
A BILL FOR AN ACT

RELATING TO DOMESTIC VIOLENCE.

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

1 SECTION 1. The legislature finds that the 2006 amendments
2 to the federal Violence Against Women Act of 1998 expressly
3 prohibit federally-funded public housing agencies from
4 terminating a lease due to incidents or threats of domestic
5 violence, dating violence, or stalking. Protection should also
6 be extended by the State to any victim of domestic violence who
7 is a tenant in a rental housing unit under a rental agreement.

8 The purpose of this Act is to provide protections for
9 victims of domestic violence by prohibiting landlords from
10 evicting a rental housing tenant solely based upon the person's
11 status as a victim of domestic violence.

12 SECTION 2. Chapter 521, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§521- Protection for victim of domestic violence. (a)
16 When a tenant, an applicant for a rental agreement, or a member
17 of the tenant's or applicant's household is a victim of domestic
18 violence, a landlord shall not terminate or fail to renew a



1 rental agreement, refuse to enter into a rental agreement, or
2 otherwise retaliate in the leasing of a residence based upon the
3 tenant's status as a victim of domestic abuse. A tenant who is
4 a victim of domestic violence may terminate a rental agreement
5 without penalty, subject to the following conditions:

6 (1) The tenant shall provide the landlord with written
7 notice requesting release from the rental agreement
8 and the date of release shall be within thirty days of
9 the date of the written notice or earlier upon mutual
10 agreement of the parties; and

11 (2) The tenant shall be responsible for the rent until the
12 date of release and shall not be liable for future
13 rent, early termination penalties or fees, or
14 penalties pursuant to section 521-70(d), if the tenant
15 vacates the dwelling unit by the agreed upon date of
16 release, except that:

17 (A) The tenant shall be liable for any delinquent,
18 unpaid rent or other amounts owed to the landlord
19 that accrued prior to the date of release by the
20 tenant under this section; and

21 (B) A landlord may maintain any claim available under
22 section 521-69.



1 Notwithstanding the release of the tenant from a lease agreement
2 under this section, the tenancy shall continue for any remaining
3 tenant under the terms of the rental agreement.

4 (b) At the tenant's expense and upon written request, a
5 landlord shall change the locks to the tenant's residence or
6 authorize the tenant to do so within three business days of the
7 receipt of the written request.

8 (c) A landlord may request verification of a tenant's
9 status as a victim of domestic violence. Any verification
10 information shall be confidential and may be disclosed only when
11 required as evidence in a summary possession proceeding, an
12 action for unpaid rent or damages, upon the written consent of
13 the tenant, or as otherwise required by law. Upon the request
14 of the landlord, the tenant may provide as verification:

15 (1) A letter of verification or other documentation from a
16 law enforcement agency that states that the tenant
17 notified the law enforcement agency that the tenant
18 was a victim of domestic violence;

19 (2) A copy of a current valid temporary restraining order
20 or current valid protective order pursuant to section
21 586-4 or 586-5.5; or



1 (3) A signed declaration by a community resource,
2 including a domestic violence agency, a minister, a
3 therapist, or other social service agency that the
4 tenant has sought assistance concerning the domestic
5 violence from."

6 SECTION 3. Section 521-8, Hawaii Revised Statutes, is
7 amended by adding a new definition to be appropriately inserted
8 and to read as follows:

9 "Victim of domestic violence" means a person who, within
10 the last year:

11 (1) Was a victim of a felony or misdemeanor crime of
12 violence committed by a current or former spouse, by a
13 person with whom the victim shares a child in common,
14 or by a person who is cohabitating with or has
15 cohabitated with the victim;

16 (2) Was the victim of stalking as defined by section
17 711-1106.5;

18 (3) Obtained a current valid temporary restraining order
19 or current valid protective order pursuant to section
20 586-4 or 586-5.5;



1 (4) Had a current valid temporary restraining order or
2 current valid protective order pursuant to section
3 586-4 or 586-5.5 violated; or

4 (5) Sought assistance concerning domestic violence from a
5 community resource, including a domestic violence
6 agency, a minister, a therapist, or social service
7 agency."

8 SECTION 4. Section 521-74, Hawaii Revised Statutes, is
9 amended to read as follows:

10 **"§521-74 Retaliatory evictions and rent increases**

11 **prohibited[-]; other prohibited actions.** (a) Notwithstanding
12 that the tenant has no written rental agreement or that it has
13 expired, so long as the tenant continues to tender the usual
14 rent to the landlord or proceeds to tender receipts for rent
15 lawfully withheld, no action or proceeding to recover possession
16 of the dwelling unit may be maintained against the tenant, nor
17 shall the landlord otherwise cause the tenant to quit the
18 dwelling unit involuntarily, nor demand an increase in rent from
19 the tenant; nor decrease the services to which the tenant has
20 been entitled, after:

21 (1) The tenant has complained in good faith to the
22 department of health, landlord, building department,



1 office of consumer protection, or any other
 2 governmental agency concerned with landlord-tenant
 3 disputes of conditions in or affecting the tenant's
 4 dwelling unit [~~which~~] that constitutes a violation of
 5 a health law or regulation or of any provision of this
 6 chapter; [~~or~~]

7 (2) The department of health or other governmental agency
 8 has filed a notice or complaint of a violation of a
 9 health law or regulation or any provision of this
 10 chapter; or

11 (3) The tenant has in good faith requested repairs under
 12 section 521-63 or 521-64.

13 (b) Notwithstanding that the tenant has no written rental
 14 agreement or that it has expired, so long as the tenant
 15 continues to tender the usual rent to the landlord or proceeds
 16 to tender receipts for rent lawfully withheld, no action or
 17 proceeding to recover possession of the dwelling unit may be
 18 maintained against the tenant, nor shall the landlord otherwise
 19 cause the tenant to quit the dwelling unit involuntarily, based
 20 upon the tenant's status as a victim of domestic violence.

21 Nothing in this subsection shall prevent the landlord from
 22 establishing and proving a legitimate non-discriminatory reason

1 for an action or proceeding to recover possession of the
2 dwelling unit.

3 [~~(b)~~] (c) Notwithstanding [~~subsection (a),~~] subsections
4 (a) and (b), the landlord may recover possession of the dwelling
5 unit if:

- 6 (1) The tenant is committing waste, or a nuisance, or is
7 using the dwelling unit for an illegal purpose or for
8 other than living or dwelling purposes in violation of
9 the tenant's rental agreement;
- 10 (2) The landlord seeks in good faith to recover possession
11 of the dwelling unit for immediate use as the
12 landlord's own abode or that of the landlord's
13 immediate family;
- 14 (3) The landlord seeks in good faith to recover possession
15 of the dwelling unit for the purpose of substantially
16 altering, remodeling, or demolishing the premises;
- 17 (4) The complaint or request of subsection (a) relates
18 only to a condition or conditions caused by the lack
19 of ordinary care by the tenant or another person in
20 the tenant's household or on the premises with the
21 tenant's consent;



1 (5) The landlord has received from the department of
2 health certification that the dwelling unit and other
3 property and facilities used by or affecting the use
4 and enjoyment of the tenant were on the date of filing
5 of the complaint or request in compliance with health
6 laws and regulations;

7 (6) The landlord has in good faith contracted to sell the
8 property, and the contract of sale contains a
9 representation by the purchaser corresponding to
10 paragraph (2) or (3); or

11 (7) The landlord is seeking to recover possession on the
12 basis of a notice to terminate a periodic tenancy,
13 which notice was given to the tenant previous to the
14 complaint or request of subsection (a) ~~[+]~~ or prior to
15 the landlord's knowledge of the tenant's status as a
16 victim of domestic violence.

17 ~~[(e)]~~ (d) Any tenant from whom possession has been
18 recovered or who has been otherwise involuntarily dispossessed,
19 in violation of this section, is entitled to recover the damages
20 sustained by the tenant and the cost of suit, including
21 reasonable attorney's fees.



1 [~~d~~] (e) Notwithstanding subsection (a), the landlord may
2 increase the rent if:

3 (1) The landlord has received from the department of
4 health certification that the dwelling unit and other
5 property and facilities used by and affecting the use
6 and enjoyment of the tenant were on the date of filing
7 of the complaint or request of subsection (a) in
8 compliance with health laws and regulations;

9 (2) The landlord has become liable for a substantial
10 increase in property taxes, or a substantial increase
11 in other maintenance or operating costs not associated
12 with the landlord's complying with the complaint or
13 request, not less than four months prior to the demand
14 for an increase in rent; and the increase in rent does
15 not exceed the prorated portion of the net increase in
16 taxes or costs;

17 (3) The landlord has completed a capital improvement of
18 the dwelling unit or the property of which it is a
19 part and the increase in rent does not exceed the
20 amount which may be claimed for federal income tax
21 purposes as a straight-line depreciation of the



1 improvement, prorated among the dwelling units
2 benefited by the improvement;
3 (4) The complaint or request of subsection (a) relates
4 only to a condition or conditions caused by the want
5 of due care by the tenant or another person of the
6 tenant's household or on the premises with the
7 tenant's consent; or

8 (5) The landlord can establish, by competent evidence,
9 that the rent now demanded of the tenant does not
10 exceed the rent charged other tenants of similar
11 dwelling units in the landlord's building or, in the
12 case of a single-family residence or where there is no
13 similar dwelling unit in the building, does not exceed
14 the market rental value of the dwelling unit."

15 SECTION 5. If any provision of this Act, or the
16 application thereof to any person or circumstance is held
17 invalid, the invalidity does not affect other provisions or
18 applications of the Act, which can be given effect without the
19 invalid provision or application, and to this end the provisions
20 of this Act are severable.

21 SECTION 6. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



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



Report Title:

Rental Housing Eviction Protection; Domestic Violence Victims

Description:

Prohibits a landlord from evicting a rental housing tenant solely on the basis that the tenant is a victim of domestic violence. (HB2762 HD1)

