
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" has the same meaning as in section 708-800.

18 "Holdover tenant" means a tenant who has remained in a
 19 dwelling after the termination of a rental agreement, as
 20 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 "Rental agreement" has the same meaning as in
5 section 521-8.

6 "Tenant" has the same meaning as in section 521-8.

7 "Unauthorized individual" means any individual who has
8 entered and is occupying a dwelling without the authorization of
9 the owner or agent. "Unauthorized individual" does not include
10 any tenant or holdover tenant of the dwelling, or any immediate
11 family member of the owner.

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

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

20 (2) Include the street address of the law enforcement
21 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 the
10 owner's 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, a
14 holdover tenant, or an immediate family member of the
15 owner;

16 (4) A notice has been posted at the dwelling pursuant to
17 subsection (a), and the unauthorized individual failed
18 to vacate the dwelling within twenty-four hours of the
19 posting of the notice; and

20 (5) There is no pending litigation related to the dwelling
21 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, a
10 holdover tenant, or an immediate family member of the
11 owner, and any rental agreement that may be produced
12 by the unauthorized 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 constitutes a material statement of law
19 and is signed under penalty of perjury, pursuant to
20 section 710-1060, Hawaii Revised Statutes."



1 (d) A copy of the notice required pursuant to subsection
2 (a), including the date and time of the posting, shall be
3 attached to the affidavit.

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



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

4 § -3 **Personal property of unauthorized individuals.** (a)
5 Any personal property remaining in a dwelling after the removal
6 of an unauthorized individual from the dwelling pursuant to this
7 chapter shall be deemed abandoned.

8 (b) The owner of the dwelling, or an agent of the owner,
9 may dispose of the abandoned personal property in any manner
10 without notice to the unauthorized individual and shall not be
11 held liable.

12 § -4 **Protections; law enforcement; governmental**
13 **entities.** (a) No law enforcement officer, governmental entity,
14 or political subdivision of the State shall be held liable for
15 any action or omission made in good faith pursuant to this
16 chapter.

17 (b) No law enforcement officer shall be liable to an
18 unauthorized individual or any other party for the loss of,
19 destruction of, or damage to property during the officer's good
20 faith execution of the duties and powers authorized by this
21 chapter.



1 § -5 **Wrongful removal actions.** (a) An individual may
2 bring a civil cause of action against an affiant for wrongful
3 removal under this chapter.

4 (b) An individual harmed by a wrongful removal under this
5 chapter may have the possession of the dwelling restored and may
6 recover actual costs and damages incurred, as well as punitive
7 damages of triple the fair market rent for the dwelling, plus
8 court costs and reasonable attorney's fees.

9 § -6 **No limitations on owners; agents; law enforcement.**

10 This chapter shall not be construed to limit:

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

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

16 § -7 **Fee.** A law enforcement agency may charge a fee of
17 no more than \$ to process an affidavit filed pursuant
18 to section -2."

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



- 1 "§708- Squatting. (1) A person commits the offense of
2 squatting if the person knowingly enters or remains unlawfully
3 in a dwelling that is unoccupied, or that is occupied only by
4 other persons whom the person knows, or reasonably should know,
5 are unlawfully occupying the dwelling, with the intent to
6 establish the dwelling as the person's residence or place of
7 habitation, as evidenced by one or more of the following:
- 8 (a) Remaining in the dwelling after receipt of written
9 notice to vacate from the owner, the owner's agent, or
10 a law enforcement officer;
- 11 (b) Sleeping in the dwelling or storing personal
12 belongings there;
- 13 (c) Changing or attempting to change locks or access
14 controls;
- 15 (d) Representing to another person that the dwelling is
16 the person's residence; or
- 17 (e) Creating, altering, or presenting documents the person
18 knows to be false or fraudulent for the purpose of
19 establishing a claimed right to occupy the dwelling.
- 20 (2) Squatting shall be a class C felony.



1 §708- Fraudulent sale or lease of residential real
2 property. (1) A person commits the offense of fraudulent sale
3 or lease of residential real property if the person
4 intentionally:

5 (a) Lists or advertises residential real property for sale
6 knowing that the person or purported seller has no
7 legal title or authority to sell the property; or

8 (b) Rents or leases residential real property to another
9 person knowing that the person or purported lessor has
10 no legal ownership or other authority to lease the
11 property.

12 (2) Fraudulent sale or lease of residential real property
13 shall be a class C felony."

14 SECTION 4. Section 708-813, Hawaii Revised Statutes, is
15 amended by amending subsection (4) to read as follows:

16 "(4) Criminal trespass in the first degree is a
17 misdemeanor[-]; provided that a person who violates subsection
18 (1) (a) (i) shall be guilty of a class C felony."

19 SECTION 5. Section 708-821, Hawaii Revised Statutes, is
20 amended by amending subsection (1) to read as follows:



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

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

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

9 (c) The person intentionally or knowingly damages the
10 agricultural equipment, supplies, or products or
11 aquacultural equipment, supplies, or products of
12 another, including trees, bushes, or any other plant
13 and livestock of another, without the other's consent,
14 in an amount exceeding \$500. In calculating the
15 amount of damages to agricultural products, the amount
16 of damages includes future losses and the loss of
17 future production[~~-~~]; or

18 (d) The person intentionally or knowingly damages the
19 dwelling of another without the other's consent."

20 SECTION 6. Section 710-1063, Hawaii Revised Statutes, is
21 amended by amending subsection (1) to read as follows:



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

4 (a) Makes any statement, in written, printed, or
5 electronic form, [~~which~~] that the person does not
6 believe to be true, in an application for any
7 pecuniary or other benefit or in a record or report
8 required by law to be submitted to any governmental
9 agency;

10 (b) Knowingly makes a false statement in written, printed,
11 electronic, or oral form, to a state investigator or a
12 county inspector during an investigation into
13 compliance with any state law, rule, or regulation or
14 any county ordinance, rule, or regulation;

15 (c) Submits or invites reliance on any statement,
16 document, or record, in written, printed, or
17 electronic form, [~~which~~] that the person knows to be
18 falsely made, completed, or altered; [~~or~~]

19 (d) Submits or invites reliance on any sample, specimen,
20 map, boundary-mark, or other object the person knows
21 to be false[~~-~~]; or



1 (e) Knowingly presents to any law enforcement officer or
2 government official, with the intent to remain upon
3 real property, a false document purporting to be a
4 rental agreement, deed, or other instrument conveying
5 or providing a right to, or interest in, the real
6 property.

7 For the purposes of this paragraph, "rental agreement"
8 has the same meaning as in section 521-8."

9 SECTION 7. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun before its effective date.

12 SECTION 8. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 9. This Act shall take effect on July 1, 3000.



Report Title:

Real Property; Dwellings; Squatters; Criminal Trespass; 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. Makes the offense of criminal trespass in the first degree for a person who knowingly enters or remains unlawfully in a dwelling or in or upon the premises of a hotel or apartment building a class C felony, rather than a misdemeanor. 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. (HD2)

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