
A BILL FOR AN ACT

RELATING TO PROPERTY RIGHTS.

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

SECTION 1. Chapter 803, Hawaii Revised Statutes, is amended by amending its title to read as follows:

"CHAPTER 803

ARRESTS, SEARCH WARRANTS, REMOVALS"

SECTION 2. Chapter 803, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . REMOVALS

§803-A Removal by law enforcement; trespass. Pursuant to section 708-813, an owner of a dwelling or premises being trespassed upon, or the owner's agent, may request from state or county law enforcement the immediate removal of a person or persons unlawfully occupying or remaining in or upon the dwelling or premises; provided that the following conditions are met:

- (1) The requesting person is the owner of the dwelling or premises, or the authorized agent of the owner;



1 (2) The real property being trespassed upon includes a
2 residential dwelling;

3 (3) An unauthorized person or persons have unlawfully
4 entered and remain in or upon the dwelling or
5 premises;

6 (4) The dwelling or premises was not open to members of
7 the public at the time the unauthorized person or
8 persons entered;

9 (5) The owner or authorized agent of the owner has
10 directed the unauthorized person or persons to leave
11 the property;

12 (6) The unauthorized person or persons are not current or
13 former tenants pursuant to chapter 521; and

14 (7) The unauthorized person or persons are not immediate
15 family members of the owner.

16 **§803-B Process for removal.** (a) To request the immediate
17 removal of an unlawful occupant of a dwelling or premises,
18 pursuant to section 803-A, the owner or authorized agent of the
19 owner shall submit a complaint by presenting a completed and
20 verified complaint form to a law enforcement officer.



1 (b) The complaint form shall be developed and published by
2 the department of the attorney general, pursuant to chapter 91,
3 and made available online by the department of law enforcement.
4 The police department in each county shall make physical copies
5 of the complaint form, as published and approved by the attorney
6 general, available at each police station within the county.

7 (c) Upon receipt of a valid complaint form, the law
8 enforcement officer shall verify that the person submitting the
9 complaint is the owner of record of the dwelling or premises and
10 appears otherwise entitled to relief under this section. If
11 verified, the law enforcement officer, without delay, shall
12 serve a notice to immediately vacate on all the unlawful
13 occupants and shall put the owner, or authorized agent of the
14 owner, in possession of the dwelling or premises. Service may
15 be accomplished by hand delivery of the notice to an occupant or
16 by posting the notice on the front door or entrance of the
17 dwelling or premises. The law enforcement officer shall also
18 attempt to verify the identities of all persons occupying the
19 dwelling and note the identities on the return of service.

20 (d) If appropriate, the law enforcement officer may arrest
21 any person found in or upon the dwelling or premises for



1 trespass, outstanding warrants, or any other legal cause,
2 pursuant to part I.

3 **§803-C Fees; request to keep the peace; liability. (a)**

4 The law enforcement officer in receipt of a valid complaint,
5 pursuant to section 803-B, shall be entitled to the same fee for
6 service of the notice to immediately vacate as if the law
7 enforcement officer were serving a writ of possession, pursuant
8 to section 607-8.

9 (b) After the law enforcement officer serves the notice to
10 immediately vacate, the owner or authorized agent of the owner
11 may request that the law enforcement officer stand by to keep
12 the peace while the owner or authorized agent of the owner
13 changes the locks and removes the personal property of the
14 unlawful occupants from the premises to or near the property
15 line. When a request to stand by is made, the law enforcement
16 officer may charge a reasonable hourly rate, and the person
17 requesting the law enforcement officer to stand by and keep the
18 peace shall be responsible for paying the reasonable hourly
19 rate, as set by the department of law enforcement or county
20 police department.



(c) The law enforcement officer shall not be liable to the unlawful occupant or any other party for property loss, destruction, or damage. The owner or authorized agent of the owner shall not be liable to an unlawful occupant or any other party for the loss, destruction, or damage to the personal property unless the removal was wrongful.

§803-D Offense of instigation of wrongful removal; civil cause of action. (a) An owner or authorized agent of an owner commits the offense of instigation of wrongful removal if the owner or authorized agent of the owner:

- (1) Submits a fraudulent complaint; or
- (2) Knowingly includes false information in the complaint; resulting in the wrongful removal of a rightful occupant, pursuant to this part.

Instigation of wrongful removal is a misdemeanor.

(b) A person may bring a civil cause of action for wrongful removal pursuant to this part. A person harmed by a wrongful removal may be restored to possession of the dwelling or premises and may recover actual costs and damages incurred, statutory damages equal to triple the fair market rent of the



dwelling, court costs, and reasonable attorney fees. The court shall advance the cause on the calendar.

§803-E Rights of owner; law enforcement authority.

Nothing in this part shall limit the property rights of an owner or the authority of a law enforcement officer to arrest an unlawful occupant for trespassing, vandalism, theft, or other crimes."

SECTION 3. Chapter 663, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§663- Liability of unlawful occupants of a dwelling or premises; public utilities. (a) An unlawful occupant of a dwelling or premises, pursuant to section 708-813, shall be liable in damages to the owner of the dwelling or premises for outstanding or unpaid utility bills, fees, or other charges incurred while the unlawful occupant was in possession or control of the dwelling or premises.

(b) Nothing in this section shall apply to tenants, pursuant to chapter 521, or otherwise rightful occupants of a dwelling or premises according to law."



SECTION 4. Section 708-821, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) A person commits the offense of criminal property damage in the second degree if by means other than fire:

(a) The person intentionally or knowingly damages the property of another, without the other's consent, by the use of widely dangerous means;

(b) The person intentionally or knowingly damages the property of another, without the other's consent, in an amount exceeding \$1,500; [~~e~~]

(c) The person, while unlawfully trespassing in or upon a dwelling or premises pursuant to section 708-813, intentionally or knowingly damages the dwelling or property therein in an amount exceeding \$999; or

~~[(e)]~~ (d) The person intentionally or knowingly damages the agricultural equipment, supplies, or products or aquacultural equipment, supplies, or products of another, including trees, bushes, or any other plant and livestock of another, without the other's consent, in an amount exceeding \$500. In calculating the amount of damages to agricultural products, the amount



1 of damages includes future losses and the loss of
2 future production."

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

6 SECTION 6. In codifying the new sections added by
7 section 2 of this Act, the revisor of statutes shall substitute
8 appropriate section numbers for the letters used in designating
9 the new sections in this Act.

10 SECTION 7. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 8. This Act shall take effect on July 1, 3000.



Report Title:

AG; Property Rights; Trespass; Unlawful Occupation; Dwelling;
Premises; Squatters; Removal; Law Enforcement; Property Damage;
Penalties; Complaint

Description:

Establishes a procedure for immediately removing an unlawful occupant of a dwelling or premises with assistance from law enforcement. Provides that an unlawful occupant of a dwelling or premises is civilly liable for unpaid utility bills. Provides that a person who trespasses in or upon a dwelling or premises and intentionally or knowingly damages property in an amount exceeding \$999 commits a felony of criminal property damage in the second degree. Requires the Department of the Attorney General to develop, publish, and make available a complaint form to remove unlawful occupants of residential dwellings. Effective 7/1/3000. (HD1)

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

