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# A BILL FOR AN ACT

RELATING TO EVICTION MEDIATION.

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

1 PART I

2 SECTION 1. The legislature finds that many Hawaii  
3 residents continue to face challenges in paying their rent and  
4 thus face eviction. Act 57, Session Laws of Hawaii 2021 (Act  
5 57), encouraged communication and facilitated mediation between  
6 landlords and tenants to help reduce summary possession cases.  
7 Research indicates that the mediation procedures created by Act  
8 57 were widely successful in substantially increasing the number  
9 of disputes that were settled in mediation without any summary  
10 possession case being filed and the number of settlements in  
11 which the parties agreed that the tenant could continue to  
12 reside in the dwelling unit. However, the amendments made to  
13 the landlord-tenant code by Act 57 have been repealed.

14 The legislature further finds that the availability of  
15 rental relief is a key factor to ensuring housing stability and  
16 that combining rent relief with a robust pre-litigation  
17 mediation process is likely to lead to significantly better



1 outcomes than mediation that starts only after litigation is  
2 filed or rent relief alone.

3 Accordingly, the purpose of this Act is to:

4 (1) Establish a pilot program that adopts the most  
5 effective provisions of Act 57 that:

6 (A) Extends the period for a notice of termination of  
7 the rental agreement from five business days to  
8 ten calendar days;

9 (B) Requires landlords to engage in mediation and  
10 delay filing an action for summary possession if  
11 a tenant schedules or attempts to schedule a  
12 mediation; and

13 (C) Requires landlords to provide specific  
14 information in the ten-calendar-day notice to  
15 tenants, which shall also be provided to a  
16 mediation center that offers free mediation for  
17 residential landlord-tenant disputes;

18 (2) Appropriate funds for the pre-litigation mediation  
19 pilot program; and

20 (3) Establish an emergency rent relief program available  
21 to participants in pre-litigation mediation to provide



1 resources that will help tenants avoid eviction and  
2 maintain stable tenancies.

3 SECTION 2. Section 521-68, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "§521-68 Landlord's remedies for failure by tenant to pay  
6 rent[-]; pre-litigation mediation. (a) A landlord or the  
7 landlord's agent [~~may~~], any time after rent is due, may demand  
8 payment thereof and notify the tenant in writing that unless  
9 payment is made within a time mentioned in the notice[~~, not~~] as  
10 provided in subsection (b), no less than [five-business] ten  
11 calendar days after receipt thereof, the rental agreement will  
12 be terminated. [If the tenant cannot be served with notice as  
13 required, notice] Notice may be given to the tenant by posting  
14 the same in a conspicuous place on the dwelling unit[-], and the  
15 notice shall be deemed received on the date of the posting. If  
16 the notice is mailed to the tenant via the United States Postal  
17 Service, properly addressed and with appropriate postage, the  
18 notice shall be deemed to have been received two business days  
19 after the date of the postmark, unless the letter is returned to  
20 the landlord as undeliverable. If the tenant remains in  
21 default[~~7~~] after the expiration of the time stated in the



1 notice, the landlord may thereafter bring a summary proceeding  
2 for possession of the dwelling unit or any other proper  
3 proceeding, action, or suit for possession[-], subject to  
4 subsections (b) through (i). The notice required by this  
5 section need not be given if the action is based on the breach  
6 of a mediated agreement or other settlement agreement, or is for  
7 a summary possession proceeding based on matters other than  
8 non-payment of rent. If the summary possession action is based  
9 on the breach of a settlement agreement or mediated agreement,  
10 the court shall not require any further mediation prior to  
11 trial.

12 (b) The ten-calendar-day notice shall provide the  
13 following:

14 (1) The name of the landlord or the landlord's agent and  
15 the landlord's or landlord's agent's contact  
16 information, including, if possible, phone number,  
17 electronic mail address, and mailing address;

18 (2) The address of the dwelling unit subject to the rental  
19 agreement;

20 (3) The name and contact information of all tenants listed  
21 on the rental agreement, including phone number and,



- 1           if possible, electronic mail address and mailing  
2           address;
- 3           (4) The current amount of the rent due as of the date of  
4           the notice, after applying all rent paid from all  
5           sources;
- 6           (5) That a copy of the ten-calendar-day notice being  
7           provided to the tenant is also being provided to the  
8           mediation center on the island on which the dwelling  
9           unit of the tenant is located and, in accordance with  
10           subsection (c), in order for the mediation center to  
11           contact the landlord and tenant to attempt to schedule  
12           a mediation regarding the nonpayment of rent;
- 13           (6) That the landlord or landlord's agent may file an  
14           action for summary possession if the rent due is not  
15           paid and if mediation is not scheduled within ten  
16           calendar days after the tenant's receipt of the  
17           ten-calendar-day notice, regardless of whether the  
18           scheduled mediation session occurs within the ten  
19           calendar days;
- 20           (7) A warning in bold typeface print in substantially the  
21           following form: "If mediation is not scheduled within



1 ten calendar days after receipt of this notice,  
2 regardless of whether the scheduled mediation session  
3 occurs within the ten-calendar-day period, then the  
4 landlord may file an action for summary possession  
5 after the expiration of the ten-calendar-day period.  
6 If mediation is scheduled before the expiration of the  
7 ten-calendar-day period, regardless of whether the  
8 scheduled mediation session occurs within the ten  
9 calendar days, then the landlord shall only file an  
10 action for summary possession after the expiration of  
11 twenty calendar days following the tenant's receipt of  
12 the ten-calendar-day notice unless you (tenant) fail  
13 to attend or cancel mediation. If the  
14 ten-calendar-day notice was mailed, receipt of notice  
15 shall be deemed to be two business days after the date  
16 of the postmark. If the ten-calendar-day notice was  
17 posted on the premises, receipt of notice shall be  
18 deemed to be the date of posting. If an agreement is  
19 reached before the filing of an action for summary  
20 possession, whether through mediation or otherwise,  
21 then the landlord shall not bring an action for



1 summary possession against the tenant for nonpayment  
2 of rent, except as provided in any agreement that may  
3 be reached or if any such agreement is breached. If  
4 filing an action for summary possession, the landlord  
5 shall be required to note, in the summary possession  
6 complaint, the status of the mediation or settlement  
7 effort and proof of sending or posting the  
8 ten-calendar-day notice to the mediation center.";

9 (8) Notice that the eviction may be subject to additional  
10 requirements and protections under federal or state  
11 law and that the tenant is encouraged to seek the  
12 tenant's own legal advice regarding their rights and  
13 responsibilities; and

14 (9) That the landlord or landlord's agent shall engage in  
15 mediation if mediation is scheduled.

16 The judiciary shall prepare a notice form that may be used  
17 by landlords and landlords' agents to provide the information  
18 required by this subsection and make the form available on its  
19 website.

20 (c) Landlords or their agents shall provide the  
21 ten-calendar-day notice to a mediation center on the island on



1 which the dwelling unit of the tenant is located that offers  
2 free mediation for residential landlord-tenant matters. The  
3 mediation center shall contact the landlord or landlord's agent  
4 and the tenant to schedule the mediation. If a tenant schedules  
5 mediation within the ten-calendar-day period and participates in  
6 the mediation, regardless of whether the scheduled mediation  
7 session occurs within the ten-calendar-day period, the landlord  
8 shall only file a summary possession proceeding after the  
9 expiration of twenty calendar days from the date of the tenant's  
10 receipt of the ten-calendar-day notice. If the tenant schedules  
11 mediation, the landlord shall participate.

12 (d) The summary possession complaint for nonpayment of  
13 rent shall include:

14 (1) A document or documents from the mediation center  
15 verifying that the landlord provided a copy of the  
16 required ten-calendar-day notice to the mediation  
17 center or an affirmation from the landlord or the  
18 landlord's agent that the notice was provided to the  
19 applicable mediation center and the means by which the  
20 notice was provided to the applicable mediation  
21 center; and





1       (2) If mediation is pending, the date on which the  
2           mediation is scheduled.

3       (e) If the mediation has not occurred as of, or has been  
4       scheduled for a future date after, the return hearing date on  
5       the summary possession complaint, the court, in its discretion  
6       and based on a finding of good cause, may order a separate  
7       mediation.

8       (f) If there is any defect in the ten-calendar-day notice  
9       described in subsection (b) provided by the landlord and the  
10       court determines the defect was unintentional or immaterial, the  
11       court may allow the landlord to cure the defect without  
12       dismissing the action for summary possession.

13       (g) Nothing in this section shall impact a landlord's or  
14       tenant's other rights and responsibilities under this chapter.

15       (h) The mediation may take place by means of remote  
16       communication or in person, or both.

17       (i) If the mediation does not result in an agreement, the  
18       landlord or landlord's agent may file an action for summary  
19       possession without participating in an additional mediation.

20       ~~(b)~~ (j) A landlord or the landlord's agent may bring an  
21       action for rent alone at any time after the landlord has



1 demanded payment of past due rent and notified the tenant of the  
2 landlord's intention to bring such an action."

3 SECTION 3. There is appropriated out of the general  
4 revenues of the State of Hawaii the sum of \$ or so  
5 much thereof as may be necessary for fiscal year 2023-2024 and  
6 the same sum or so much thereof as may be necessary for fiscal  
7 year 2024-2025 for the judiciary to contract for mediation  
8 services pursuant to section 2 of this Act.

9 The sums appropriated shall be expended by the judiciary  
10 for the purposes of this part.

11 PART II

12 SECTION 4. (a) There shall be established within the  
13 Hawaii public housing authority an emergency rent relief program  
14 available only to participants in pre-litigation mediation  
15 pursuant to section 521-68, Hawaii Revised Statutes, as amended  
16 by this Act, to provide resources that will help tenants avoid  
17 eviction and maintain stable tenancies.

18 (b) Participants in the emergency rent relief program  
19 shall be eligible to receive rent relief payments after  
20 completing mediation. A participant shall be limited to



1 receiving a maximum of \$ \_\_\_\_\_ under the program and may  
2 elect to receive one of the following forms of payment:

3 (1) A one-time payment of \$ \_\_\_\_\_ to be used for back  
4 rent, plus an additional four monthly payments of  
5 \$ \_\_\_\_\_; or

6 (2) Ten monthly payments of \$ \_\_\_\_\_.

7 (c) The total amount of payments made to participants each  
8 fiscal year under the emergency rent relief program shall not  
9 exceed \$ \_\_\_\_\_.

10 (d) The Hawaii public housing authority may enter into  
11 memoranda of agreement with the counties or qualified non-profit  
12 organizations, as necessary, to implement this section.

13 (e) The Hawaii public housing authority shall be exempt  
14 from chapter 103D, Hawaii Revised Statutes, in selecting a  
15 qualified non-profit organization to administer the emergency  
16 rent relief program and shall, without regard to chapter 91,  
17 Hawaii Revised Statutes, establish rules and qualification  
18 standards for the emergency rent relief program; provided that  
19 the rules, at a minimum, shall prohibit a tenant from  
20 participating in the emergency rent relief program more than  
21 once.



1 SECTION 5. There is appropriated out of the general  
2 revenues of the State of Hawaii the sum of \$ or so  
3 much thereof as may be necessary for fiscal year 2023-2024 and  
4 the same sum or so much thereof as may be necessary for fiscal  
5 year 2024-2025:

6 (1) For an emergency rent relief program to be made  
7 available only to participants in the pre-litigation  
8 mediation pilot program, pursuant to section 521-68,  
9 Hawaii Revised Statutes, as amended by section 2 of  
10 this Act, for the purposes of avoiding eviction and  
11 maintaining stable tenancies; and

12 (2) To fund the cost of administering the emergency rent  
13 relief program, including administrative and  
14 monitoring expenses incurred by the Hawaii public  
15 housing authority and the nonprofit organization  
16 acting as the intermediary recipient.

17 The sums appropriated shall be expended by the Hawaii  
18 public housing authority for the purposes of this Act.



1 PART III

2 SECTION 6. This Act does not affect rights and duties that  
3 matured, penalties that were incurred, and proceedings that were  
4 begun before its effective date.

5 SECTION 7. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7 SECTION 8. This Act shall take effect on June 30, 3000;  
8 provided that:

9 (1) Section 2 shall take effect on November 1, 2023;

10 (2) Sections 3 and 5 shall take effect on July 1, 2023;

11 and

12 (3) This Act shall be repealed on November 1, 2025, and

13 section 521-68, Hawaii Revised Statutes, shall be

14 reenacted in the form in which it read on the day

15 prior to the effective date of section 2 of this Act.



**Report Title:**

Judiciary; Pre-litigation Mediation Pilot Program; Landlords; Tenants; HPHA; Emergency Rent Relief Program; Appropriation

**Description:**

Beginning 11/1/2023, establishes a pre-litigation mediation pilot program that extends the period for a notice of termination of the rental agreement from 5 business days to 10 calendar days, requires landlords to participate in mediation before filing an action for summary possession, and requires landlords to provide specific information in the 10-calendar-day notice to tenants and a mediation center that offers free mediation for residential landlord-tenant disputes. Appropriates funds for a pre-litigation mediation pilot program. Creates and appropriates funds for an emergency rent relief program. Repeals on 11/1/2025. Effective 6/30/3000. (SD2)

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