

Honolulu, Hawaii

FEB 12 2020

RE: S.B. No. 2646

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2020
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred S.B. No. 2646 entitled:

"A BILL FOR AN ACT RELATING TO THE LANDLORD-TENANT CODE,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Prohibit landlords from recovering possession of a dwelling unit from tenants if habitability of the premises is significantly impaired;
- (2) Set a tenant's liability for rent if habitability of the premises is significantly impaired; and
- (3) Provide remedies for retaliatory evictions.

Your Committee received testimony in support of this measure from the Department of Commerce and Consumer Affairs, Pono Hawai'i Initiative, Chinatown Gateway Plaza Tenant Association, Hawaii Appleseed Center for Law and Economic Justice, Young Progressives Demanding Action, and one individual. Your Committee received testimony in opposition to this measure from the Hawai'i Association of REALTORS.

Your Committee finds that the warranty of habitability is a principle based on contract law, wherein the tenant is responsible for paying rent while the landlord guarantees in return that the

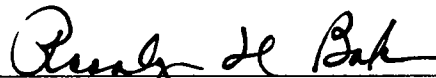


premises are habitable and in compliance with health, safety, and building codes. The Hawaii Supreme Court has recognized the warranty of habitability, but it has not been codified in statute, meaning it is largely unenforced.

Your Committee further finds that existing state law allows a tenant to deduct up to \$500 from the next month's rent for the cost of repairs if the landlord does not respond to the tenant's written repair request within twelve business days. However, costs to repair conditions that materially affect health and safety can exceed \$500, leaving the tenant with limited recourse. Hawaii renters already face one of the least affordable rental markets in the nation and eviction directly fuels homelessness, another epidemic facing the State. Accordingly, this measure codifies the warranty of habitability and sets minimum damages and establishes remedies for tenants who have suffered retaliatory evictions for reporting inhabitable conditions. This measure promotes incentivizing landlords to keep their rental unit in a safe and sanitary condition and protects landlord-tenant equity in Hawaii.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2646 and recommends that it pass Second Reading and be referred to your Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Health,




ROSALYN H. BAKER, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

Record of Votes
Committee on Commerce, Consumer Protection, and Health
CPH

Bill / Resolution No.:* SB 2646	Committee Referral: CPH, JDC	Date: 1/30/20		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input checked="" type="checkbox"/> Pass, unamended 2312 <input type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
CHANG, Stanley (VC)	✓			
NISHIHARA, Clarence K.				✓
RUDERMAN, Russell E.				✓
THIELEN, Laura H.				✓
WAKAI, Glenn	✓			
FEVELLA, Kurt	✓			
TOTAL	4			3
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align: center; font-size: 2em; margin-top: 10px;">  </div>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes