

JAN 26 2022

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# A BILL FOR AN ACT

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RELATING TO HOUSING.

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

1 PART I

2 SECTION 1. The legislature finds that the increase in  
3 rents in Hawaii during the past twenty years has far outpaced  
4 the income of island renters. The lack of affordable housing  
5 has reached a crisis point with many longtime residents leaving  
6 the State and many industries and vocations, such as health care  
7 and teaching, unable to recruit new workers to the State due to  
8 the high cost of housing.

9 The legislature further finds that several states, such as  
10 California, New Jersey, Oregon, and Washington, have passed laws  
11 protecting renters from evictions based solely on landlords'  
12 desire for exorbitantly higher rents. While accommodating  
13 reasonable rent increases based on regional Consumer Price  
14 Index, these laws require "good cause" for termination or non-  
15 renewal of tenancies, and do not apply to owner-occupied  
16 premises or premises otherwise subject to federal or state  
17 public housing or affordable housing regulations.



The purpose of this Act is to:

- (1) Prohibit a landlord from bringing a summary proceeding for possession or otherwise remove a tenant from any housing accommodation unless the landlord can establish with the court certain grounds as good cause for possession; and
- (2) Establish provisions for rent control.

PART II

SECTION 2. Chapter 521, Hawaii Revised Statutes, is amended by adding a new section to part VI to be appropriately designated and to read as follows:

"§521- Prohibition of possession without good cause.

(a) Notwithstanding any law to the contrary, no landlord shall bring a summary proceeding for possession or otherwise remove a tenant from any housing accommodation, notwithstanding that the tenant has no written rental agreement or the rental agreement has expired or otherwise terminated, unless the landlord can establish with any court of competent jurisdiction one of the following grounds as good cause for possession:

- (1) The tenant has failed to pay rent due and owing;  
provided that the rent due and owing, or any part



1        thereof, did not result from a rent increase that is  
2        unreasonable or imposed for the purpose of  
3        circumventing this section. In determining whether  
4        all or part of the rent due or owing is the result of  
5        an unreasonable rent increase, it shall be a  
6        rebuttable presumption that the rent for a dwelling  
7        not protected by rent regulation is unreasonable if  
8        the rent has been increased in any calendar year by a  
9        percentage exceeding either three per cent or one and  
10       one-half times the annual percentage change in the  
11       Consumer Price Index for the region in which the  
12       housing accommodation is located;

13       (2) The tenant is violating a substantial obligation of  
14       their tenancy other than the obligation to surrender  
15       possession and has failed to cure the violation after  
16       written notice that the violation cease within ten  
17       days of receipt of the written notice; provided that  
18       the obligation of tenancy for which the violation is  
19       claimed was not imposed for the purpose of  
20       circumventing this section;



- 1        (3) The tenant is in material noncompliance with section  
2        521-51 and has failed to cure the violation after  
3        written notice that the noncompliance cease within ten  
4        days of receipt of the written notice;
- 5        (4) The tenant is committing or permitting a waste or  
6        nuisance on the housing accommodation;
- 7        (5) Occupancy of the housing accommodation by the tenant  
8        is a violation of or causes a violation of the law and  
9        the landlord is subject to civil or criminal  
10       penalties; provided that the landlord did not  
11       negligently or intentionally cause the violation;
- 12       (6) The tenant is using or permitting the housing  
13       accommodation to be used for an illegal purpose;
- 14       (7) The tenant has refused the landlord access to the  
15       housing accommodation for the purpose of making  
16       necessary repairs or improvements required by law or  
17       for the purpose of showing the housing accommodation  
18       to a prospective purchaser, mortgagee, or other person  
19       having a legitimate interest therein; or
- 20       (8) The landlord seeks in good faith to recover possession  
21       of a housing accommodation for the landlord's personal



use and occupancy as a principal residence, or for the  
personal use and occupancy as a principal residence of  
the landlord's spouse, parent, child, stepchild,  
father-in-law, or mother-in-law; provided that a  
tenant required to surrender possession pursuant to  
this paragraph shall have a cause of action against  
the landlord who makes a fraudulent statement  
regarding the proposed use of the housing  
accommodation.

(b) Any rental agreement entered into by a tenant waiving or modifying the rights set forth in this section shall be deemed void.

(c) For purposes of this section, "housing accommodation"  
means any residential property; provided that owner-occupied  
property with four or less units and property subject to federal  
and state public housing or affordable housing are excluded."

## PART III

SECTION 3. Chapter 521, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . RENT CONTROL



1        §521-A Rent increase; restrictions. (a) A landlord of a  
2 dwelling unit shall not, over the course of any twelve-month  
3 period, increase the gross rental rate for a dwelling unit more  
4 than five per cent plus the percentage change in the cost of  
5 living, or ten per cent, whichever is lower, of the lowest gross  
6 rental rate charged for that dwelling unit at any time during  
7 the twelve months prior to the effective date of the increase.  
8 In determining the lowest gross rental rate for purposes of this  
9 section, any rent discounts, incentives, concessions, or credits  
10 offered by the landlord of the dwelling unit and accepted by the  
11 tenant shall be excluded. The monthly gross rental rate and any  
12 landlord-offered discounts, incentives, concessions, or credits  
13 shall be separately listed and identified in the lease or rental  
14 agreement or any amendments to an existing lease or rental  
15 agreement.

16        (b) If the same tenant remains in occupancy of a dwelling  
17 unit over any twelve-month period, the gross rental rate for the  
18 dwelling unit shall not be increased more than twice over that  
19 twelve-month period, subject to other restrictions of this  
20 section governing rental rate increases.



1           (c) For a new tenancy in which no tenant from the prior  
2 tenancy remains in lawful possession of the dwelling unit, the  
3 landlord may establish the initial rental rate not subject to  
4 subsection (a). Subsection (a) shall apply only to subsequent  
5 increases after the initial rental rate has been established.

6           (d) A tenant of a dwelling unit subject to this section  
7 shall not enter into a sublease that results in a total rent for  
8 the premises that exceeds the allowable rental rate authorized  
9 by subsection (a). Nothing in this subsection shall authorize a  
10 tenant to sublet or assign the tenant's interest where otherwise  
11 prohibited.

12           (e) For purposes of this section, "percentage change in  
13 the cost of living" means the percentage change from April 1 of  
14 the prior year to April 1 of the current year in the regional  
15 Consumer Price Index for all urban consumers of the region where  
16 the dwelling unit is located, as published by the United States  
17 Bureau of Labor Statistics.

18           **§521-B Exclusions from application of part.** This part  
19 shall not apply to:

20           (1) Housing restricted by deed, regulator restriction  
21               contained in an agreement with a government agency, or



1           other recorded document as affordable housing for an  
2           individual or family of very low, low, or moderate  
3           income or subject to an agreement that provides  
4           housing subsidies for affordable housing for an  
5           individual or family of very low, low, or moderate  
6           income;

7           (2) Housing subject to rent or price control through a  
8           public entity's valid exercise of its police power  
9           that restricts annual increases in the rental rate to  
10          an amount less than provided pursuant to section  
11          521-A;

12          (3) Housing that has been issued a certificate of  
13          occupancy within the previous fifteen years;

14          (4) A dwelling unit that is alienable separate from the  
15          title to any other dwelling unit; provided that:

16           (A) The landlord is not:

17               (i) A real estate investment trust, as defined  
18               in section 856 of the Internal Revenue Code  
19               of 1986, as amended;

20               (ii) A corporation; or





(iii) A limited liability company in which at least one member is a corporation; and

(B) The tenants have been provided written notice that the dwelling unit is exempt from the provisions of this part and containing the following language: "This property is not subject to the rent limits imposed by section 521-A, Hawaii Revised Statutes. This property meets the requirements of section 521-B(4), Hawaii Revised Statutes, and the landlord is not any of the following: a real estate investment trust, as defined by section 856 of the Internal Revenue Code; a corporation; or a limited liability company in which at least one member is a corporation.". For a tenancy existing before July 1, 2022, the noticed required under this subparagraph may be provided in the rental agreement. For a tenancy commenced or renewed on or after July 1, 2022, the noticed required under this subparagraph shall be provided in the rental agreement; and



(5) A duplex in which the landlord occupies one of the units as the landlord's principal place of residence at the beginning of the tenancy, so long as the landlord continues to occupy the duplex as the landlord's principal place of residence.

**§521-C Application of part.** (a) This part shall apply to all rent increases subject to section 521-A occurring on or after March 15, 2021. If a landlord has increased the rent by more than the amount permissible under section 521-A between March 15, 2021, and January 1, 2022, the following shall apply:

(1) The applicable rent on January 1, 2022, shall be the rent as of March 15, 2021, plus the maximum permissible increase under section 521-A; and

(2) A landlord shall not be liable to the tenant for any corresponding rent overpayment.

(b) A landlord of a dwelling unit subject to section 521-A who increased the rental rate on that dwelling unit on or after March 15, 2022, but prior to January 1, 2023, by an amount less than the rental rate increase permitted under section 521-A shall be allowed to increase the rental rate twice, notwithstanding section 521-A(b), within twelve months of



1 March 15, 2022; provided that the rental rate increase shall not  
2 exceed the maximum gross rental rate increase allowed under  
3 section 521-A.

4       **§521-D Notice of increase.** A landlord shall provide  
5 notice of any increase in the rental rate in accordance with  
6 section 521-21.

7       **§521-E Waiver of rights.** Any waiver of the rights under  
8 this part shall be void as contrary to public policy.

9       **§521-F Miscellaneous provisions.** (a) This part is not  
10 intended to expand or limit the authority of counties to  
11 establish ordinances regulating rents.

12       (b) Nothing in this part shall authorize a county to  
13 establish limitations on any rental rate increases not otherwise  
14 permissible by law or adopt or maintain rent controls or price  
15 controls not consistent with this part."

16       SECTION 4. In codifying the new sections added by section  
17 3 of this Act, the revisor of statutes shall substitute  
18 appropriate section numbers for the letters used in designating  
19 the new sections in this Act.

20                               PART IV

21       SECTION 5. New statutory material is underscored.



# S.B. NO. 3216

1       SECTION 6.   This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_

*Jan Acasio*



# S.B. NO. 3216

**Report Title:**

Landlord; Tenant; Summary Possession; Good Cause; Rent Control

**Description:**

Prohibits a landlord from bringing a summary proceeding for possession or otherwise remove a tenant from any housing accommodation unless the landlord can establish with the court certain grounds as good cause for possession. Establishes provisions for rent control.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

