

## Hawaii State Law the Statutory Responsibility

- **HRS §463-1 Definitions.** As used in this chapter:
- "Guard" means a licensed uniformed or nonuniformed person responsible for the safekeeping of a client's properties and persons within contractually prescribed boundaries, and for observation and reporting relative to such safekeeping.
- You are responsible for the safekeeping of a client's properties and persons
- This responsibility is carried out by security measures (e.g., access controls), patrolling, observation, and reporting

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## In-house security (proprietary)

- From a Private Detectives and Security Guard Board Commissioner:
- "...A large part of the intent of Act 208 was targeted to exactly those in-house security people. Contract providers already were regulated and were required to screen their personnel, and most provided at least some level of training. It was the in-house hotels, condos, shopping centers, bars, etc. that had no oversight and were seen as needing to be brought into the system. To answer the specific questions:

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## In-House

- All guards and all persons who act in a guard capacity regardless of job title (perform guard functions) have to meet the qualifications (age, education, background, training) and register with the Board. This is for both contract and in-house guards.

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## What HRS §463-10.5 (a.k.a. Act 208) Requires to be included in classroom instruction

- (1) State and federal law regarding the legal limitations on the actions of guards, including instruction in the law concerning arrest, search and seizure, and the use of force as these issues relate to guard work;
- (2) Access control, safety, fire detection and reporting, and emergency response;
- (3) Homeland security issues and procedures;
- (4) When and how to notify public authorities;
- (5) Techniques of observation and reporting of incidents, including how to prepare an incident report;

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- (6) The fundamentals of patrolling;
  - (7) Professional ethics; and
  - (8) Professional image and aloha training.
- Does anyone know the origin of Act 208?

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## IN-HOUSE

- The State of Hawaii does the background check to determine if they are eligible to register as a guard. The employer is responsible, at their option, to have an employment background check done if they are going to hire someone.
- At present, only guard agencies who provide contract guard services need to have a Licensed Responsible Principal Guard; in-house operations (condos, townhouses, etc.) who employ their own in-house guards do not need a Principal Guard; the employer takes on the same responsibility that a Principal Guard would have."

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**The Training Requirement**

Guards must complete classroom instruction, testing & on-the-job training

- **The law applies to contract as well as proprietary guard services**
- Pursuant to §463-10.5(c): Guards and individuals acting in a guard capacity shall successfully complete the classroom instruction specified by this section, pass a written test, and undergo four hours of on-the-job training supervised by an individual who has successfully completed all of the requirements of this section or who has otherwise been approved by the board for on-the-job training. Guards and individuals acting in a guard capacity shall successfully complete:
  - (1) Eight hours of classroom instruction before the first day of service; and
  - (2) Four hours of classroom instruction annually thereafter.

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**YOUR OPTIONS**

- 1. HIRE CONTRACT SECURITY GUARDS
- 2. CREATE YOU OWN IN-HOUSE SECURITY

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The Board of Private Detectives and Guards at its meeting on April 11, 2013 defined the following:

- A. "Act in a guard capacity" or "acting in a guard capacity" means the performance of safekeeping, observation and reporting functions by a uniformed or non-uniformed employee for the person's employer; provided that:
- B. An employee who performs safekeeping, observation, and reporting functions only incidentally to the employee's primary job functions and responsibilities shall not be considered to be acting in a guard capacity; and,

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The following are examples of such excluded employees:

- 1. A person stationed at the entrance or exit of a retail or commercial establishment whose function is to verify a customer's membership with and the accuracy of purchases from the retail or commercial establishment;
- 2. A parking lot attendant whose responsibility is limited to control the ingress and egress of the parking lot, facility, or structure;
- 3. A person whose responsibility is limited to performing water safety and rescue services at a swimming pool, beach, or other body of water;
- 4. A person whose responsibility is limited to taking tickets from customers at the entrance or exit of an entertainment, recreational, commercial, or sporting event; and

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**Key example for this council**

- **5. A residential or commercial property manager who oversees the property owner's agreement with a licensed guard agency or oversees the property owner's guard employees for the provision of guard services to the subject property.**

- That is, the resident manager does not have to be trained under Act 208

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However, Information in the 2021 Guard Renewal Ce Course can be ambiguous:

- Acting in a guard capacity
- This means that regardless of job title or what a person wears, a person may be a guard by definition. For example, changing a job title from "Security" to "Customer Agent" or "Valet" does not change the fact that the person is still "acting in a guard capacity" and must meet requirements and register with the Board of Private Detectives and Guards. Likewise; Retail Security, Loss Prevention Agents, School Security/Safety Officers, Alarm Response persons, Property Managers who perform "safekeeping", Parking Attendants who patrol and protect their premises and others whose primary duty includes safekeeping responsibility, regardless of job title, are by definition guards.
- **If you are unsure call the Board of Private Detectives and Guards (808-586-2705) and ask for an official determination by the Board.**



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## HRS §463-10.5

- (a) All guards, and all agents, operatives, and assistants employed by a guard agency, **private business entity**, or government agency who act in a guard capacity shall apply to register with the board, and meet the following registration, instruction, and training requirements prior to acting as a guard:
- (1) Be not less than eighteen years of age;
- (2) Possess a high school education or its equivalent; provided that the applicant may satisfy the requirements of this paragraph by attesting that the applicant possesses a high school education or its equivalent;
- (3) Not be presently suffering from any psychiatric or psychological disorder which is directly related and detrimental to a person's performance in the profession; and

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- (4) Not have been convicted in any jurisdiction of a crime which reflects unfavorably on the fitness of the individual to act as a guard, unless the conviction has been annulled or expunged by court order; provided that the individual shall submit to a national criminal history record check as authorized by federal law, including but not limited to the Private Security Officer Employment Authorization Act of 2004, and specified in the rules of the board, and a criminal history record check from the Hawaii criminal justice data center under chapter 846.

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Security for multiple-dwelling complex  
e.g. condos, townhomes, timeshare

- Do you need security guards? Contract or proprietary
- Liability issues
- Training requirements
- Non-revenue generating employee or contract
- Call 9-1-1 depend on local police

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## Resident Manager

- Condominium Law, Chapter 514B HRS – Resident manager, employee retained to manage, on-site, the operation of the property
- *If you include responsibilities for security in the job description, then you may have to get the person trained under Act 208.*

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## Background Checks

- 514B-133 Allows condominium board to conduct background check on anyone hired as a security guard.
- *Not necessary if individual applies for guard card with DCCA-PVL because they will need to get fingerprinted for a basic background check by the Board of Private Detectives and Guards.*

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## What about Fire Safety?

- Headline after Marco Polo fire
  - "Honolulu high-rise fire: Several residents could not hear alarms in building"
- What happened to the "old school" fire drill?
- "Drill baby, drill" Rick Rescorla in World Trade Center, Cruise Ship life saving drill
- Why not in your complex? Can't be bothered, not my job,..... Burn baby, burn
- Trust me. All tenants will run first to the elevators regardless of warning signage

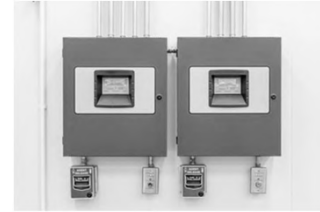
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### Chapter 20 Fire Code of the City and County of Honolulu

- Sec. 20-5.2 Requirements for smoke detectors. (a) Within one year from June 12, 1992,\* every dwelling unit in all existing highrise residential buildings shall be equipped with smoke detectors. The installation of the smoke detectors shall be in conformance with Section 1210(a) of the building code.
- Trained personnel shall respond to emergencies on a 24-hour basis. The staff shall be instructed in fire emergency procedures and the use and operation of in-house fire appliances. Documentation of such training shall be maintained and filed on the premises.

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Do you have alarm systems? Is someone trained?



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### Observations from the field; anecdotes

- No resident manager at all
- Resident manager operating elsewhere (e.g., Sunrise Villa)
- Assn. Board "control freaks" have control
- Security not needed, call 9-1-1 local police can handle
- Rape in parking garage Date Street condo, no security, no electronics
- Ala Moana suicide – security took initial control of crime scene
- Aupuni Towers proprietary guards well trained, fire alarm panels, patrols, saved Mrs. Furukawa

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Electronics in lieu of human resources



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Questions?



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