

HB 1503 HD1

Measure Title: RELATING TO THE RESIDENTIAL LANDLORD-TENANT CODE.

Report Title: Residential Landlord-Tenant Code; Medical Marijuana; Eviction; Prohibited

Description: Voids any rental agreement provision that allows for eviction of a tenant for using medical marijuana unless the agreement allows for eviction for smoking tobacco and the medical marijuana is smoked or where a condominium property regime or planned community association prohibits the medical use of marijuana. Effective July 1, 2112. (HB1503 HD1)

Companion:

Package: None

Current Referral: CPN, JDL

Introducer(s): RHOADS



NEIL ABERCROMBIE
GOVERNOR

SHAN S. TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

KEALI'I S. LOPEZ
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

PRESENTATION OF THE
OFFICE OF CONSUMER PROTECTION

TO THE COMMITTEE ON COMMERCE & CONSUMER PROTECTION

THE TWENTY-SEVENTH
REGULAR SESSION OF 2014

MARCH 11, 2014
9:30 AM

TESTIMONY SUPPORTING THE INTENT OF H. B. 1503, H.D. 1, RELATING TO THE
RESIDENTIAL LANDLORD-TENANT CODE.

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND TO THE HONORABLE BRIAN T. TANIGUCHI, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs, Office of Consumer Protection ("OCP") appreciates the opportunity to appear today and offer testimony supporting the intent of H. B. 1503, H.D. 1, Relating to the Residential Landlord-Tenant Code. My name is Bruce B. Kim and I am the Executive Director of OCP.

H. B. 1503, H.D. 1, would void provisions in rental agreements that allow for the eviction of a tenant for the use of medical marijuana, but allows for eviction if the medical marijuana is consumed by smoking and the rental agreement prohibits smoking. In the H.D. 1 exceptions are made to the voidance requirement if the rental

Testimony on H. B. 1503 H.D. 1
March 11, 2014
Page 2


unit is in a condominium or planned community association that prohibits the use of medical marijuana.


OCP administers the Residential Landlord-Tenant Center, and has received numerous inquiries from landlords and tenants regarding this matter. Clarification on this issue would assist us in responding to these inquiries.


Thank you for allowing me to testify today. If members of the committees have any questions, I would be happy to answer them.



**Hawai'i
Association of
REALTORS®**
www.hawaiiirealtors.com

 | 808-733-7060

 | 808-737-4977

 | 1259 A'ala Street, Suite 300
Honolulu, HI 96817

March 11, 2014

The Honorable Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: H.B. 1503, H.D.1, Relating to the Residential Landlord-Tenant Code

HEARING: Tuesday, March 11, 2014 at 9:30 a.m.

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

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,300 members. HAR offers comments on H.B. 1503, H.D.1, which voids any rental agreement provision that allows for eviction of a tenant for using medical marijuana unless the agreement allows for eviction for smoking tobacco and the medical marijuana is smoked or where a condominium property regime or planned community association prohibits the medical use of marijuana.

We respectfully request an effective date of November 1, 2014, to ensure that our Rental Agreement and addendum is in compliance with this new law.

Mahalo for the opportunity to testify.



Senate Committee on Commerce & Consumer Protection
Sen. Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair

Tuesday, March 11, 2014

9:30AM

Conference Room 229
State Capitol
415 South Beretania Street

Support – HB1503– Relating to the Residential Landlord-Tenant Code

Dear Honorable Committee Chair and Vice Chair,

I strongly support this bill. I work as the community organizer for the Medical Cannabis Coalition of Hawaii. In this capacity I talk and write daily with medical marijuana patients. I have heard several times about patients who were being evicted or threatened with eviction on the grounds that their rental agreements included a provision prohibiting “illegal drugs.”

While the law as it currently stands seems to hold up their side in these disagreements, this bill will give them peace of mind. It will make clear that medical marijuana is a reasonable accommodation of rules, and most importantly, it will make it so that patients are not in a position where their housing is up in the air, dependent upon the ruling of some other body.

We can save everyone time, worry, and costs by passing this bill. It is very much in keeping with the spirit of Hawaii's fair housing laws, and as such does not limit the rights of landlords. It preserves their right to protect their property from smoke damage. It keeps them from, accidentally or through ignorance, throwing the very sick out on the street in an act of housing discrimination. It is, in other words, a win for everyone. Thank you for your time and consideration of this excellent bill.

Sincerely,

Rafael Kennedy

Rafael Kennedy
91-1018 Kaiu Ave.
Kapolei, HI 96707

Action the Drug Policy Group

A sister organization of the Drug Policy Forum of Hawai'i
PO Box 241042, Honolulu, HI 96824 ~ (808) 988-4386

Dedicated to safe, responsible, and effective drug policies since 1993

TO: SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

FROM: PAMELA LICHTY, M.P.H., PRESIDENT

DATE: MARCH 11, 9:30 A.M., ROOM 229

RE: H.B. 1503, H.D. 1 RELATING TO THE RESIDENTIAL LANDLORD-TENANT CODE – **IN SUPPORT**

Good morning Chair Baker, Vice Chair Taniguchi and members of the Committee. My name is Pam Lichty and I'm President of the Drug Policy Action Group (DPAG), the government affairs arm of the Drug Policy Forum of Hawaii.

First, I'd like to thank the Committee for scheduling this measure today which DPAG strongly supports. In fact in reading over the testimony from the last hearing on this bill, almost everyone, including organizations working on housing issues supported it with the exception of HPD.

We want to first note that this bill does not introduce any new rights for anyone, certainly not for Hawaii's close to 13,000 registered medical cannabis patients. Rather it makes a common sense adjustment to the Landlord-Tenant code that addresses the fact that smoking any substance can affect neighbors in Hawaii's often-dense residential communities.

This bill simply clarifies that, if tobacco is banned in a residential setting than smoking cannabis is too, but that - absent a ban on tobacco smoking - medical cannabis smoking cannot be banned per se. H.D. 1 adds the provision that to be protected from eviction the tenant must hold a valid certificate under the state law to use medical marijuana (and, we assume, the actual use is protected as well.)

The bottom line is that if this measure passes, patients will not have to choose between their medicine and having a place to live.

This bill would also have the unintended effect of encouraging patients (in smoke-free buildings anyway) to use a non-smoked means of ingesting their medication. The other methods include vaporizing, using edibles, juicing the leaves, using various tinctures, oils and ointments, and more. Any of these other means of delivery is safer than smoking medical cannabis.

(Even though it's clear from research that smoking cannabis is safer than smoking tobacco, smoking anything has negative health effects – it's simply a matter of the degree of harm.) In any case, increasingly medical marijuana patients prefer and choose to use these alternative means of ingestion.

I can't help but note in closing, that if Hawaii had carefully regulated medical cannabis dispensaries, as 19 of 21 medical marijuana jurisdictions have in place or in process, patients would have far easier access to these alternative products. With a January QMark Research survey showing a whopping 85% of voters supporting a dispensary system here, we hope that such a system will be in place in Hawaii nei **very** soon.

Thank you for listening and for giving us the opportunity to testify.

Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair
COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

David W.H. Chee, Esq.
808-539-1150
dchee@tqlawyers.com

I am an attorney who practices in the field of landlord/tenant law, including residential matters.
I am writing to OPPOSE HB1503, especially in its present form.

As written, the bill says that all lease provisions that would allow for the eviction of anyone who has a valid certificate for the medical use of marijuana are void.

Under the current language, someone who holds a medical marijuana certificate could not be evicted even if he or she (1) failed to pay the rent, (2) was violent against neighbors, or (3) committed a serious crime, or (4) otherwise violated the lease in a material way. This bill would make the possession of a medical marijuana certificate an absolute shield against eviction for any and all reasons.

If the intent is to exempt medical marijuana users from eviction for using marijuana, the legislation should be modified as indicated below:

-521- Medical marijuana; tenant use; eviction. A provision in a rental agreement allowing for eviction of a tenant <for using marijuana is void as to any tenant> who has a valid certificate for the medical use of marijuana<,> as provided in section 329-123<,> ~~in any form is void,~~ unless the rental agreement allows for eviction for smoking tobacco and the medical marijuana is used by means of smoking; provided that this section shall not apply where the articles of incorporation, declaration, bylaws, administrative rules, house rules, association documents, or a similar document of a condominium property regime or planned community association prohibits the medical use of marijuana.'

Senate Committee on Commerce & Consumer Protection

Sen. Rosalyn H. Baker, Chair

Senator Brian T. Taniguchi, Vice Chair

Tuesday, March 11, 2014

9:30AM

Conference Room 229

State Capitol

415 South Beretania Street

Support – HB1503– Relating to the Residential Landlord-Tenant Code

Aloha Chair Baker, Vice Chair Taniguchi and members of the Committee on Consumer Protection,

I'm currently looking for new housing and it's been an educational process in learning how to approach landlords. I've been open and honest about my medical condition and that I use and cultivate medical marijuana to help alleviate my symptoms.

The responses I've received from landlords range from flat out "no" and then being denied housing based upon the fact I use medical marijuana, to it's ok if you don't smoke it and give me a copy of your blue card for the file. However, many landlords don't even reply once they learn that I use medical marijuana. I don't believe it's wise to not inform the landlord and have them find out during an inspection that marijuana is being legally cultivated and having to sort it out with the landlord under that kind of circumstance.

I've learned that it's helpful to educate landlords regarding Hawaii fair housing law, the rights and limits the state has provided to me under the law, and the method of cultivating and using my medicine. Most landlords don't want smoking of any kind, including marijuana. I tell them I vaporize it that steams the plant instead of combusting it, and that I use tinctures and edibles. This in some cases wins the debate and I get an appointment to see the property.

Most leases and rental agreements state "No Illegal drugs are to be used or allowed on the premises". One argument heard from landlords is that marijuana is still illegal under federal law. I believe clarification is needed to avoid confusion and this bill is an important measure to protect medical patients from discrimination and eviction because the current available option is that a tenant must file a complaint with the Civil Rights Commission. That is a lengthy process of complaints, fact-finding, hearings, and eventually if all goes well for the renter, the right to sue and then more time in court.

This bill is good for landlords and patients alike. It protects landlords by allowing them to protect the property from smoke damage, because it provides that *if a*

provision disallows smoking tobacco, smoked use of medical cannabis is not protected. It helps renters to know that they are protected in their legal use of medical marijuana for their conditions.

We don't allow landlords to peek into medicine cabinets before renting to people. Landlords should not be able to discriminate against lease applicants or evict people for using their medicine, leaving people with a black mark on their rental history, creating an environment of fear regarding using their medicine or worse yet having to choose between their medicine and a place to live.

This bill is partly about renter's rights but it's also about educating and creating awareness to avoid conflict. Please vote to approve HB1503.

Mahalo,

Craig R. Ellenwood

HB1503

Submitted on: 3/8/2014

Testimony for CPN on Mar 11, 2014 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Elijah Ariel	Individual	Comments Only	No

Comments: I am 59 years old and my aches and pains from old injuries continue to be a growing problem. The gymnastic neck injury that qualified me for my medical marijuana card is just part of the problem. I never reported most of my other injuries because I was so 'macho tough'. Well, as I age those injuries continue to come back to 'haunt' me and medical marijuana helps me deal with my aches and pains. PLEASE make things easier for me by making it easier for me to get my medicine. Don't do ANYTHING to make it more difficult for me to get my medicine. Thank you!

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

HB1503

Submitted on: 3/9/2014

Testimony for CPN on Mar 11, 2014 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Georgina Mckinley	Individual	Support	No

Comments: I support this bill because it offers some protections for the people of Hawaii who legally use medicinal cannabis for their health and wellness from discriminatory practices by landlords and property owners.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

HB1503

Submitted on: 3/9/2014

Testimony for CPN on Mar 11, 2014 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Lisa Reed	Individual	Support	No

Comments: I support this bill as it still protects owners who don't want damage from smoke, while helping many who legally use medical marijuana. A more logical bill would allow tightly controlled dispensaries so patients would be able to purchase edibles that don't cause damage to units or second hand smoke.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: josephb888@gmail.com
To: [CPN Testimony](#)
Subject: 1503
Date: Saturday, March 08, 2014 11:26:04 PM

To Whom It May Concern,

Please support this measure. We should not discriminate against medical marijuana patients.

Sincerely,

Joseph A. Bobich, Ph. D.
Professor of Chemistry, Emeritus

Sent from Windows Mail

HB1503

Submitted on: 3/8/2014

Testimony for CPN on Mar 11, 2014 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Lee Eisenstein	Individual	Support	No

Comments: Consuming medical cannabis using a vaporizer or oral consumption should be irrelevant when it comes to housing. Really, this is just common sense, as vapor and oral ingestion are environmentally neutral. Policy regarding smoking cannabis should be individually determined and should be considered private business between landlords and tenants, in the same way smoking tobacco is.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

HB1503

Submitted on: 3/8/2014

Testimony for CPN on Mar 11, 2014 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Sara Steiner	Individual	Support	No

Comments: Dear Legislators, I support this bill. Medical Marijuana is just as legal as your hydorcodones, prozac or diabetes medicine, and to prohibit the use of one without prohibiting the use of all medicines is discriminatory.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov