

# HB 245, HD1

Measure Title: RELATING TO DOMESTIC VIOLENCE.

Report Title: Landlord-Tenant Code; Domestic Abuse

Description: Prohibits landlords from terminating the tenancy of a tenant solely on the tenant's status as a victim of domestic abuse if the tenant provides the landlord with specified documentation. Allows a landlord to terminate a lease or decline to renew a tenancy under certain conditions. (HB245 HD1)

Companion:

Package: None

Current Referral: CPN, JDL

Introducer(s): MIZUNO



Committee: Committee on Consumer Protection and Commerce  
Hearing Date/Time: Thursday, March 14, 2013, 9:30 a.m.  
Place: Conference Room 325  
Re: Testimony of the ACLU of Hawaii in Support of H.B. 245, H.D. 1, With Comments, Relating to Domestic Violence

Dear Chair Baker and Members of the Committee on Consumer Protection and Commerce:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in support to H.B. 245, H.D.1, which would protect domestic violence survivors from evictions based on their abuse.

While we support the intent of this bill, we oppose the removal “prospective tenants” from the definition of “tenant”; this should be re-inserted into the bill. Allowing landlords to discriminate against women who have experienced domestic violence in the past, further contributes to homelessness and stigma. Providing protection to prospective tenants is just as important as protecting current tenants.

By prohibiting housing providers from re-victimizing individuals who have experienced domestic violence or sexual assault, the legislation would effectively outlaw one form of sex discrimination against women, who make up the great majority of those who experience such violence. This bill would also help ensure the safety of women and their children who are threatened with domestic violence by eliminating one of the obstacles that deter women from calling the police.

Some landlords believe they can ensure safety on their property by prohibiting domestic violence survivors from living on the premises. Often such denials of housing are based on so-called “zero tolerance” policies, requiring the eviction of everyone occupying an apartment if criminal activity occurs there, regardless of whether a person was a victim of violence or the perpetrator. On the basis of such policies, landlords may evict victims of domestic violence.

In other circumstances, landlords evict women who have experienced domestic violence from housing on the basis of gender stereotypes, such as the belief that battered women are necessarily to blame for the violence against them. When landlords retaliate against victims of violence in this way, it sends the pernicious message that individuals experiencing domestic violence or sexual assault must keep the abuse secret at the risk of losing their homes. Women who know that they and their children may become homeless if their landlords find out about the abuse are

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Chair Baker and Members of the Committee on Consumer Protection and Commerce  
March 13, 2013  
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less likely to take the necessary steps to make themselves and their families safe, such as obtaining a protective order or seeking the assistance of the police, because these actions are likely to make the abuse public. By placing obstacles in the path of individuals seeking to end abusive relationships, landlords who threaten battered women with eviction thus render their properties *less* safe as such policies make it more likely the violence will continue.

Such policies also contribute to a homelessness epidemic for survivors of domestic violence and their children. Local and regional studies across the United States confirm that domestic violence is a primary cause of homelessness. A study of homelessness in Hawaii found that 23% of homeless people have children and have experienced domestic violence.<sup>1</sup> Between 22 and 50 percent of homeless women report that they are homeless as a direct result of domestic violence,<sup>2</sup> and at least one study has found that women experiencing recent or ongoing domestic violence are far more likely to face eviction than other women.<sup>3</sup> The risk of homelessness for domestic violence survivors is increased by the fact that women living in rental housing experience such violence at three times the rate of women who own their homes.<sup>4</sup>

For these reasons, we urge the Legislature to expressly prohibit this form of housing discrimination that further punishes those who are victims of a crime of violence and pass H.B. 245, H.D. 1. Thank you for this opportunity to testify.

Sincerely,

Laurie A. Temple  
Staff Attorney and Legislative Program Director  
ACLU of Hawaii

*The American Civil Liberties Union ("ACLU") is our nation's guardian of liberty - working daily in courts, legislatures and communities to defend and preserve the individual rights and liberties that the Constitution and laws of the United States guarantee everyone in this country.*

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<sup>1</sup> SMS Research & Marketing Services, Inc., Homeless Point-in-Time Count Report: 2003 (2004), <http://www.hcdch.hawaii.gov/documents/03homelessstudy.pdf>.


<sup>2</sup> See generally ACLU Women's Rights Project, "Domestic Violence and Homelessness" (2006) (collecting studies), at <http://www.aclu.org/womensrights/violence/24323res20060321.html>.


<sup>3</sup> Richard M. Tolman et al., Michigan Program on Poverty and Social Welfare Policy, *Domestic Violence and Economic Well-Being of Current and Former Welfare Recipients* (2001).


<sup>4</sup> Carrie Marie Rennison & Sarah Welchans, Department of Justice, NCJ 178247, *Intimate Partner Violence* 4 (2000).

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March 14, 2013

**The Honorable Rosalyn H. Baker, Chair**

Senate Committee on Commerce and Consumer Protection  
State Capitol, Room 229  
Honolulu, Hawaii 96813

**RE: H.B. 245, H.D.1, Relating to Domestic Violence**

**HEARING: Thursday, March 14, 2013 at 9:30 a.m.**

Aloha Chair Baker, Vice Chair Galuteria, and Members of the Committee:

I am Myoung Oh, Government Affairs Director, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,000 members. HAR **opposes** H.B. 245, H.D.1, which prohibits landlords from terminating the tenancy of a tenant solely on the tenant's status as a victim of domestic abuse if the tenant provides the landlord with specified documentation and allows a landlord to terminate a lease or decline to renew a tenancy under certain conditions.

HAR believes in the safety and security of clients and tenants. However, HAR has concerns on the unintended consequences of the measure as written.

While this measure attempts to address if the tenant is the only signatory to the lease, it does not address where the tenant is not the only signatory to the lease. For example, if the other signatories remain in possession, the vacating tenant could continue to remain jointly and severally liable for the accrued rent.

Additionally, H.B. 245, H.D.1, does not address instances where the perpetrator is also on the lease agreement. On the other hand, if the perpetrator is a visitor and may have keys, the measure does not address the option for the tenant/landlord to change locks as a result of domestic violence.

HAR understands that the National Conference of Commissioners on Uniform State Laws is evaluating a draft proposal to protect the interest of both victims and landlords through the Uniform Residential Landlord and Tenant Act (URLTA). HAR respectfully requests that a balanced approach be considered before passing legislation and requests a thorough review of the URLTA.





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However, should the Committee be inclined to pass this measure, HAR respectfully requests a November 1, 2013, effective date. This will allow HAR to review the measure and make any necessary changes to its Rental Agreement.

Mahalo for the opportunity to testify.

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To: Chair Baker, Vice Chair Galuteria and Members of the Committee on Commerce & Consumer Protection

From: Kim Sasaki, Ala Kuola

Hearing Date and Time: March 14, 2013, 9:30 a.m.

RE: HB 245, HD1

Good morning, Chair Baker, Vice Chair Galuteria and Members of the Committee. My name is Kim Sasaki and I'm writing on the behalf of Ala Kuola. We are a nonprofit organization that has provided services to the public on Oahu for approximately seven years to help victims of domestic violence (DV) to obtain protective orders (TROs) through the Family Court.

We are writing in support of HB 245, HD1. We believe that individuals should not be penalized because they are victims of domestic violence (DV), especially if they have taken the initiative to obtain a protective order from the court to ensure their and their family's safety. Victims of DV already suffer from the emotional and psychological damage of their abuse; further stigmatizing them by terminating their lease or rental agreement will only to serve to add to their pain. Many victims don't have anywhere else to go. If a victim fears she may be evicted (I say "she" because DV victims are disproportionately women), she may not seek a protective order or report the violence to the police. If she does not report the violence, she may remain in the home with her abuser, which could threaten her physical safety. Victims should not be forced into a situation where they must choose between reaching out for safety or staying in their homes.

Thank you for allowing us to provide testimony. We support HB 245, HD1.

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To: Chair Baker  
Vice Chair Galuteria  
Members of the Committee on Commerce and Consumer Protection

Fr: Nanci Kreidman, M.A.

RE: HB 245 HD 1

Good morning. We are enthusiastic about protections to prohibit any discrimination against survivors of domestic violence. And thank you for the opportunity to address the Committee about HB 245 HD1.

The intent of this Bill is, of course, in the best interests of survivors. We do see, however, a couple of issues that warrant further consideration.

It is often misunderstood that survivors invite or permit their abusers to visit or take up residency at their apartments or dwellings, when, in fact, the abuser's presence is a form of harassment and continued abuse. Thus it is important not to hold a survivor responsible for the actions of her abusive partner.

Seeking assistance from community programs, law enforcement or the courts seem like affirmative steps that all survivors should take. However, circumstances or terror could interfere with the ability to receive assistance. Perhaps the abuser has threatened to kill his partner if she calls the police, and previous criminal justice system involvement has not rendered a conviction or any accountability of the abuser. That could immobilize a survivor. There are many ways a survivor pursues her path to safety, and the requirement by a landlord that proof be provided in the specific ways listed may be onerous or unwise for the particular circumstances facing the survivor. Act 206 allows for more flexibility (which included formal and informal resources) in this regard and may be the better approach.

We are grateful for your consideration of the issues raised in this testimony.

Thank you.

# hscadv



## HAWAII STATE COALITION AGAINST DOMESTIC VIOLENCE

To: Senator Rosalyn H. Baker, Chair  
Senator Brickwood Galuteria, Vice Chair  
COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

From: Veronika Geronimo, Executive Director  
Hawaii State Coalition Against Domestic Violence

Hearing Date and Time: Thursday, March 14, 2013; 9:30am

Place: Conference Room 229

RE: HB245 – Comments only

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The Hawaii State Coalition Against Domestic Violence wishes to offer comments on HB245, which would prohibit landlords from terminating the tenancy of tenants who are victims of domestic abuse. We believe protections for domestic violence survivors should exist in HRS chapter 521, and suggest that HB245 is amended to address the following concerns.

Protection from housing discrimination should exist for all domestic violence survivors, not just those who choose to obtain Temporary Restraining Orders/Protective Orders, or those who seek out law enforcement, a licensed clinical social worker, or healthcare providers, as required in the bill. We recommend the language in this bill be broader so that these critical protections are extended to all domestic violence survivors. We suggest the language in Act 206, which reflects the variety of informal and formal networks and systems from which victims of domestic violence seek support and safety.

Furthermore, Protective Orders are a valuable tool which victims of domestic violence can use to help protect them from abuse, but seeking this protection could also be very dangerous for domestic violence survivors. Batterers often see the survivor as being directly responsible for excluding them from their home or prohibit contact with their children and may seek retaliation or continuing to threaten, assault and intimidate victims. Therefore, placing emphasis on obtaining a temporary restraining order or protective order may place victims at greater risk and danger.

Finally, we are concerned with subsection (c) of the proposed new section to HRS 521 because it allows a landlord to terminate or refuse to renew a tenant who has asserted rights under subsection (a), if: the tenant "allows" the perpetrator of abuse to visit the property; or the landlord reasonably believes the presence of the perpetrator poses a threat to another or to a



tenant's "right to quiet possession." It is common for perpetrators to convince bystanders such as landlords that the victim allowed them on the property. This provision could potentially hold the victim responsible for the actions of the perpetrator, and jeopardize the safety and protection of the true victim.

We hope the Committee will consider these comments before moving forward with HB245.  
Thank you.

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**HB245**

Submitted on: 3/13/2013

Testimony for CPN on Mar 14, 2013 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kanani Souza	Individual	Support	No

Comments: I support HB 245, because this measure will save lives. The bill is aimed at protecting domestic violence victims from becoming homeless, if they lawfully provide proof of domestic violence suffered. Testimony from the Real Estate agents may assert the uniform policy on rental rights is being reviewed by the Hawaii Real Estate membership, but that has yet to be adopted and may take several years and the section on domestic violence victims may not be adopted at all. Therefore, this measure would provide for protection of domestic violence victims now rather than two or three years from now or perhaps such a section will never be adopted by the real estate membership. This bill will allow a property owner or landlord to evict the tenants - even the domestic abuse victims, if it is for a lawful reason. Thus, the property owner is not going to lose their right to evict for any lawful reason or purpose.

**HB245**

Submitted on: 3/13/2013

Testimony for CPN on Mar 14, 2013 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Alan Garcia	Individual	Support	No

Comments: I support HB245, which will provide protection for victims of domestic violence, who are renters. This measure does not stop the landlord or property manager from terminating the lease or rental agreement for any lawful reason.