

March 18, 2021

The Honorable Karl Rhoads, Chair

Senate Committee on Judiciary

Via Videoconference

**RE: House Bill 391, HD3, SD1 Relating to the Residential Landlord-Tenant Code
HEARING: Tuesday, March 30, 2021, at 9:50 a.m.**

Aloha Chair Rhoads, Vice Chair Keohokalole, and Members of the Committee,

I am Tracy Leverone, Member of the Government Affairs Committee, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its over 10,000 members. HAR **provides comments on** House Bill 391, HD3, SD1, which establishes a process for the early termination of a rental agreement for certain active duty servicemembers who receive military orders to vacate civilian housing and move into on-post-government quarters

Hawai'i REALTORS® appreciates our servicemembers and their service to our country. Under current federal law, the Servicemembers Civil Relief Act ("SCRA") already provides legal protections for a servicemember to cancel a Rental Agreement, which includes being deployed or if a servicemember unfortunately dies while in military service. Federal law recognizes these protections for service members to address situations that occur while in the service of their country.

HAR would note that the Rental Agreement is a legally binding contract between two parties. Tenants, and not just servicemembers, unfortunately deal with the issue of divorce or numerous other reasons why they must move out before a Rental Agreement term expires. Communication is key between the housing provider and the tenant. In situations where a tenant must move, it is not uncommon for the housing provider or property manager to work with the tenant or the tenant could pay an early termination fee, which is set forth by the Rental Agreement. As such, HAR believes this measure is unnecessary, especially since it is regulating a private contract between two parties.

HAR would further note that with this may have the unintended consequence of discouraging renting to our military knowing that they could void the Rental Agreement if required to move to on-base housing.

If the Committee is inclined to pass this measure, we would respectfully request a **November 1 effective date**. This would allow HAR to make amendments to the Rental Agreement (which contains reference to the SCRA) and educate our members on the new provisions.

Mahalo for the opportunity to testify.

Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair
Committee on Judiciary

Mathew Goldberg
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Sunday, March 28, 2021

Support for HB391, RELATING TO THE RESIDENTIAL LANDLORD—TENANT CODE.

As a current Master of Social Work student at University of Hawai'i at Mānoa, completing my specialization practicum at a placement serving primarily Veterans I was particularly interested in the act HB391.

Through my practicum interaction and my close friendships with active-duty members I have gained a better understanding of the unique challenges servicemembers encounter and the difficult and unpredictable lifestyle they choose to lead in effort to serve and protect our country. This knowledge and my research solidified my support for HB391.

I am support of this act as it provides a comprehensive and fair set of guidelines to help servicemembers not be penalized for decisions they are required to follow and provide them support for their dedicate service. This act will be beneficial as research suggests that military families move on average every three years compared to the average American family who is estimated to move every five years (Forbes, 2015). This data illustrates the likelihood of military families moving and reveals the reality that military families and servicemembers have less choice. Moreover, this act would also be helpful for servicemembers because data indicates that military families are losing an average of \$5,000 in out-of-pocket expenses each time they move, despite some military reimbursements (Jowers, 2020). HB391 would help combat some of the significant loses in moving as breaking a lease and having to pay additional months rent or losing your deposit can be costly. Other research suggests that HB391 would be helpful to servicemembers as a data found that military families spend significantly more than the average civilian families. For example, military families reported spending 41.6 percent of their monthly income for housing in a national survey (Forbes, 2015).

I am also particularly passionate about this act because servicemembers and Veteran have been overwhelmed among the homeless population revealing the fact of how our country has failed to support and provide adequate services for these members of our community. For instance, research on the homeless community in the United States found that approximately 14% of adult males and 2% of adult females were Veterans. For males, this proportion was about 30% greater than the proportion of Veterans in the general population (Fargo et al., 2011). And while I understand this particular act does not address homelessness it is a positive step as it acknowledges servicemembers unique needs and circumstances and how that affects those interacting with systems operated and controlled by civilians who often do not consider or understand military culture.

I hope you will consider passing this act and supporting the servicemembers of our community.

Mahalo,

Mat Goldberg

HB-391-SD-1

Submitted on: 3/29/2021 8:00:33 AM

Testimony for JDC on 3/30/2021 9:50:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Levi K. Hookano | Individual | Support | No |

Comments:

Aloha Chair Rhodes, Vice-Chair Keohokalole, and Members of the Senate Judiciary Committee:

I am testifying in strong support of HB391, HD3, SD1. I am testifying in my personal capacity and my views do not reflect the position of the Army or the United States Army Judge Advocate General's Corps.

The greatest beneficiaries of this bill will be our junior enlisted Servicemembers, who are the most vulnerable military population. Generally, junior enlisted Servicemembers are required to live in on-post barracks until they reach the grade of E-6. Passing this bill will help them to focus on their mission to fight and win the nation's wars, instead of focusing on how they will make rent on a home they can no longer afford while still paying for necessities and prevent unnecessary troubles for both the Servicemember and landlord. Similar laws are already on the books in Florida, Georgia, and Washington.

The most common situation where a Servicemember will need to terminate a lease early under this bill is when a junior enlisted Servicemember gets divorced and must move into the barracks. From 2015 – 2020, the Schofield Barracks Legal Assistance Office assisted more than 1,950 Servicemembers and dependents, in the grades of E1-E5, with divorce or separation related matters. In 2017, the careers in the military were 3 of the top 10 fields with the highest divorce rates (see <https://www.zippia.com/advice/divorce-rates-job-industry/>). In the event of a divorce where these Servicemembers no longer have any dependents, or they do not get physical custody of any children, they will be required to move into the barracks, regardless of any valid lease that is signed. Unless an exception to policy is granted by the command, the Servicemember will lose their housing allowance and will likely not be able to afford their rent and necessary living expenses.

This bill ensures that Servicemembers will not have to face evictions or serious financial hardship if they are no longer eligible for basic housing allowance. A junior enlisted Servicemember, in the grades of E1-E5 with less than 4 years of service in the military, has base pay ranging from \$1,785 - \$2,844/month (CY2021). According to Zillow, the average rent in Honolulu is \$2,349. These Servicemembers will face intense financial struggles if forced to pay penalties or remain in the home for the duration of their lease.

The penalties for early termination of a lease can be significant and is a lose-lose situation for Servicemembers and landlords. Under the current landlord tenant code, the tenant shall be liable to the landlord for the lesser of the following amounts for vacating the home before the lease is over:

(1) The entire rent due for the remainder of the term; or

(2) All rent accrued during the period reasonably necessary to re-rent the dwelling unit at the fair rental, plus the difference between such fair rent and the rent agreed to in the prior rental agreement and a reasonable commission for the renting of the dwelling unit.

A landlord would have a tenant that is unable to pay the rent, or any penalties, and have to go through the trouble and additional costs to either evict or go through collections on these Servicemembers. The Servicemember would take a significant hit to their finances and credit, which could adversely affect their career, especially if they hold a security clearance. The time, efforts, costs, and impacts of this situation will result in a lose-lose situation.

I would also like to clarify that the provisions in this bill are not covered by the Servicemembers Civil Relief Act or Hawaii's Civil Relief for State Military Forces. These laws allow for a Servicemember to break their lease early when they are mobilized for active duty to deploy for at least 90 days or receives orders for a permanent change of station to another duty location. The SCRA also allows the spouse of a Servicemember to break a lease if the Servicemember dies while on active duty or suffers a catastrophic illness or injury, but not any other family member or personal representative. See 50 U.S.C. § 3955 and Haw. Rev. Stat. § 657D-25.

It is for these reasons that I strongly urge this committee to recommend moving HB391 HD3 SD1 forward. Mahalo for all of your time and commitment to Hawaii.