
A BILL FOR AN ACT

RELATING TO EVICTION MEDIATION.

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

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 (Act 57), 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 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 However, the amendments made to the landlord-tenant code by Act 57 have been repealed.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 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 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 be terminated.
12 [~~If the tenant cannot be served with notice as required, notice~~]
13 Notice may be given to the tenant by posting the same in a
14 conspicuous place on the dwelling unit[-], and the notice shall
15 be deemed received on the date of the posting. If the notice is
16 mailed to the tenant via the United States Postal Service,
17 properly addressed, and with appropriate postage, the notice
18 shall be deemed to have been received two business days after
19 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 by 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 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 ten-calendar-
14 day notice was mailed, receipt of notice shall be
15 deemed to be two days after the date of the postmark.
16 If the ten-calendar-day notice was posted on the
17 premises, receipt of notice shall be deemed to be the
18 date of posting. If an agreement is reached before
19 the filing of an action for summary possession,
20 whether through mediation or otherwise, then the
21 landlord shall not bring an action for summary



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

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 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-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 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'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 to participants in pre-litigation mediation pursuant
15 to section 521-68, Hawaii Revised Statutes, as amended by this
16 Act, to provide resources that will help avoid eviction and
17 maintain stable tenancies.

18 (b) Participants in the emergency rent relief program
19 shall be eligible to receive rent relief payments after
20 mediation. Participants shall be limited to a maximum of



1 \$ under the program and may elect to receive payment
2 in one of the following methods:

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 each year under the
8 emergency rent relief program shall not exceed \$.

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

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

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

19 PART III



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

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

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

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

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

10 provided further that this Act shall be repealed on
11 November 1, 2025, and section 521-68, Hawaii Revised
12 Statutes, shall be reenacted in the form in which it
13 read on the day prior to the effective date of section
14 2 of this Act.



Report Title:

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

Description:

Beginning November 1, 2023, establishes a pre-litigation mediation pilot program that extends the period for a notice of termination of the rental agreement from five business days to ten calendar days, requires landlords to participate in mediation before filing an action for summary possession, and requires landlords to provide specific information in the ten-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. Effective 6/30/3000. (SD1)

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

