

Honolulu, Hawaii

FEB 18 2021

RE: S.B. No. 1388
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 1388 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) Extend the period for a notice of summary possession from five days to fifteen days;
- (2) Require landlords to enter into mediation and delay when a landlord may seek possession of a dwelling unit if the tenant schedules or attempts to schedule mediation;
- (3) Require landlords to provide the notice to mediation centers that offer free mediation for residential landlord-tenant disputes;
- (4) Restrict when a landlord may exercise these remedies depending on the amount of rent due; and
- (5) Repeal on June 1, 2022.

Your Committee received testimony in support of this measure from the Department of Commerce and Consumer Affairs, Hawai'i



Association of REALTORS, Hawaii Appleseed Center for Law & Economic Justice, Legal Aid Society of Hawai'i, and one individual.

Your Committee finds that, since the start of the coronavirus disease 2019 pandemic, the caseload concerning landlord-tenant matters has doubled with nearly nine hundred cases being opened. The current environment for evictions due to non-payment has been, and will continue to be, very fluid as state and federal moratoriums for evictions due to non-payment of rent continue to be extended. However, at some time, the moratoriums will expire and the large number of eviction cases will need to be addressed by the courts. This measure provides for a balanced approach to encourage communications and facilitate mediation between landlords and tenants and a phased schedule to help ease the increased caseload.

Your Committee notes the concerns raised in testimony that this measure, as currently drafted, sets a firm date of May 1, 2021, for the beginning of the phase-out of the eviction moratorium. Because it is uncertain at this time when the Governor's final eviction moratorium may expire, this measure should be amended to provide for the possibility that the Governor or the federal government decide that public health requires an extension past May 1.

Accordingly, your Committee has amended this measure by:

- (1) Inserting a purpose section;
- (2) Clarifying that the fifteen-calendar day notice shall identify the dwelling unit subject to the rental agreement;
- (3) Deleting language that would have provided a sample form for the fifteen-calendar day notice;
- (4) Clarifying that, in the event there is a defect in the fifteen-calendar day notice, the court may allow the landlord to cure the defect without dismissing the action for summary possession;
- (5) Conforming the dates for a landlord to issue a notice demanding payment of rent or to bring a summary



possession action to a certain range of days following the expiration of the Governor's final eviction moratorium, depending on the number of months' rent due, to begin three days after the expiration of the Governor's final eviction moratorium;

- (6) Inserting a definition for the term "final eviction moratorium";
- (7) Inserting an effective date of upon approval;
- (8) Clarifying this measure shall repeal one year after the expiration date of the final eviction moratorium; and
- (9) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1388, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1388, S.D. 1, and be referred to your Committee on Judiciary.

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




ROSALYN H. BAKER, Chair



The Senate
Thirty-First Legislature
State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:* SB1388	Committee Referral: CPN, JDC	Date: 2-12-2021		
<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 type="checkbox"/> Pass, unamended 2312 <input checked="" 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)	/			
MISALUCHA, Bennette E.	/			
NISHIHARA, Clarence K.	/			
RIVIERE, Gil	/			
SAN BUENAVENTURA, Joy A.	/			
FEVELLA, Kurt	/			
TOTAL	7	—	—	—
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes