

JAN 18 2008

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# 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 a  
9 victim of domestic violence in rental housing.

10          SECTION 2. Section 521-8, Hawaii Revised Statutes, is  
11 amended by adding a new definition to be appropriately inserted  
12 and to read as follows:

13          ""Victim of domestic violence" means a person who, within  
14 the last year:

15          (1) Was a victim of a felony or misdemeanor crime of  
16 violence committed by a current or former spouse, by a  
17 person with whom the victim shares a child in common,



- 1           or by a person who is cohabitating with or has
- 2           cohabitated with the victim;
- 3       (2) Was the victim of stalking as defined by section
- 4           711-1106.5;
- 5       (3) Obtained a current valid temporary restraining order
- 6           or current valid protective order pursuant to section
- 7           586-4 or 586-5.5; or
- 8       (4) Had a current valid protective order pursuant to
- 9           section 586-4 or 586-5.5 violated; or
- 10       (5) Sought assistance concerning domestic violence from a
- 11           community resource, including a domestic violence
- 12           agency, a minister, a therapist, or social service
- 13           agency."

14       SECTION 3. Chapter 521, Hawaii Revised Statutes, is  
15 amended by adding a new section to be appropriately designated  
16 and to read as follows:

17       "§521-       **Protection for victim of domestic violence.**   (a)  
18 When a tenant, an applicant for a rental agreement, or a member  
19 of the tenant's or applicant's household is a victim of domestic  
20 violence, a landlord shall not terminate or fail to renew a  
21 rental agreement, refuse to enter into a rental agreement, or  
22 otherwise retaliate in the leasing of a residence based upon the



1 tenant's status as a victim of domestic abuse. A tenant who is  
2 a victim of domestic violence may terminate a rental agreement  
3 without penalty, subject to the following conditions:

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

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

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

19 (B) A landlord may maintain any claim available under  
20 section 521-69; and

21 (3) Notwithstanding the release of the tenant from a lease  
22 agreement under this section, the tenancy shall



1           continue for any remaining tenant under the terms of  
2           the rental agreement.

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

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

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

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

21           (3) A signed declaration by a community resource,  
22           including a domestic violence agency, a minister, a



1           therapist, or other social service agency that the  
2           tenant has sought assistance concerning the domestic  
3           violence from."

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

6           "**§521-74 Retaliatory evictions and rent increases**

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

- 17           (1) The tenant has complained in good faith to the  
18           department of health, landlord, building department,  
19           office of consumer protection, or any other  
20           governmental agency concerned with landlord-tenant  
21           disputes of conditions in or affecting the tenant's  
22           dwelling unit [~~which~~] that constitutes a violation of



1 a health law or regulation or of any provision of this  
2 chapter; [~~or~~]

3 (2) The department of health or other governmental agency  
4 has filed a notice or complaint of a violation of a  
5 health law or regulation or any provision of this  
6 chapter; or

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

9 (b) Notwithstanding that the tenant has no written rental  
10 agreement or that it has expired, so long as the tenant  
11 continues to tender the usual rent to the landlord or proceeds  
12 to tender receipts for rent lawfully withheld, no action or  
13 proceeding to recover possession of the dwelling unit may be  
14 maintained against the tenant, nor shall the landlord otherwise  
15 cause the tenant to quit the dwelling unit involuntarily, based  
16 upon the tenant's status as a victim of domestic violence.  
17 Nothing in this subsection shall prevent the landlord from  
18 establishing and proving a legitimate non-discriminatory reason  
19 for an action or proceeding to recover possession of the  
20 dwelling unit.



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

4            (1) The tenant is committing waste, or a nuisance, or is  
5            using the dwelling unit for an illegal purpose or for  
6            other than living or dwelling purposes in violation of  
7            the tenant's rental agreement;

8            (2) The landlord seeks in good faith to recover possession  
9            of the dwelling unit for immediate use as the  
10           landlord's own abode or that of the landlord's  
11           immediate family;

12           (3) The landlord seeks in good faith to recover possession  
13           of the dwelling unit for the purpose of substantially  
14           altering, remodeling, or demolishing the premises;

15           (4) The complaint or request of subsection (a) relates  
16           only to a condition or conditions caused by the lack  
17           of ordinary care by the tenant or another person in  
18           the tenant's household or on the premises with the  
19           tenant's consent;

20           (5) The landlord has received from the department of  
21           health certification that the dwelling unit and other  
22           property and facilities used by or affecting the use



1 and enjoyment of the tenant were on the date of filing  
2 of the complaint or request in compliance with health  
3 laws and regulations;

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

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

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

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

21 (1) The landlord has received from the department of  
22 health certification that the dwelling unit and other





1 property and facilities used by and affecting the use  
2 and enjoyment of the tenant were on the date of filing  
3 of the complaint or request of subsection (a) in  
4 compliance with health laws and regulations;

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

13 (3) The landlord has completed a capital improvement of  
14 the dwelling unit or the property of which it is a  
15 part and the increase in rent does not exceed the  
16 amount which may be claimed for federal income tax  
17 purposes as a straight-line depreciation of the  
18 improvement, prorated among the dwelling units  
19 benefited by the improvement;

20 (4) The complaint or request of subsection (a) relates  
21 only to a condition or conditions caused by the want  
22 of due care by the tenant or another person of the



1 tenant's household or on the premises with the  
2 tenant's consent; or

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

10 SECTION 5. If any provision of this Act, or the  
11 application thereof to any person or circumstance is held  
12 invalid, the invalidity does not affect other provisions or  
13 applications of the Act, which can be given effect without the  
14 invalid provision or application, and to this end the provisions  
15 of this Act are severable.

16 SECTION 6. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 7. This Act shall take effect upon its approval.  
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INTRODUCED BY:

*Quincy D. Cook*  
*Louise L. Swartz*

*Jill*

*Francine Ann Oakland*



**Report Title:**

Housing; Domestic Violence Victim

**Description:**

Provides protections for domestic violence victims in rental housing.

