
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 and their assistants to conduct
3 a survey that protects the real property interests of property
4 owners and the public interest in maintaining the integrity of a
5 sound uniform 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 any assistant under the direct supervision of the land
13 surveyor may enter the private property of the landowner of the
14 real property to be surveyed and any adjoining lands at
15 reasonable times to perform land surveying at the request of the
16 landowner of, or person with an interest in, the real property
17 to be surveyed.

18 (b) The land surveyor shall give at least ten days written
19 notice of the intention to enter the private property on which
20 the land surveying is to be performed when the land surveying
21 may involve adjoining lands. The written notice shall include:



- 1 (1) The name of the landowner of, or person with an
2 interest in, the real property to be surveyed and the
3 name of the landowner or occupier of adjoining lands
4 to be accessed;
- 5 (2) The date and time the survey work is proposed to be
6 performed; and
- 7 (3) The name and contact information of the land surveyor
8 who will perform the work.

9 Written notice shall be sent to the last known address of the
10 landowner of, or person with an interest in, the real property
11 to be surveyed and the landowner or occupier of adjoining lands
12 to be accessed. Notice sent by certified mail shall be deemed
13 sufficient.

14 When the landowner of, or person with an interest in, the
15 real property to be surveyed, or the landowner or occupier of
16 adjoining lands to be accessed, gives notice to the land
17 surveyor that the surveying may disrupt or interfere with
18 operations on the properties involved, the land surveyor shall
19 meet with the landowner, person with an interest, or occupier to
20 negotiate a mutually agreeable date and time to perform the land
21 surveying.



1 (c) The land surveyor shall carry identification, which
2 shall include a valid government-issued photo identification
3 and:

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

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

10 (d) The land surveyor and the land surveyor's assistants
11 shall not be liable for any incidental minor damage to property
12 as a result of land surveying, except for damages that result
13 from the land surveyor's or the land surveyor's assistants'
14 gross negligence or wanton acts or omissions. For purposes of
15 this subsection, damages shall be deemed to be minor if the
16 damages are less than \$100."

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

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

20 (a) A process server who enters or remains in or upon the
21 land or premises of another, unless the land or



1 premises are secured with a fence and locked gate, for
2 the purpose of making a good faith attempt to perform
3 their legal duties and to serve process upon any of
4 the following:

5 ~~[(a)]~~ (i) An owner or occupant of the land or
6 premises;

7 ~~[(b)]~~ (ii) An agent of the owner or occupant of the
8 land or premises; or

9 ~~[(c)]~~ (iii) A lessee of the land or premises~~[-]~~; or

10 (b) A professional land surveyor, or assistant under the
11 direct supervision of the land surveyor, who enters or
12 remains in or upon the land or premises of another,
13 after giving notice as required by section 464- ,
14 for the purpose of performing land surveying at the
15 request of the landowner of, or person with an
16 interest in, the real property to be surveyed."

17 SECTION 4. Section 708-814, Hawaii Revised Statutes, is
18 amended by amending subsection (2) to read as follows:

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

20 (a) A process server who enters or remains in or upon the
21 land or premises of another, unless the land or



1 premises are secured with a fence and locked gate, for
2 the purpose of making a good faith attempt to perform
3 the process server's legal duties and to serve process
4 upon any of the following:

5 ~~[(a)]~~ (i) An owner or occupant of the land or
6 premises;

7 ~~[(b)]~~ (ii) An agent of the owner or occupant of the
8 land or premises; or

9 ~~[(c)]~~ (iii) A lessee of the land or premises.

10 For the purposes of this ~~[subsection,]~~ paragraph,

11 "process server" means any person authorized under the
12 Hawaii rules of civil procedure, district court rules
13 of civil procedure, Hawaii family court rules, or
14 section 353C-10 to serve process~~[-];~~ or

15 (b) A professional land surveyor, or assistant under the
16 direct supervision of the land surveyor, who enters or
17 remains in or upon the land or premises of another,
18 after giving notice as required by section 464- ,
19 for the purpose of performing land surveying at the
20 request of the landowner of, or person with an
21 interest in, the real property to be surveyed."



1 SECTION 5. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

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

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



H.B. NO. 1241 H.D. 1

Report Title:

Land Surveyors; Assistants; Right of Entry; Private Property;
Trespass

Description:

Authorizes professional land surveyors and assistants under the direct supervision of land surveyors to enter private property to perform land surveying, subject to certain provisions regarding notice, identification, and liability. Shields land surveyors and their assistants from prosecution under criminal trespass laws when performing their duties. (HD1)

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