit or declaration to the authority,  
6 service on the tenant may be made according to the special order  
7 of the authority. The order shall require the process server to  
8 affix a certified copy of the order of eviction or writ of  
9 possession in a conspicuous place upon the premises such as the  
10 door or wall of the dwelling unit.

11       **§356D-F Judicial review.** (a) Any person aggrieved by a  
12 final decision and order of the authority or by a preliminary  
13 ruling of the nature that deferral of review pending entry of a  
14 subsequent final decision would deprive the appellant of  
15 adequate relief is entitled to judicial review thereof under  
16 this part.

17       (b) Except as otherwise provided in this section,  
18 proceedings for review shall be instituted in the circuit court  
19 within thirty days after the preliminary ruling or within thirty  
20 days after service of the certified copy of the final decision  
21 and order of the authority pursuant to the rules of court,



1 except where a statute provides for a direct appeal to the  
2 intermediate appellate court. In such cases, the appeal shall  
3 be treated in the same manner as an appeal from the circuit  
4 court, including payment of the fee prescribed by section 607-5  
5 for filing the notice of appeal. The court in its discretion  
6 may permit other interested persons to intervene.

7 (c) The proceedings for review shall not stay enforcement  
8 of the decision of the authority; provided that the authority or  
9 the reviewing court may order a stay upon such terms as it deems  
10 proper.

11 (d) Within twenty days after the determination of the  
12 contents of the record on appeal in the manner provided by the  
13 rules of court, or within such further time as the court may  
14 allow, the authority shall transmit to the reviewing court the  
15 record of the proceeding under review. The court may require or  
16 permit subsequent corrections or additions to the record when  
17 deemed desirable.

18 (e) If, before the date set for hearing, application is  
19 made to the court for leave to present additional evidence and  
20 the evidence is material and good cause exists for the failure  
21 to present the evidence in the proceeding before the authority,





1 the court may order the authority to hear the evidence upon the  
2 conditions as the court deems proper. The authority may modify  
3 its findings, decision, and order by reason of the additional  
4 evidence and shall file with the reviewing court, to become a  
5 part of the record, the additional evidence, together with any  
6 modification of its findings or decision.

7 (f) The review shall be conducted by the court without a  
8 jury and shall be confined to the record. In cases of alleged  
9 irregularities in procedure before the authority and not shown  
10 in the record, testimony thereon may be taken in court. The  
11 court, upon request by any party, may hear oral argument and  
12 receive written briefs.

13 (g) Upon review of the record, the court may affirm the  
14 decision of the authority or remand the case with instructions  
15 for further proceedings, or it may reverse or modify the  
16 decision and order if the substantial rights of the petitioners  
17 may have been prejudiced because the administrative findings,  
18 conclusions, decisions, or orders are:

19 (1) In violation of constitutional or statutory  
20 provisions;



- 1           (2) In excess of the statutory authority or jurisdiction  
2           of the authority;
- 3           (3) Made upon unlawful procedure;
- 4           (4) Affected by other error of law;
- 5           (5) Clearly erroneous in view of the reliable, probative,  
6           and substantial evidence on the whole record; or
- 7           (6) Arbitrary, capricious, or characterized by abuse of  
8           discretion or clearly unwarranted exercise of  
9           discretion.

10           **§356D-G Appeals.** An aggrieved party may secure a review  
11 of any final judgment of the circuit court under this part by  
12 appeal to the appellate courts, subject to chapter 602. The  
13 appeal shall be taken in the manner provided in the rules of  
14 court.

15           **§356D-H Rules.** The authority may adopt rules pursuant to  
16 chapter 91 necessary for the purposes of this part."

17           **SECTION 2.** In codifying the new sections added by section  
18 1 of this Act, the revisor of statutes shall substitute  
19 appropriate section numbers for the letters used in designating  
20 the new sections in this Act.

21



1 SECTION 3. This Act shall take effect upon its approval.

2

INTRODUCED BY: Will Eyo



# S.B. NO. 2629

**Report Title:**

State Low-income Housing; Housing for Elders; Evictions

**Description:**

Creates an eviction process for the Hawaii Public Housing Authority's state low-income housing and state housing for elders programs.

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

