



*The Judiciary, State of Hawai‘i*

**Testimony to the Thirty-Second Legislature, 2024 Regular Session**

**Senate Committee on Ways and Means**  
Senator Donovan M. Dela Cruz, Chair  
Senator Sharon Y. Moriwaki, Vice Chair

Thursday, April 4, 2024 at 10:15 a.m.  
State Capitol, Conference Room 211 & Videoconference

by  
Judge Jeffrey P. Crabtree (ret.)  
Director, Center for Alternative Dispute Resolution

**WRITTEN TESTIMONY ONLY**

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**Bill No. and Title:** House Bill No. 2742, H.D. 1, S.D. 1, Relating to the Landlord-Tenant Code

**Purpose:** Requires pre-litigation mediation before eviction proceedings for Maui tenants.

**Judiciary's Position:**

The Hawai‘i State Judiciary Center for Alternative Dispute Resolution is submitting testimony in support of House Bill No. 2742, H.D. 1, S.D. 1.

To protect Maui tenants who are struggling to pay rent, the Governor placed a moratorium on evictions. The moratorium will lapse, potentially causing numerous evictions in an already-vulnerable population. An early landlord-tenant mediation program through House Bill No. 2742, H.D. 1, S.D. 1 would help both landlords and tenants avoid the eviction process with voluntary agreements between tenants and landlords.

Early mediation following a moratorium on evictions has already proven successful in Hawai‘i. In 2021, following the lifting of the moratorium on evictions created during the pandemic, Act 57 was implemented. During the one-year period that the Act 57 early mediation program was in effect, 1,660 landlord-tenant cases involving past-due rent were mediated statewide, with 1,415 or 85% reaching agreement and enabling more than 1,140 tenants and their families to remain in their residence. House Bill No. 2742, H.D. 1, S.D. 1 is modeled after Act 57

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and will enable landlords and tenants on Maui to negotiate payment plans, keep tenants housed, and avoid the eviction process.

Even after the rent relief expired, the Mediation Center of the Pacific (“MCP”) continued with its pre-litigation mediation program. MCP reports it received 383 requests for early mediation, primarily from tenants. Not all of those requests were mediated because many landlords declined as they were not required to participate. Of the 383 requests, 119 tenants and landlords did mediate. Eighty mediations reached agreement. That's 67% – a strong rate of success even without rent relief.

We urge you to pass House Bill No. 2742, H.D. 1, S.D. 1 to prevent unnecessary evictions on Maui when the moratorium on evictions ends.

In addition, the Judiciary respectfully requests that the effective date of the bill be restored to take effect upon approval, as set forth in the original version of the measure.

Mahalo for the opportunity to provide testimony on this important bill.

**Committee on Ways and Means**  
**Hearing Date: Thursday, April 4, 2024**

**Submitted by The Mediation Center of the Pacific, Inc.**  
**HB 2742HD1SDI - Relating to the Landlord-Tenant Code**

Dear Chair Dela Cruz, Vice-Chair Moriwaki, and Members of the Committee:

**The Mediation Center of the Pacific is submitting testimony in STRONG SUPPORT OF HB 2742, HD1, SD1 which establishes and funds a pre-litigation mediation pilot program.**

Evictions are harmful for everyone involved. Landlords and tenants both want stability in housing arrangements. For landlords, the process of eviction and finding new tenants is costly. For tenants and their families, the costs are even higher: A forced move may mean the loss of their security deposit and belongings, a change in schools, a longer commute to work, and a negative mark on their rental history that can make finding suitable housing more difficult. For some tenants, eviction will result in homelessness. Finding ways to resolve disputes between landlords and tenants and to increase housing stability benefits everyone. A pre-litigation mediation program supported by HB 2742, HD1, SD1 will increase housing stability by encouraging tenants and landlords to work out agreements early, enabling the tenants to remain housed and providing the landlords with their rental income.

Pre-litigation mediation programs for landlords and tenants have a proven track record of success in Hawaii. In 2021, in response to the ending of the moratorium on evictions and the creation of Act 57, Hawai'i established a statewide early landlord-tenant mediation program to prevent evictions. Through the Program, in a one-year period, 1,660 landlord-tenant cases involving past due rent were mediated, with 1,415 or 85% reaching agreement and enabling more than 1,140 tenants to remain in their residence. Like the Act 57 Program, HB 2742, HD1, SD1 will encourage landlords and tenants to start talking and negotiating agreements before going to court and will build a bridge towards creating a permanent early mediation program in the future.

Despite the ending of the restrictions and closures created by the pandemic, the number of eviction filings in Hawaii continues to grow. According to research by Hawai'i Appleseed Center for Law and Economic Justice, there are an estimated 2,500 evictions filed each year across the state of Hawaii. Evictions are harmful to the housing ecosystem and the landlords who rely on rent payments and consistent tenants. Evictions are especially harmful to the individual or family losing their home and in severe cases can lead to homelessness. The cost of eviction on individuals and households includes but is not limited to interrupted employment and school leading to a loss of wages; negative health impacts, such as anxiety and depression, and impaired legal records which make it harder to find future housing. A pre-litigation mediation program is needed to keep tenants in their residences or alternately provide them with sufficient time to find an alternate location they can afford.

Finally, evictions also create large public costs. According to estimates provided by the "Eviction Cost Calculator", developed by Innovation for Justice, a social justice-focused legal innovation lab housed at both Arizona Law and University of Utah School of Business, Hawai'i's estimated 2,500 annual evictions led to over \$30 million in public costs. These costs result from the increased need for emergency shelters, in-patient care emergency rooms at hospitals, and foster care and juvenile detention. Establishing a pre-litigation landlord-tenant mediation program is a necessary step to reduce the social and financial harm caused by evictions.

Please PASS HB 2742, HD1, SD1, to help prevent evictions and keep our island residents housed.

Mahalo for the opportunity to testify.

A handwritten signature in black ink, appearing to read "Tracey S. Wiltgen". The signature is fluid and cursive, with a prominent initial "T" and "S".

Tracey S. Wiltgen Executive Director  
The Mediation Center of the Pacific, Inc.

April 4, 2024

**The Donovan M. Dela Cruz, Chair**

Senate Committee on Ways and Means

State Capitol, Conference Room 211 & Videoconference

**RE: House Bill 2742, HD1, SD1, Relating to Eviction Mediation**

**HEARING: Thursday, April 4, 2024, at 10:15 a.m.**

Aloha Chair Dela Cruz, Vice Chair Morikawa, and Members of the Committees:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawaii and its over 11,000 members. HAR provides **comments** on House Bill 2742, HD1, SD1, which extends the notice period for summary possession proceedings from five days to fifteen days for failure to pay rent. Requires landlords to provide the notice to mediation centers. Requires landlords to enter into mediation if scheduled by a tenant, which will delay when a landlord may file an action for summary possession except in cases where a tenant cancels the mediation or does not appear. Restricts when landlord remedies are available depending on the amount of rent due. Declares that the general fund expenditure ceiling is exceeded. Appropriates funds. Takes effect 7/1/2040.

We appreciate the intent of this measure and support peaceful and expeditious mediation coupled with rent relief to aid tenants that were affected by the devastating Maui wildfires. During the COVID-19 pandemic when there was an eviction moratorium and Act 57 was passed to create a mediation process for housing providers and tenants to engage in. A large part of the success of the program was that emergency rent relief was available and it was often paid directly to the housing provider to ensure the funding was not inadvertently lost or delayed. This helped both tenants struggling to make their rent payments as well as housing providers who may have mortgage payments. Without emergency rent relief, the mediation process alone may not help these tenants who are struggling to pay rent. Therefore, **we strongly recommend that a provision for rent relief be added to this measure to help ensure that tenants are able to stay in the homes they are renting, otherwise this measure merely delays eviction without addressing the root issue.**

As such, HAR would respectfully recommend that this measure should also include rent relief to be paid directly to the housing provider to ensure that payments are not inadvertently lost or delayed ensuring the success of any proposed mediation process and help tenants avoid eviction.

HAR would also recommend that this measure require tenants to participate in mediation as well as landlords to avoid delays and encourage both parties to find resolution.

Mahalo for the opportunity to provide comments on this measure.