

JAN 22 2021

A BILL FOR AN ACT

RELATING TO AFFORDABLE HOUSING.

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

1 SECTION 1. The legislature finds that in most cases,
2 landlords in Hawaii are able to increase the rent on rental
3 units without much concern over whether the unit will sit vacant
4 because of the scarcity of affordable housing. Even if a
5 landlord's current tenant cannot afford the increased rent on a
6 rental unit, there is likely another tenant willing to take the
7 current tenant's place.

8 While turnover in tenants as a result of increased rents
9 benefits the landlords and property owners, it does not always
10 benefit the community. Tenants who know that they could be
11 priced out of their current residence have no incentive to
12 invest in their community. If rents were stable and tenants
13 could be assured that they would face only reasonable increases,
14 then tenants may stay in their rental units longer and invest in
15 the community around them.

16 The legislature further finds that tenants need some
17 semblance of housing security but landlords and property owners



1 also need the ability to increase their rents by a reasonable
2 amount. The legislature also finds that the policy of rent
3 stabilization, which is distinct from a policy of rent control,
4 could simultaneously respond to those opposing needs.

5 The purpose of this Act is to:

- 6 (1) Establish a rent stabilization law that will apply to
7 all rental units located in structures that are over a
8 certain age;
- 9 (2) Establish a rent stabilization advisory working group;
10 and
- 11 (3) Require the legislative reference bureau to conduct a
12 study of actions that other states have taken to
13 incentivize landlords to stabilize rents.

14 SECTION 2. The Hawaii Revised Statutes is amended by
15 adding a new chapter to be appropriately designated and to read
16 as follows:

17 "CHAPTER

18 RENT STABILIZATION

19 § -1 Definitions. For purposes of this chapter, unless
20 context requires otherwise:

21 "Action" shall have the same meaning as in section 521-8.



"Department" means the department of commerce and consumer affairs.

"Director" means the director of commerce and consumer affairs.

"Dwelling unit" shall have the same meaning as in section 521-8.

"Family" includes a household of one.

"Landlord" shall have the same meaning as in section 521-8.

"Owner" shall have the same meaning as in section 521-8.

"Rental agreement" shall have the same meaning as in section 521-8.

"Single family residence" shall have the same meaning as in section 521-8.

"Tenant" shall have the same meaning as in section 521-8.

§ -2 Application. (a) The provisions of this chapter shall apply to all dwelling units that are designed for rental use or are rented, including dwelling units that are subleased by tenants at any time on or after July 1, 2021, except for dwelling units listed in subsection (b).

(b) The provisions of this chapter shall not apply to:



- 1 (1) A dwelling unit in a single family residence; provided
- 2 that the single family residence does not rent more
- 3 than dwelling units to families who are not
- 4 related to the property owner by blood, marriage, or
- 5 adoption;
- 6 (2) Dwelling units located in a structure that is less
- 7 than years old, except if:
- 8 (A) The structure replaced a structure that provided
- 9 dwelling units for rent; or
- 10 (B) The tenants that rented dwelling units in the
- 11 previous structure were evicted for the purpose
- 12 of allowing the property owner to build the
- 13 current structure;
- 14 (3) Accommodations in hotels, motels, and inns that are
- 15 primarily rented to guests for a period less than
- 16 thirty days; provided that the same tenant has not
- 17 occupied one or more of the dwelling units in a single
- 18 structure for more than thirty consecutive days;
- 19 (4) A dwelling unit that is owned, operated, or managed by
- 20 a government unit, agency, or authority for purposes



1 of providing housing to low-income, very low-income,
2 or extremely low-income households; and

- 3 (5) A dwelling unit in an institution that is monitored or
4 licensed by the State and provides medical, geriatric,
5 or educational services.

6 **§ -3 Rent stabilization advisory working group;**
7 **established.** (a) There is established within the department
8 for administrative purposes the rent stabilization advisory
9 working group to advise the legislature, governor, and county
10 agencies on matters relating to the stabilization of rental
11 amounts for dwelling units that are designed for rental use or
12 are rented, including:

- 13 (1) Commencing January 1, 2022, recommending, on an annual
14 basis, the percentage or dollar-amount adjustment to
15 the rental amounts for dwelling units;
16 (2) Limiting or restricting the grounds for evicting a
17 tenant from a dwelling unit;
18 (3) Preserving and increasing the number of dwelling
19 units;
20 (4) Encouraging the maintenance of dwelling units;



(5) Recommending a rental amount that could be charged by a landlord and would be a fair return for the dwelling unit, including recommending a fair return amount for specified dwelling units; and

(6) Providing information relating to dwelling units, including relevant laws, rent collection methods, and community services.

(b) The membership of the rent stabilization advisory working group shall not exceed five members selected by the director of commerce and consumer affairs. The members shall include a representative from the department of the attorney general, renters, landlords, and other individuals who have expressed an interest in rent stabilization. The director, or director's designee, shall chair the working group.

The members shall serve without compensation but shall be reimbursed for actual expenses, including travel expenses, that are necessary for the performance of their duties.

§ -4 Monthly rent increases. (a) A landlord of a dwelling unit that is subject to a rental agreement shall be permitted to increase a dwelling unit's monthly rent by a maximum of per cent at the end of the term of the



1 rental agreement, or every twelve months, whichever is the
2 longer period; provided that any increase in the monthly rent
3 shall not be attributable to the landlord's negative cash flow:

4 (1) As a result of refinancing the dwelling unit if, at
5 the time the landlord refinanced the dwelling unit,
6 the landlord could reasonably have foreseen a negative
7 cash flow based on the existing rental agreement or
8 the twelve-month limitation period; and

9 (2) If, at the time the landlord acquired the dwelling
10 unit, the landlord could reasonably have foreseen a
11 negative cash flow based on the existing rental
12 agreement or the twelve-month limitation period.

13 The recalculated, increased monthly rent shall be in effect for
14 a term established by the new rental agreement or twelve months,
15 whichever is the longer period, and shall be the monthly rent
16 used to calculate future rent increases.

17 (b) A landlord shall be permitted to increase the monthly
18 rent for a dwelling unit beyond the restrictions in subsection
19 (a) after the dwelling unit is vacated by all tenants. There
20 shall be no limit to the monthly rental amount that a landlord



1 may charge for a dwelling unit following the vacancy of the
2 dwelling unit by all tenants.

3 § -5 Remedies. (a) A tenant or the department may file
4 a civil action to enforce the provisions of this chapter.

5 (b) A tenant may refuse to pay an increase in rent that is
6 in violation of the provisions of this chapter, and the
7 violation shall be a defense in any action brought to recover
8 the possession of a dwelling unit or to collect rent.

9 (c) Whenever it is necessary for a tenant of a dwelling
10 unit to file a court action to recover the payment of rent that
11 was in excess of the maximum lawful rent allowed by the
12 provisions of this chapter, or whenever it is necessary for the
13 tenant to defend against any wrongful action filed in court
14 against the tenant by the landlord to recover the possession of
15 the tenant's dwelling unit, the landlord shall be liable to the
16 tenant for damages in the amount of \$ or not more than
17 three times the amount by which the payment demanded, accepted,
18 received, or retained exceed the lawful amount of rent,
19 whichever is more. The prevailing party in any suit shall be
20 entitled to reasonable attorney's fees and costs as determined
21 by the court."

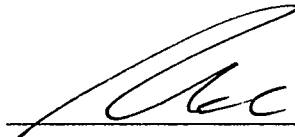


1 SECTION 3. (a) The legislative reference bureau shall
2 conduct a study of any actions that other states have taken to
3 incentivize landlords to stabilize rents.

4 (b) The legislative reference bureau shall submit a report
5 of its findings and recommendations, including any proposed
6 legislation, to the legislature no later than twenty days before
7 the convening of the regular session of 2022.

8 SECTION 4. This Act shall take effect on July 1, 2021.

9
INTRODUCED BY: _____

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S.B. NO. 903

Report Title:

Rent Stabilization; Rent Stabilization Advisory Working Group

Description:

Limits monthly rent increases for certain dwelling units to an unspecified per cent for the term of the rental agreement or every 12 months, whichever period is longer. Prohibits rent increases due to the landlord's negative cash flow resulting from refinancing or purchasing the rental dwelling unit. Establishes a rent stabilization advisory working group to advise on matters relating to the stabilization of certain dwelling unit rental amounts. Requires the legislative reference bureau to conduct a study on actions that other states have taken to incentivize landlords to stabilize rents.

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