

JAN 20 2023

A BILL FOR AN ACT

RELATING TO THE LANDLORD-TENANT CODE.

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

1 SECTION 1. The legislature finds that many Hawaii
2 residents continue to face the possibility of eviction due to
3 challenges to paying rent. The legislature previously enacted
4 Act 57, Session Laws of Hawaii 2021, to encourage communication,
5 and facilitate mediation, between landlords and tenants to help
6 reduce summary possession cases. Research indicates that the
7 program and procedures created by Act 57 were widely successful
8 in substantially increasing the number of disputes that were
9 settled in mediation without the filing of a summary possession
10 case and increasing the number of settlements in which the
11 parties agreed that the tenant could continue to reside in the
12 subject home. The amendments made to Hawaii's residential
13 landlord-tenant code were repealed automatically by Act 57.

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



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

3 Accordingly, the purpose of this Act is to:

4 (1) Create a pilot program that adopts the most effective
5 features of Act 57, Session Laws of Hawaii 2021, by:

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

9 (B) Requiring 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;

13 (C) Requiring landlords to include specific
14 information in the fifteen-calendar day notice
15 provided to tenants and certain mediation
16 centers; and

17 (D) Repealing these amendments made to Hawaii's
18 residential landlord-tenant code on December 31,
19 2024; 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.** (a) A landlord or the landlord's agent may, any time
7 after rent is due, demand payment thereof and notify the tenant
8 in writing that unless payment is made within a time mentioned
9 in the notice, as provided in subsection (b), not less than
10 [~~five business~~] fifteen calendar days after receipt thereof, the
11 rental agreement [~~will~~] shall be terminated. If the tenant
12 cannot be served with notice as required, notice may be given to
13 the tenant by posting the same in a conspicuous place on the
14 dwelling unit[~~-~~] and the notice shall be deemed received on the
15 date of posting. If the tenant remains in default, the landlord
16 may thereafter bring a summary proceeding for possession of the
17 dwelling unit or any other proper proceeding, action, or suit
18 for possession[~~-~~
19 ~~(b)~~], subject to subsections (b) through (g). The notice
20 required in this section need not be given if the action is



1 based on the breach of a mediated agreement or other settlement
2 agreement.

3 (b) The fifteen-calendar day notice required under
4 subsection (a) shall provide, at a minimum, the following:

5 (1) The name and contact information of the landlord or
6 the landlord's agent and including, if possible, phone
7 number, electronic mail address, and mailing address;

8 (2) The address of the dwelling unit subject to the rental
9 agreement;

10 (3) The name and contact information of each tenant,
11 including, if possible, phone number, electronic mail
12 address, and mailing address;

13 (4) The monthly rental rate of the dwelling unit;

14 (5) The current amount of the rent due as of the date of
15 the notice, after applying all rent paid from all
16 sources;

17 (6) Whether the landlord or landlord's agent has applied
18 for rental assistance or been contacted on behalf of
19 the tenant by any agency providing rental assistance;



- 1 (7) That any rental assistance received by the landlord or
2 landlord's agent has been credited to the tenant's
3 amount due;
- 4 (8) That a copy of the fifteen-calendar day notice being
5 provided to the tenant is also being provided to the
6 mediation center to be identified by the landlord and,
7 in accordance with subsection (c), in order for the
8 mediation center to contact the landlord and tenant to
9 attempt to schedule a mediation regarding the
10 nonpayment of rent;
- 11 (9) That the mediation center will provide proof to the
12 landlord that the notice was received and provide
13 confirmation of the scheduled date and time of
14 mediation;
- 15 (10) That the landlord or landlord's agent may file an
16 action for summary possession if the rent due is not
17 paid and if mediation is not scheduled within fifteen
18 calendar days after the tenant's receipt of the
19 fifteen-calendar day notice, regardless of whether the
20 scheduled mediation session occurs within the fifteen
21 calendar days;



1 (11) A warning in bold typeface print that reads: "If
2 mediation is not scheduled within fifteen calendar
3 days after receipt of the notice, regardless of
4 whether the scheduled mediation session occurs within
5 the fifteen-calendar day period, then the landlord may
6 file an action for summary possession after the
7 expiration of the fifteen-calendar day period. If
8 mediation is scheduled before the expiration of the
9 fifteen-calendar day period, regardless of whether the
10 scheduled mediation session occurs within the fifteen
11 calendar days, then the landlord shall only file an
12 action for summary possession after the expiration of
13 thirty calendar days following the tenant's receipt of
14 the fifteen-calendar day notice. If the
15 fifteen-calendar day notice was mailed, receipt of
16 notice shall be deemed to be two days after the date
17 of the postmark. If the fifteen-calendar day notice
18 was posted on the premises, receipt of notice shall be
19 deemed to be the date of posting. If an agreement is
20 reached before the filing of an action for summary
21 possession, whether through mediation or otherwise,



1 then the landlord shall not bring an action for
2 summary possession against the tenant, except as
3 provided in any agreement that may be reached. 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 fifteen-calendar day notice to the
7 mediation center in the action for summary
8 possession.";

9 (12) 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 (13) That the landlord or landlord's agent shall engage in
15 mediation if mediation is scheduled.

16 (c) Landlords or their agents shall provide the
17 fifteen-calendar day notice to a mediation center that offers
18 free mediation for residential landlord-tenant matters. The
19 mediation center shall contact the landlord or landlord's agent
20 and the tenant to schedule the mediation. If a tenant schedules
21 mediation within the fifteen-calendar day period, regardless of



1 whether the scheduled mediation session occurs within the
2 fifteen-day period, the landlord shall only file a summary
3 proceeding for possession after the expiration of thirty
4 calendar days from the date of receipt of the notice. If the
5 tenant schedules mediation, the landlord shall participate.

6 (d) The summary possession complaint for nonpayment of
7 rent shall include:

8 (1) A document or documents from the mediation center
9 verifying that the landlord provided a copy of the
10 required fifteen-calendar day notice to the mediation
11 center;

12 (2) A statement as to whether the landlord or landlord's
13 agent and tenant have participated in, or will
14 participate in any scheduled mediation; and

15 (3) If mediation is pending, the date on which the
16 mediation is scheduled.

17 (e) If the mediation has not occurred as of, or been
18 scheduled for a future date after, the return hearing date on
19 the summary possession complaint, the court, in its discretion
20 and based on a finding of good cause, may order a separate
21 mediation.



1 (f) If there is any defect in the fifteen-calendar day
 2 notice described in subsection (b) provided by the landlord and
 3 the court determines the defect was unintentional and
 4 immaterial, the court may allow the landlord to cure the defect
 5 without dismissing the action for summary possession.

6 (g) A landlord or the landlord's agent may bring an action
 7 for rent alone at any time after the landlord has demanded
 8 payment of past due rent and notified the tenant of the
 9 landlord's intention to bring [~~such an~~] the action."

10 SECTION 3. There is appropriated out of the general
 11 revenues of the State of Hawaii the sum of \$ or so much
 12 thereof as may be necessary for fiscal year 2023-2024 and the
 13 same sum or so much thereof as may be necessary for fiscal year
 14 2024-2025 for administration of the pre-litigation mediation
 15 program established under section 2 of this Act.

16 The sums appropriated shall be expended by the counties for
 17 the purposes of this Act, in the following amounts:

18	City and county of Honolulu	\$	
19	County of Hawaii	\$	
20	County of Kauai	\$	
21	County of Maui	\$.



1 SECTION 4. There is appropriated out of the general
 2 revenues of the State of Hawaii the sum of \$ or so much
 3 thereof as may be necessary for fiscal year 2023-2024 and the
 4 same sum or so much thereof as may be necessary for fiscal year
 5 2024-2025 for the establishment of an emergency rent relief
 6 program to provide moneys to participants in the pre-litigation
 7 mediation program established pursuant to section 2 of this Act
 8 for the purposes of avoiding eviction and maintaining stable
 9 tenancies.

10 The sums appropriated shall be expended by the counties for
 11 the purposes of this Act, in the following amounts:

- 12 City and county of Honolulu \$
- 13 County of Hawaii \$
- 14 County of Kauai \$
- 15 County of Maui \$.

16 SECTION 5. Statutory material to be repealed is bracketed
 17 and stricken. New statutory material is underscored.

18 SECTION 6. This Act shall take effect on July 1, 2023;
 19 provided that section 2 of this Act shall be repealed on
 20 December 31, 2024, and section 521-68, Hawaii Revised Statutes,



1 shall be reenacted in the form in which it read on the day
2 before the effective date of this Act.

3

INTRODUCED BY: _____

Timothy G. 7th R



S.B. NO. 393

Report Title:

Housing; Landlord-tenant Code; Remedies; Notice; Failure to Pay Rent; Mediation; Appropriations

Description:

Until 12/31/2024, extends the period for a notice of termination of the rental agreement from 5 business days to 15 calendar days; requires landlords to engage in mediation and delay filing an action for summary possession if a tenant schedules or attempts to schedule a mediation; requires landlords to include specific information in the fifteen-calendar day notice provided to tenants and certain mediation centers. Appropriates moneys.

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

