

JAN 25 2023

A BILL FOR AN ACT

RELATING TO RIGHT OF ENTRY FOR PROFESSIONAL SURVEYORS.

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

1 SECTION 1. The legislature finds that professional land
2 surveyors require reasonable access over and across certain real
3 properties at reasonable times in the regular course of their
4 work to conduct a survey of common property boundaries that are
5 used to determine the legal interests of parties in real
6 property. A professional land surveyor requires access to:

- 7 (1) Retrace record boundary lines;
8 (2) Recover or reestablish boundary monuments or survey
9 controls; and
10 (3) Locate rights-of-way or improvements with positional
11 discrepancies.

12 Without a right of entry, a professional land surveyor
13 conducting a land survey is often subject to trespass laws,
14 prohibiting the land surveyor from conducting a land survey
15 required to ensure the public's interest in maintaining a sound
16 and uniform real property system.



1 The purpose of this Act is to establish a right of entry
2 for professional land surveyors to conduct a survey that
3 protects the real property interests of property owners and the
4 public interest in maintaining the integrity of a sound uniform
5 real property system.

6 SECTION 2. Chapter 464, Hawaii Revised Statutes, is
7 amended by adding a new section to be appropriately designated
8 and to read as follows:

9 "§464- Professional land surveyor right of entry to
10 private property; notification; identification; liability. (a)

11 A professional land surveyor licensed pursuant to this chapter,
12 and the land surveyor's assistants, or the land surveyor's
13 assistant at the land surveyor's direction may enter any private
14 property, including adjoining lands, at reasonable times to
15 perform land surveying at the request of the landowner or person
16 with an interest in the real property to be surveyed.

17 (b) The land surveyor shall give at least five days
18 written notice of the intention to enter the private property to
19 perform land surveying when the land surveying may involve
20 adjoining lands. The written notice shall include:



- 1 (1) The name of the landowner and the occupier of the
- 2 property, including the landowner and occupier of
- 3 adjoining lands to be accessed;
- 4 (2) The date and time the survey work is proposed to be
- 5 performed; and
- 6 (3) The name and contact information of the land surveyor
- 7 that will perform the work.

8 Written notice sent to the last known address of the landowners
9 to be contacted by certified mail shall be deemed sufficient
10 notice.

11 When the landowner or person with interest in a property
12 involved in the survey, including adjoining lands to be
13 accessed, gives notice to the surveyor that the surveying may
14 disrupt or interfere with operations on the properties involved,
15 the surveyor shall meet with the landowners or persons with an
16 interest in the properties to negotiate a mutually agreeable
17 date and time to perform the land surveying.

18 (c) The land surveyor shall carry identification, which
19 may include:



1 (1) The certificate of licensure with the license number
2 issued pursuant to this chapter, or a facsimile
3 thereof; or

4 (2) A seal or stamp, or facsimile thereof, authorized
5 pursuant to section 464-11; and
6 a copy of the notice submitted pursuant to this section.

7 (d) The land surveyor and the land surveyor's assistants
8 shall not be liable for any incidental minor damage to property
9 as a result of land surveying, except for damages that result
10 from the land surveyor's or the land surveyor's assistants'
11 gross negligence or wanton acts or omissions."

12 SECTION 3. Section 708-813, Hawaii Revised Statutes, is
13 amended by amending subsection (2) to read as follows:

14 "(2) Subsection (1) shall not apply to [a]:

15 (a) A process server who enters or remains in or upon the
16 land or premises of another, unless the land or
17 premises are secured with a fence and locked gate, for
18 the purpose of making a good faith attempt to perform
19 their legal duties and to serve process upon any of
20 the following:



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

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INTRODUCED BY: *Wm. D. Uff*
By Request



S.B. NO. 1468

Report Title:

Land Surveyors; Right of Entry; Private Property; Trespass

Description:

Authorizes professional land surveyors to enter any private property to perform land surveying, subject to certain provisions regarding notice, identification, and liability. Shields land surveyors from prosecution under criminal trespass laws when performing their duties.

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