

JAN 25 2023

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# A BILL FOR AN ACT

RELATING TO EVICTION MEDIATION.

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

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PART I

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 However, the amendments made to the landlord-tenant code by Act 57, Session Laws of Hawaii 2021, have been repealed.

The legislature further finds that the availability of rental relief is a key factor to ensuring housing stability and that combining rent relief with a robust pre-litigation



1 mediation process is likely to lead to significantly better  
2 outcomes than mediation that starts only after litigation is  
3 filed or rent relief alone.

4 Accordingly, the purpose of this Act is to:

5 (1) Create a pilot program, adopting the most effective  
6 provisions of Act 57, Session Laws of Hawaii 2021,  
7 that:

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

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

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

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



1 resources that will help avoid eviction and maintain  
2 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, demand payment  
8 thereof and notify the tenant in writing that unless payment is  
9 made within a time mentioned in the notice[~~, not~~] as provided in  
10 subsection (b), no less than [five-business] ten calendar days  
11 after receipt thereof, the rental agreement [will] shall be  
12 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 mailing, unless the letter is returned to the landlord as  
20 undeliverable. If the tenant remains in default[-] after the  
21 expiration of the time stated in the notice, the landlord may



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

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

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

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

19 (3) The name and contact information of all tenants listed  
20 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 where the dwelling unit  
9           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 ten-  
17           calendar day notice, regardless of whether the  
18           scheduled mediation session occurs within such ten  
19           calendar days;

20           (7) A warning in bold typeface print that says: "If  
21           mediation is not scheduled within ten calendar days



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



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

9 (8) Notice that the eviction may be subject to additional  
10 requirements and protections under state or federal  
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 ten-  
21 calendar day notice to a mediation center on the island on which



1 the dwelling unit of the tenant is located that offers free  
2 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 day period, the landlord shall  
8 only file a summary proceeding for possession after the  
9 expiration of twenty calendar days from the date of receipt of  
10 the ten-calendar day notice. If the tenant schedules mediation,  
11 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 by what means 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 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 or  
14 tenant's other rights and responsibilities under the Residential  
15 Landlord-Tenant Code.

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

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





1 (1) A one-time payment of \$3,000 to be used for back rent;  
2 and

3 (2) Four \$500 monthly payments;  
4 provided that if a participant elects not to receive the one-  
5 time payment of \$3,000, the participant may receive a fifth  
6 monthly payment of \$500; provided further that the total amount  
7 of payments per year shall not exceed \$11,000,000.

8 (c) The Hawaii public housing authority may enter into  
9 memoranda of agreement with the counties or specialized non-  
10 profit organizations as necessary to implement this section.

11 (d) The Hawaii public housing authority shall be exempt  
12 from chapter 103D, Hawaii Revised Statutes, in selecting a  
13 qualified non-profit organization to administer the emergency  
14 rent relief program and shall, without regard to chapter 91, ,  
15 Hawaii Revised Statutes, establish rules and qualification  
16 standards for participants of the pre-litigation mediation  
17 program pursuant to section 521-68, Hawaii Revised Statutes, as  
18 amended by this Act.

19 (e) The Hawaii public housing authority shall establish  
20 rules pursuant to chapter 91, Hawaii Revised Statutes, to  
21 implement the emergency rent relief program pursuant to this



1 section; provided that the rules, at a minimum, shall prohibit a  
2 person from participating in the emergency rent relief program  
3 more than once.

4 SECTION 5. There is appropriated out of the general  
5 revenues of the State of Hawaii the sum of \$ or so  
6 much thereof as may be necessary for fiscal year 2023-2024 and  
7 the same sum or so much thereof as may be necessary for fiscal  
8 year 2024-2025 for an emergency rent relief program to be made  
9 available only to participants in the pre-litigation mediation  
10 program, pursuant to section 4 of this Act, for the purposes of  
11 avoiding eviction and maintaining stable tenancies.

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

14 PART III

15 SECTION 6. This Act does not affect rights and duties that  
16 matured, penalties that were incurred, and proceedings that were  
17 begun before its effective date.

18 SECTION 7. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

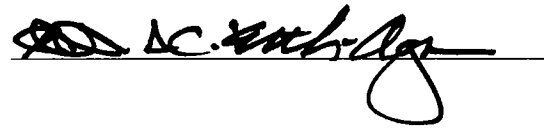
20 SECTION 8. This Act shall take effect upon approval;  
21 provided that sections 3 and 5 shall take effect on July 1,



1 2023; provided further that this Act shall be repealed on  
2 June 30, 2025, and section 521-68, Hawaii Revised Statutes,  
3 shall be reenacted in the form in which it read on the day prior  
4 to the effective date of this Act.

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INTRODUCED BY:

A handwritten signature in black ink, appearing to be "D.C. [unclear]", is written over a horizontal line.



# S.B. NO. 1439

**Report Title:**

Pre-litigation Mediation Pilot Program; Landlord; Tenant; Hawaii  
Public Housing Authority; Emergency Rent Relief Program;  
Appropriation

**Description:**

Establishes and appropriates funds for a pre-litigation  
mediation pilot program. Requires landlords to participate in  
mediation before filing an action for summary possession.  
Creates and appropriates funds for an emergency rent relief  
program.

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

