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EMPLOYEES' RETIREMENT SYSTEM  
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND  
OFFICE OF THE PUBLIC DEFENDER

ADMINISTRATIVE AND RESEARCH OFFICE  
BUDGET, PROGRAM PLANNING AND  
MANAGEMENT DIVISION  
FINANCIAL ADMINISTRATION DIVISION  
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

**WRITTEN ONLY**  
TESTIMONY BY CRAIG K. HIRAI  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE  
ON  
HOUSE BILL NO. 1861

**February 2, 2022**  
**2:00 p.m.**  
**Room 329 and Videoconference**

RELATING TO THE RESIDENTIAL LANDLORD-TENANT CODE

The Department of Budget and Finance (B&F) offers comments on this bill.

House Bill No. 1861 amends and adds new sections to Chapter 521, HRS, to:

- 1) prohibit landlords from terminating certain tenancies without just cause; 2) establish various requirements of landlords prior to terminating a tenancy for specified reasons;
- 3) establish limits on the amount a landlord can increase rent over a 12-month period;
- 4) establish the Hawai'i Rent Board (HRB), to be administratively attached to the Department of Commerce and Consumer Affairs (DCCA), to oversee and enforce rent adjustments, arbitration hearings, mediations, and investigations of alleged wrongful evictions; 5) establish a Rental Stabilization Special Fund (RSSF) to fund the HRB; and
- 6) fund the RSSF through an unspecified fee assessed on rental agreements entered into or renewed after an unspecified date.

As a matter of general policy, B&F does not support the creation or continuance of any special fund or special fund subaccount, which does not meet the requirements of Section 37-52.3, HRS. Special funds and any related subaccounts should: 1) serve a need as demonstrated by the purpose, scope of work and an explanation why the

program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. Even with the proposed fee on rental agreements, it is unclear if the RSSF would be self-sustaining.

B&F defers to DCCA on the feasibility of this fee on rental agreements, the HRB, and the various rental regulations proposed by this measure.

Thank you for your consideration of our comments.

HAWAII LEGISLATIVE  
ACTION COMMITTEE

  
**community**  
ASSOCIATIONS INSTITUTE

P.O. Box 976  
Honolulu, Hawaii 96808

Testimony Regarding HB 1861

Date: Wednesday, February 2, 2022

Time: 9:00 am

Place: Conference Room 229 and via video conference

Chair Johanson, Vice Chair Kitagawa and Committee Members,

My name is Michael Ayson and I am testifying on behalf of the Legislative Action Committee of The Community Associations Institute, Hawaii Chapter ("CAI"). CAI is a national organization devoted to improving the management and operation of condominium and other homeowner associations. The Hawaii chapter is a local chapter of the national organization.

CAI opposes HB 1861.

Very truly yours,

  
\_\_\_\_\_  
Michael Ayson



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February 2, 2022

**The Honorable Aaron Ling Johanson, Chair**

House Committee on Consumer Protection and Commerce

Via Videoconference

**RE: H.B. 1861, Relating to the Residential Landlord-Tenant Code**

**HEARING: Wednesday, February 2, 2022, at 2:00 p.m.**

Aloha Chair Johanson, Vice Chair Kitagawa, and Members of the Committee,

I am Peter Davis, Chair 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 10,800 members. HAR **strongly opposes** House Bill 1861, which prohibits a landlord from terminating certain tenancies without just cause. Requires a landlord to provide relocation assistance or waive the last month's rent when terminating a tenancy for no-fault just cause. Restricts how much and how often a landlord may increase an existing tenant's rent. Establishes the Hawai'i Rent Board to oversee annual rent increases and conduct rental arbitrations, mediations, and investigative hearings on reports of wrongful evictions. Establishes a Rent Stabilization Special Fund, to be funded by a separate fee assessed on rental units to support the activities of the Hawai'i Rent Board.

HAR believes that rent stabilization does nothing to increase the supply of rental housing and, ultimately, increasing supply is the true long-term solution to Hawaii's rental housing shortage. Legislating price caps will likely lead to unintended consequences reminiscent of what Hawai'i experienced with the gas cap law. Rent control discourages the construction of more rental units making the problem even worse. Unless a rent control law permits a fair rate of return over time, housing providers may not be able to maintain their units.

Additionally, according to 2019 Census data, 39.8% of households are renters in Hawai'i. Not everyone is able to afford to purchase a home and Hawai'i needs rental units. It is also a timely and costly process for a housing provider to find a new tenant. This measure proposes to create added fees on rental properties to fund the Rent Stabilization Special Fund or have a housing provider waive the last month's rent or provide relocation assistance. As such, an unintended consequence of this measure would be discouraging housing providers from renting their property, thereby increasing rental housing costs due to lack of supply.

For the foregoing reasons, we respectfully request that this measure be held. Mahalo for the opportunity to testify.



**HB-1861**

Submitted on: 2/1/2022 11:02:20 AM

Testimony for CPC on 2/2/2022 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
R Laree McGuire	Individual	Oppose	No

Comments:

Stringly oppose, as not in favor of rent control measures.

Mahalo for your time.

**HB-1861**

Submitted on: 2/1/2022 1:59:00 PM

Testimony for CPC on 2/2/2022 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Isis Usborne	Individual	Support	No

Comments:

Hello and thank you for hearing my testimony today.

My name is Isis Usborne, I was raised in Mililani and moved to Denver, Colorado for school about 6 years ago. After graduating with a bachelor's degree in Theatre and Socio-Legal Studies from the University of Denver, I was an economic justice organizer for the racial justice nonprofit Colorado People's Alliance, or COPA, for 2 years. I also have a background in labor organizing for worker's rights specifically. In addition to my professional experience leading me to understand how deeply impactful the issue of housing instability & unaffordability is for ALL working people (but especially those of us in Hawai'i nei), I personally have experienced houselessness due to indigence at least 5 times in my life.

I support this bill, HB1861, because no one should be in that situation. In this state, as across the country, the pandemic is severely affecting people's income, not to mention their health, quality of life, and ability to take care of their children. With so many families already operating under ALICE restrictions, many are becoming ever closer to not making rent every month. This bill's strong protections against unfair evictions as well as ridiculous rent increases would protect our renters and promote housing stability - a condition that I believe should be a human right and not a commodity, for the health and welfare of us all.

To return to the contents of this bill specifically though - eviction is a process that has immediate effects on one's future housing prospects, and should never be pursued without just cause. Rent increases should absolutely be mindful of tenants' situations and income rather than tied to wildly shifting market conditions. It is high time we made Hawai'i a place where human life is valued over the profits of landlords and other upper class interests. This bill is a step in that direction, and I strongly urge you all to pass it with the amendment that just cause not include conversion of housing to short term rental units, because we need to be incentivising housing for residents!

Mahalo nui loa again for your time,

- Isis Osborne

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February 1, 2022

Representative Aaron Johanson, Chair  
Representative Lisa Kitagawa, Vice-Chair  
House Committee on Consumer Protection and Commerce

Re: HB1861 Relating to the Residential Landlord-Tenant Code. Testimony in opposition.  
Wednesday, February 2, 2022 at 2 p.m.

Chair Johanson, Vice-Chair Kitagawa and Members of the Committee:

I have been licensed to practice law in the State of Hawaii since 1978 and since then a good part of my practice has been in representing commercial landlord and property management firms that serve residential landlords. Since March 2020, I have been a member of the State District Court Civil Working Group of judges, attorneys and mediation centers tasked with addressing issues facing the district courts relating to and arising from the evictions of tenants from residential properties during the pandemic.

This is a bad bill and if passed may lead many properties owners to sell their rental properties and stop being landlords. The rental agreement is a legal contract between the landlord and tenant. When that contract expires or if the contract is breached prior to the expiration the landlord has an absolute right to remove the tenant who is not paying rent or not complying with the terms of the contract, e.g., maintaining the property, being a good neighbor and not interfering with the enjoyment of premises of his or her neighbor, and the landlord does not have give a reason for not renewing that agreement. In fact, if my residential landlord client tells me that he or she does not intend to renew, I tell them to give 45-60 written notice of non-renewal to the tenant and ***do not*** give a reason for not renewing since landlords are not required to do so.

The rental property is private property subject to the rental agreement and the State of Hawaii is not a party to that agreement and should not be imposing unilateral conditions on the landlord as to if and when the contract can be terminated and conditioning the right to terminate with giving the tenant free rent or other concession when the tenant has not given any consideration (to the landlord) for such benefits.





The provision of the Landlord-Tenant Code where these proposed amendments are being inserted is the section that allows a residential landlord to terminate a month-to-month tenancy. A month-to-month tenancy is created when a tenant is allowed to remain in the premises for 60 days after the lease expires. Under the current law, a landlord can terminate a month-to-month tenancy by providing a tenant 45-days written notice to vacate – without having to provide any reason and without having to pay for relocation and without having to waive the last month’s rent. If this bill were to pass, I foresee that landlords will enter into 6 month rental agreements and they will become more diligent about removing tenants at the expiration of the lease and not letting them become month-to-month tenants to avoid having to comply with these onerous one-sided requirements.

Capping the rent at 3% is totaling unrealistic, especially when inflation is 6% and climbing. Also, having a State Rent Board to establish the rental rate through the state would be unprecedented. I was told by a State Senator over 30 years ago when I was advocating for lease-to -fee conversions for condos: “rent control is a city function – not a state function. If you want rent control, you need to go across the street because you won’t get rent control here!”

Rather than amend the Landlord-Tenant Code, the proponent of this bill should be advocating for construction of affordable rentals by the State of Hawaii.

For all of the above and other reasons, please do not pass this bill.

Very Truly Yours,

  
Yuriko J. Sugimura

**DAVID W.H. CHEE**

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February 2, 2022

HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE  
Rep. Aaron Ling Johanson, Chair  
Rep. Lisa Kitagawa, Vice Chair

RE: HB1861 and HB1895- RELATING TO THE RESIDENTIAL  
LANDLORD-TENANT CODE/ RELATING TO TENANT RIGHTS

I am an attorney who has been practicing landlord-tenant law in Hawaii for the last 29 years.

HB1861 and HB1895 would reshape the entire landscape of rental housing in Hawaii. By dramatically raising costs, legal obligations and restrictions for providers of rental housing, while also limiting their ability to generate income, property owners will have fewer incentives to use current properties for rentals or to develop new rental properties.

These bills would require regarding just cause evictions, prohibitive rent increases, extend the time for tenants to occupy rented premises without paying rent, and require rental housing providers to pay tenants if they decide they want them to leave. These requirements are similar to what is required of government subsidized housing - where properties receive substantial tax credits and subsidies in exchange for providing housing under similar terms as these bills would require. These subsidized properties adopt these strict guidelines in exchange for the financial incentives. The government offers these incentives to compensate a landlord who would otherwise likely experience financial losses because of the guidelines.

This bill will require every rental housing provider to adhere to similar and, in some cases, more strict rules than subsidized housing providers without providing any of the subsidies or tax credits.

It is fundamentally unfair to require that all providers of rental housing in Hawaii to shoulder these restrictions without also giving them subsidies and tax credits - and without giving them a choice.

Very truly yours,  
/s/ David Chee  
David W.H. Chee, Esq.