
A BILL FOR AN ACT

RELATING TO THE LANDLORD-TENANT CODE.

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

1 SECTION 1. The legislature finds that, due to the
2 coronavirus disease 2019 (COVID-19) pandemic, tens of thousands
3 of Hawaii residents have lost their jobs and have been unable to
4 pay their rent. To provide protections for those tenants
5 struggling to pay rent during this time, in April 2020, the
6 governor signed a fifth emergency supplementary proclamation,
7 which includes an eviction moratorium that prohibits any
8 eviction from a residential dwelling unit for failure to pay
9 rent. The legislature finds, however, that while this
10 moratorium has been extended at various times throughout the
11 course of the COVID-19 pandemic, at some point, the eviction
12 moratorium will expire. Therefore, a balanced approach is
13 needed to encourage communications and facilitate mediation
14 between landlords and tenants to help reduce the large number of
15 summary possession cases that are expected to follow the
16 expiration of certain COVID-19 emergency proclamations.

17 Accordingly, the purpose of this Act is to:



- 1 (1) Extend the period for a notice of a summary possession
2 action from five days to fifteen calendar days;
- 3 (2) Require landlords to engage in mediation and delay
4 filing a summary possession action if a tenant
5 schedules or attempts to schedule a mediation;
- 6 (3) Require landlords to provide specific information in
7 the fifteen-calendar day notice to tenants, which
8 shall also be provided to a mediation center that
9 offers free mediation for residential landlord-tenant
10 disputes;
- 11 (4) Restrict when a landlord may exercise remedies,
12 depending on the number of days that have elapsed
13 following the expiration of the governor's eviction
14 moratorium and the amount of rent due; and
- 15 (5) Repeal these amendments made to Hawaii's residential
16 landlord-tenant code one year after the expiration of
17 the governor's final eviction moratorium.

18 SECTION 2. Section 521-68, Hawaii Revised Statutes, is
19 amended to read as follows:

20 **"§521-68 Landlord's remedies for failure by tenant to pay**
21 **rent.** (a) A landlord or the landlord's agent may, any time



1 after rent is due, demand payment thereof and notify the tenant
2 in writing that unless payment is made within a time mentioned
3 in the notice~~[,]~~ as provided in subsection (b), not less than
4 ~~[five business]~~ fifteen calendar days after receipt thereof, the
5 rental agreement will be terminated. If the tenant cannot be
6 served with notice as required, notice may be given to the
7 tenant by posting the same in a conspicuous place on the
8 dwelling unit~~[,]~~, and the notice shall be deemed received on the
9 date of posting. If the tenant remains in default, the landlord
10 may thereafter bring a summary proceeding for possession of the
11 dwelling unit or any other proper proceeding, action, or suit
12 for possession~~[,]~~, subject to subsections (b) through (h). The
13 notice required in this section need not be given if the action
14 is based on the breach of a mediated agreement or other
15 settlement agreement.

16 (b) The fifteen-calendar day notice shall provide, at a
17 minimum, the following:

- 18 (1) The name of the landlord or the landlord's agent and
19 the landlord or landlord's agent's contact
20 information, including, if possible, phone number,
21 electronic mail address, and mailing address;



- 1 (2) The address of the dwelling unit subject to the rental
2 agreement;
- 3 (3) The name and contact information of each tenant,
4 including, if possible, phone number, electronic mail
5 address, and mailing address;
- 6 (4) The monthly rental rate of the dwelling unit;
- 7 (5) The current amount of the rent due as of the date of
8 the notice, after applying all rent paid from all
9 sources;
- 10 (6) Whether the landlord or landlord's agent has applied
11 for rental assistance or been contacted on behalf of
12 the tenant by any agency providing rental assistance;
- 13 (7) That any rental assistance received by the landlord or
14 landlord's agent has been credited to the tenant's
15 amount due;
- 16 (8) That a copy of the fifteen-calendar day notice being
17 provided to the tenant is also being provided to the
18 mediation center to be identified by the landlord and,
19 in accordance with subsection (c), in order for the
20 mediation center to contact the landlord and tenant to



1 attempt to schedule a mediation regarding the
2 nonpayment of rent;

3 (9) That the mediation center will provide proof to the
4 landlord that the notice was received and provide
5 confirmation when mediation is scheduled;

6 (10) That the landlord or landlord's agent may file an
7 action for summary possession if the rent due is not
8 paid and if mediation is not scheduled within fifteen
9 calendar days after the tenant's receipt of the
10 fifteen-calendar day notice, regardless of whether the
11 scheduled mediation session occurs within the fifteen
12 calendar days;

13 (11) A warning in bold typeface print that says: "If
14 mediation is not scheduled within fifteen calendar
15 days after receipt of the notice, regardless of
16 whether the scheduled mediation session occurs within
17 the fifteen calendar days, then the landlord may file
18 an action for summary possession after the expiration
19 of the fifteen-calendar day period. If mediation is
20 scheduled before the expiration of the fifteen-
21 calendar day period, regardless of whether the



1 scheduled mediation session occurs within the fifteen
2 calendar days, then the landlord shall not file an
3 action for summary possession until thirty calendar
4 days after tenant's receipt of the fifteen-calendar
5 day notice. If the fifteen-calendar day notice was
6 mailed, receipt of notice shall be deemed to be two
7 days after the date of the postmark. If the fifteen-
8 calendar day notice was posted on the premises,
9 receipt is deemed to have occurred on the date of
10 posting. If an agreement is reached before the filing
11 of an action for summary possession, whether through
12 mediation or otherwise, then the landlord shall not
13 bring an action for summary possession against the
14 tenant, except as provided in any agreement that may
15 be reached. The landlord will be required to note the
16 status of the mediation or settlement effort and proof
17 of sending or posting the fifteen-calendar day notice
18 to the mediation center in the action for summary
19 possession.";

20 (12) Notice that the eviction may be subject to additional
21 requirements and protections under state or federal



1 law and that the tenant is encouraged to seek the
2 tenant's own legal advice regarding their rights and
3 responsibilities; and

4 (13) That the landlord or landlord's agent shall engage in
5 mediation if mediation is scheduled.

6 (c) Landlords or their agents shall provide the fifteen-
7 calendar day notice to mediation centers that offer free
8 mediation for residential landlord-tenant matters. The
9 mediation center shall contact the landlord or landlord's agent
10 and the tenant to schedule the mediation. If a tenant schedules
11 mediation within the fifteen-calendar day period, regardless of
12 whether the scheduled mediation session occurs within the
13 fifteen days, the landlord shall not file a summary proceeding
14 for possession until the expiration of thirty days from the date
15 of receipt of the notice. If the tenant schedules mediation,
16 the landlord shall participate.

17 (d) The summary possession complaint for nonpayment of
18 rent shall include:

19 (1) A document or documents from the mediation center that
20 show proof that the landlord provided a copy of the



1 required fifteen-calendar day notice to the mediation
2 center;

3 (2) A representation as to whether the landlord or
4 landlord's agent and tenant participated in, or will
5 participate in, any scheduled mediation; and

6 (3) If mediation is pending, the date on which the
7 mediation is scheduled.

8 (e) If the mediation has not occurred or been scheduled
9 for a future date, as of the return hearing date on the summary
10 possession complaint, the court may, in its discretion, and
11 based on a finding of good cause, order a separate mediation.

12 (f) If there is any defect in the fifteen-calendar day
13 notice required in subsection (b) provided by the landlord, and
14 the court determines such defect was unintentional and
15 immaterial, the court may allow the landlord to cure the defect
16 without dismissing the action for summary possession.

17 (g) No landlord may issue a notice demanding payment of
18 rent, bring a summary proceeding for possession, an action for
19 rent alone, or any other proceeding, action, or suit for a
20 tenant's failure to pay rent except as follows:



1 (1) Beginning on the third day after the expiration date
2 of the final eviction moratorium through the thirtieth
3 day after the expiration date of the final eviction
4 moratorium, the rent due is equal to or greater than
5 four months' rent;

6 (2) Beginning on the thirty-first day after the expiration
7 date of the final eviction moratorium through the
8 ninety-first day after the expiration date of the
9 final eviction moratorium, the rent due is equal to or
10 greater than three months' rent;

11 (3) Beginning on the ninety-second day after the
12 expiration date of the final eviction moratorium
13 through the one hundred fifty-second day after the
14 expiration date of the final eviction moratorium, the
15 rent due is equal to or greater than two months' rent;

16 and

17 (4) Beginning on the one hundred fifty-third day after the
18 expiration date of the final eviction moratorium
19 through the three hundred sixty-fifth day after the
20 expiration day of the final eviction moratorium, the
21 rent due is equal to or greater than one month rent.



1 For purposes of this section, "final eviction moratorium"
2 means an emergency proclamation or supplementary proclamation,
3 or any extension thereof, issued by the governor related to the
4 coronavirus disease 2019 pandemic that prohibits any eviction
5 from a residential dwelling for a failure to pay rent.

6 ~~[(b)—A]~~ (h) Except as provided in subsection (g), a
7 landlord or the landlord's agent may bring an action for rent
8 alone at any time after the landlord has demanded payment of
9 past due rent and notified the tenant of the landlord's
10 intention to bring such an action."

11 SECTION 3. This Act does not affect rights and duties that
12 matured, penalties that were incurred, and proceedings that were
13 begun before its effective date; provided that any contract in
14 effect prior to the effective date of this Act that is
15 subsequently renewed or extended on or after the effective date
16 of this Act shall comply with the requirements of this Act.

17 SECTION 4. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 5. This Act shall take effect upon its approval;
20 provided this Act shall be repealed one year after the
21 expiration date of the final eviction moratorium identified in



1 section 2 of this Act, and section 521-68, Hawaii Revised
2 Statutes, shall be reenacted in the form in which it read on the
3 day prior to the effective date of this Act.



Report Title:

Housing; Landlord-tenant Code; Remedies; Notice; Failure to Pay Rent; Mediation

Description:

Extends the period for a notice of summary possession from five days to fifteen. Requires landlords to provide notice with specified terms and enter into mediation. Delays when a landlord may seek possession of a dwelling unit if the tenant schedules or attempts to schedule mediation. Requires landlords to provide the notice to mediation centers that offer free mediation for residential landlord-tenant disputes. Restricts when a landlord may exercise these remedies depending on the amount of rent due. Repeals one year after expiration of the governor's final eviction moratorium emergency supplementary proclamation related to the coronavirus disease 2019 pandemic. (SD1)

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