
A BILL FOR AN ACT

RELATING TO PROPERTY.

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

1 SECTION 1. The legislature finds that the fundamental
2 rights of owning property include the right of property owners
3 to exclude others from entering or remaining unlawfully on their
4 properties. The legislature further finds that squatting, or
5 the unauthorized entry into or remaining in a dwelling, is a
6 violation of the rights of property owners and is against the
7 public interest. Squatters often make dwellings uninhabitable by
8 causing property damage, or deny potentially responsible tenants
9 the opportunity to move into the dwellings. The legislature
10 believes that decisive action is necessary to deter this
11 behavior.

12 Accordingly, the purpose of this Act is to protect
13 residential property rights by:

14 (1) Specifying a process by which property owners may
15 utilize law enforcement officers to remove
16 unauthorized individuals from dwellings;



- 1 (2) Establishing the criminal offenses of squatting and
- 2 fraudulent sale or lease of residential real property;
- 3 (3) Classifying the type of property damage typically
- 4 inflicted by squatters as a form of criminal property
- 5 damage in the second degree; and
- 6 (4) Classifying the falsification of documentation
- 7 typically performed by squatters as a form of unsworn
- 8 falsification to authorities.

9 SECTION 2. The Hawaii Revised Statutes is amended by
 10 adding a new chapter to title 28 be appropriately designated and
 11 to read as follows:

12 **"CHAPTER**

13 **REMOVAL OF UNAUTHORIZED INDIVIDUALS FROM DWELLINGS**

14 § -1 **Definitions.** For the purposes of this chapter,
 15 unless the context otherwise requires:

16 "Agent" means the representative of an owner.

17 "Dwelling" shall have the same meaning as in section
 18 708-800.

19 "Holdover tenant" means a tenant who has remained in a
 20 dwelling after the termination of a rental agreement, as
 21 described in section 521-71(e).



1 "Immediate family member" shall have the same meaning as in
2 section 454F-1.

3 "Owner" means the owner of a dwelling.

4 "Tenant" shall have the same meaning as in section 521-8.

5 "Unauthorized individual" means any individual who has
6 entered and is occupying a dwelling without the authorization of
7 the owner or agent.

8 "Unauthorized individual" does not include any tenant or
9 holdover tenant of the dwelling, or any immediate family member
10 of the owner.

11 **§ -2 Removal of an unauthorized individual from a**
12 **dwelling.** (a) The owner of a dwelling, or owner's agent, may
13 request that an unauthorized individual be removed from the
14 dwelling pursuant to this section if the owner or agent first
15 posts at the dwelling a notice to vacate. The notice shall:

16 (1) Inform the unauthorized individual that the individual
17 has no right to the dwelling and must vacate
18 immediately; and

19 (2) Include the street address of the law enforcement
20 agency from which the owner or agent will seek



1 assistance to remove the unauthorized individual from
2 the property.

3 (b) If the unauthorized individual fails to vacate the
4 property within twenty-four hours of the posting of the notice,
5 the owner or agent may request that the unauthorized individual
6 be removed from the dwelling by submitting a sworn or affirmed
7 affidavit to a law enforcement agency in the county where the
8 dwelling is located. The affidavit shall confirm that:

- 9 (1) The affiant is the owner of the dwelling or owner's
10 agent;
- 11 (2) An unauthorized individual has entered into and is
12 remaining in the dwelling unlawfully;
- 13 (3) The unauthorized individual is not a tenant, holdover
14 tenant, or an immediate family member of the owner;
- 15 (4) A notice has been posted at the dwelling pursuant to
16 subsection (a), and the unauthorized individual failed
17 to vacate the dwelling within twenty-four hours of the
18 posting of the notice; and
- 19 (5) There is no pending litigation related to the dwelling
20 between the owner and the unauthorized individual.



1 (c) The recitals in the affidavit required under
2 subsection (b) may, but need not, be substantially in the
3 following form:

4 "(1) I am the owner, or an agent of the owner, of the real
5 property located at _____;

6 (2) The real property is a dwelling;

7 (3) An unauthorized individual has unlawfully entered and
8 currently occupies the dwelling;

9 (4) The unauthorized individual is not a tenant, holdover
10 tenant, or an immediate family member of the owner,
11 and any lease that may be produced by the unauthorized
12 individual is fraudulent;

13 (5) The unauthorized individual does not have an ownership
14 interest in the property and is not listed on the
15 title to the property, unless the individual has
16 engaged in title fraud;

17 (6) There is no litigation related to the dwelling pending
18 between the owner, or the owner's agent, and any
19 unauthorized individual;



- 1 (7) Notice was posted at the dwelling, and evidence of the
2 notice, including the date and time of delivery, is
3 attached;
- 4 (8) I understand that an individual wrongfully removed
5 from the property pursuant to this affidavit may bring
6 a cause of action against me for any false statements
7 made in the affidavit, or for the wrongful use of this
8 procedure, and that, as a result of the action, I may
9 be held liable for actual damages, penalties, costs,
10 and reasonable attorney fees;
- 11 (9) I am requesting a law enforcement officer to remove
12 the unauthorized individual from the dwelling as soon
13 as possible;
- 14 (10) A copy of my valid government-issued identification is
15 attached, or I am an agent of the owner, and documents
16 evidencing my authority to act on the owner's behalf
17 are attached; and
- 18 (11) This affidavit is signed under penalty of perjury."
- 19 (d) A copy of the notice required pursuant to subsection
20 (a), including the date and time of the posting, shall be
21 attached to the affidavit.



1 (e) Upon receipt of the affidavit required by subsection
2 (b) and a copy of the notice required by subsection (d), the law
3 enforcement agency shall verify that the affiant is the record
4 owner of the dwelling, or an agent of the owner, and appears to
5 be otherwise entitled to relief. Upon verification and after at
6 least twenty-four hours from receipt of the affidavit, the law
7 enforcement agency shall serve on the unauthorized individual a
8 notice to immediately vacate. Service may be accomplished by
9 hand delivery of the notice to any unauthorized individual
10 occupying the dwelling or by posting notice on the front door or
11 entrance of the dwelling. Law enforcement officers shall also
12 attempt to verify the identities of all individuals occupying
13 the dwelling and note the identities on the return of service.
14 If appropriate, a law enforcement officer may arrest an
15 unauthorized individual found in the dwelling for trespass,
16 burglary, theft, or any other criminal act, or for any
17 outstanding warrant.

18 (f) An affiant who knowingly provides a false affidavit to
19 law enforcement pursuant to this chapter may be prosecuted for
20 perjury under section 710-1060.



1 § -3 **Protections; law enforcement; governmental**
2 **entities.** (a) No law enforcement officer, governmental entity,
3 or political subdivision of the State shall be held liable for
4 any action or omission made in good faith pursuant to this
5 chapter.

6 (b) No law enforcement officer shall be liable to an
7 unauthorized individual or any other party for the loss,
8 destruction, or damaging of property during the officer's good
9 faith execution of the duties and powers authorized by this
10 section.

11 § -4 **Wrongful removal actions.** (a) An individual may
12 bring a civil cause of action against an affiant for wrongful
13 removal under this chapter.

14 (b) An individual harmed by a wrongful removal under this
15 chapter may have the possession of the dwelling restored and may
16 recover actual costs and damages incurred, as well as punitive
17 damages of triple the fair market rent for the dwelling, plus
18 court costs and reasonable attorney fees.

19 § -5 **No limitations on owners; agents; law enforcement.**
20 This chapter shall not be construed to limit:



1 (1) The rights of an owner or agent to other remedies
2 provided by law; or

3 (2) The authority of any law enforcement officer to arrest
4 the unlawful occupant of a property for trespassing,
5 theft, burglary, or other crimes.

6 § -6 Fee. A law enforcement agency may charge a fee of
7 no more than \$ to process an affidavit filed pursuant
8 to section -2."

9 SECTION 3. Chapter 708, Hawaii Revised Statutes, is
10 amended by adding two new sections to part II to be
11 appropriately designated and to read as follows:

12 "§708- Squatting. (1) A person commits the offense of
13 squatting if the person intentionally or knowingly enters
14 unlawfully into a dwelling that is:

- 15 (a) Otherwise unoccupied; or
- 16 (b) Otherwise occupied by other persons whom the person
17 knows, or should know, are unlawfully occupying the
18 dwelling.

19 (2) Squatting is a class C felony.

20 §708- Fraudulent sale or lease of residential real
21 property. (1) A person commits the offense of fraudulent sale



1 or lease of residential real property if the person
2 intentionally:

3 (a) Lists or advertises residential real property for sale
4 knowing that that the person or purported seller has
5 no legal title or authority to sell the property; or
6 (b) Rents or leases residential real property to another
7 person knowing that the person or purported lessor has
8 no legal ownership or other authority to lease the
9 property.

10 (2) Fraudulent sale or lease of residential real property
11 is a class C felony."

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

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

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

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



1 (c) The person intentionally or knowingly damages the
2 agricultural equipment, supplies, or products or
3 aquacultural equipment, supplies, or products of
4 another, including trees, bushes, or any other plant
5 and livestock of another, without the other's consent,
6 in an amount exceeding \$500. In calculating the
7 amount of damages to agricultural products, the amount
8 of damages includes future losses and the loss of
9 future production[~~-~~]; or

10 (d) The person knowingly enters or remains unlawfully in a
11 dwelling and intentionally or knowingly damages the
12 dwelling, in an amount exceeding \$ _____."

13 SECTION 5. Section 710-1063, Hawaii Revised Statutes, is
14 amended by amending subsection (1) to read as follows:

15 "(1) A person commits the offense of unsworn falsification
16 to authorities if, with an intent to mislead a public servant in
17 the performance of the public servant's duty, the person:

18 (a) Makes any statement, in written, printed, or
19 electronic form, which the person does not believe to
20 be true, in an application for any pecuniary or other



- 1 benefit or in a record or report required by law to be
2 submitted to any governmental agency;
- 3 (b) Knowingly makes a false statement in written, printed,
4 electronic, or oral form, to a state investigator or a
5 county inspector during an investigation into
6 compliance with any state law, rule, or regulation or
7 any county ordinance, rule, or regulation;
- 8 (c) Submits or invites reliance on any statement,
9 document, or record, in written, printed, or
10 electronic form, which the person knows to be falsely
11 made, completed, or altered; [~~or~~]
- 12 (d) Submits or invites reliance on any sample, specimen,
13 map, boundary-mark, or other object the person knows
14 to be false[~~er~~]; or
- 15 (e) Knowingly presents to any law enforcement officer or
16 government official with the intent to remain upon
17 real property a false document purporting to be a
18 lease agreement, deed, or other instrument conveying
19 or providing a right to, or in, the real property."



1 SECTION 6. 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 7. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

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



Report Title:

Real Property; Dwellings; Squatters; Removal; Hawaii Penal Code

Description:

Specifies a process by which property owners may utilize law enforcement officers to remove unauthorized individuals from dwellings. Establishes the criminal offenses of squatting and fraudulent sale or lease of residential real property. Classifies the type of property damage typically inflicted by squatters as a form of criminal property damage in the second degree. Classifies the falsification of documentation typically performed by squatters as a form of unsworn falsification to authorities. Effective 7/1/3000. (HD1)

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