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S.B. NO. ⁸²² S.D. 1

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. Section 521-69, Hawaii Revised Statutes, is 2 amended to read as follows:

"§521-69 Landlord's remedies for tenant's waste, failure to maintain, or unlawful use. (a) If the tenant is in material 4 5 noncompliance with section 521-51, the landlord, upon learning 6 of [any such] the noncompliance and after notifying the tenant 7 in writing of the noncompliance and allowing a specified time 8 not less than ten days after receipt of the notice, for the 9 tenant to remedy the noncompliance:

10 (1) May terminate the rental agreement and bring a summary 11 proceeding for possession of the dwelling unit or any 12 other proper proceeding, action, or suit for 13 possession if the tenant is in material noncompliance with section 521-51(1); [or] 14 15 (2) May remedy the tenant's failure to comply and bill the

16 tenant for the actual and reasonable cost of [such] 17 the remedy if the noncompliance can be remedied by the

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1		land	lord by cleaning, repairing, replacing a damaged
2		item	, or the like, which bill shall be treated by all
3		part	ies as rent due and payable on the next regular
4		rent	collection date or, if the tenancy has
5		term	inated, immediately upon receipt by the tenant $[-]_{\underline{i}}$
6		or	
7	(3)	May	petition a district court for a temporary
8		rest	raining order, permanent restraining order, or
9		inju	nction to compel the tenant's compliance with
10		sect	ion 521-51; provided that:
11		<u>(A)</u>	If the district court issues either a preliminary
12			or permanent injunction against the tenant and
13			the court subsequently determines that the tenant
14			has violated the injunction, the court shall
15			issue to the landlord a judgment for possession;
16		<u>(B)</u>	A petition for relief filed under this subsection
17			concerning a violation of section 521-51 shall be
18			in writing, shall allege that a violation of
19			section 521-51 has occurred, and shall be
20			accompanied by an affidavit made under oath or a
21			statement made under penalty of perjury stating

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1		the specific facts and circumstances for which
2		relief is sought;
3	<u>(C)</u>	The petition shall be set for a return hearing
4		and notice served on the tenant in the same
5		manner as a complaint for summary possession;
6	<u>(D)</u>	At the return hearing, the court may temporarily
7		restrain the person or persons named in the
8		petition from violating section 521-51 upon a
9		determination that there is probable cause to
10		believe that a violation of section 521-51
11		occurred and that an injunction is reasonably
12		necessary for the preservation of the property or
13		to protect the landlord, other tenants, or any
14		other person. The court may issue a temporary
15		restraining order either in writing or orally;
16		provided that oral orders shall be reduced to
17		writing by the close of the next court day;
18	<u>(E)</u>	Any order issued under this subsection shall be
19		served upon the tenant via personal service or
20		certified mail, unless the tenant was present at

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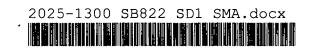
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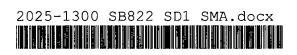
1		the hearing at which the court orally issued the
2		<u>order;</u>
3	<u>(F)</u>	Where service of a restraining order or
4		injunction has been made or where the tenant is
5		deemed to have received notice of a restraining
6		order or injunction order, any knowing or
7		intentional violation of the restraining order or
8		injunction order shall subject the tenant to
9		subparagraph (K);
10	(G)	A temporary restraining order that is granted
11		under this subsection shall remain in effect at
12		the discretion of the court for a period not to
13		exceed ninety days from the date the order is
14		granted. A temporary injunction may be extended
15		for up to three years by the court if the
16		landlord proves by a preponderance of the
17		evidence that the tenant has violated section
18		<u>521-51;</u>
19	<u>(H)</u>	Upon the request of the tenant, the court may set
20		an evidentiary hearing to determine if a
21		temporary restraining order shall be dissolved,

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1		remain in effect for the initial ninety days, or
2		become permanent and remain in effect for up to
3		three years. The evidentiary hearing shall be
4		held within ten days after a request to dissolve
5		is received from the tenant unless a court
6		closure due to a holiday or other reason prevents
7		the hearing from taking place, in which case the
8		hearing shall occur on the next available hearing
9		date. The temporary restraining order shall be
10		considered in effect until the court hears and
11		adjudicates any request to dissolve the temporary
12		restraining order;
13	<u>(I)</u>	The parties named in the petition may file
14		written responses or give oral responses
15		explaining, excusing, justifying, or denying the
16		alleged violation of section 521-51. The court
17		shall receive at the hearing all relevant
18		evidence and may make independent inquiry;
19	(J)	If the court finds by a preponderance of the
20		evidence that a violation of section 521-51 has
21		occurred, in addition to any other relief



1	provided for by law, the court shall issue to the
2	landlord a judgment for possession for the rented
3	premises, effective immediately; and
4 (K) If the tenant violates a restraining order issued
5	under this paragraph, the landlord may
6	immediately file a motion with the court
7	regarding the violation of the restraining order
8	and may seek a judgment for possession to remove
9	the tenant from the rented premises. The hearing
10	on the motion shall be heard within ten days of
11	its filing, unless a court closure due to a
12	holiday or other reason prevents the hearing from
13	taking place, in which case the hearing shall
14	occur on the next available hearing date. If the
15	matter is not resolved by motion, the court may
16	order an evidentiary hearing upon the request of
17	either party. If the court finds by a
18	preponderance of the evidence that a violation of
19	the temporary restraining order has occurred, the
20	court shall issue to the landlord a judgment for
21	possession, effective immediately. The parties



1	named in the petition may file written responses
2	or give oral responses explaining, excusing,
3	justifying, or denying the alleged violation of
4	the temporary restraining order. The court shall
5	receive at the hearing all relevant evidence and
6	may make independent inquiry.
7	(b) No allowance of time to remedy noncompliance shall be
8	required when noncompliance by the tenant causes or threatens to
9	cause irremediable damage to any person or property. If the
10	tenant cannot be served with notice as required, notice may be
11	given to the tenant by posting the same in a conspicuous place
12	on the dwelling unit.
13	[(b)] <u>(c)</u> The landlord may terminate the rental agreement
14	and bring a summary proceeding for possession of the dwelling
15	unit or any other proper proceeding, action, or suit for
16	possession for any material noncompliance with section 521-51 by
17	a roomer or boarder if the roomer or boarder fails to comply
18	within the time specified in the notice.
19	[(c)] <u>(d)</u> The landlord may bring an action or proceeding
20	for waste or for breach of contract for damage suffered by the

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1	tenant's	wilful or negligent failure to comply with the tenant's
2	obligatio	ns under section 521-51.
3	<u>(e)</u>	Nothing in this section shall be construed to prohibit
4	constitut	ionally protected activities."
5	SECT	ION 2. (a) There is established the residential
6	landlord-	tenant code working group within the judiciary to
7	conduct a	comprehensive review of the residential
8	landlord-	tenant code and prepare a report on whether amendments
9	and updat	es to the code are necessary.
10	(b)	The working group shall consist of the following
11	members:	
12	(1)	The chief justice of the Hawaii supreme court, or the
13		chief justice's designee, who shall serve as
14		chairperson of the working group;
15	(2)	One member appointed by the president of the senate;
16	(3)	One member appointed by the speaker of the house of
17		representatives; and
18	(4)	Other members appointed by the chairperson of the
19		working group.

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1 (c) The members of the working group shall serve without 2 compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties. 3 4 (d) No member of the working group shall be subject to 5 chapter 84, Hawaii Revised Statutes, solely because of the 6 member's participation in the working group. 7 (e) The working group shall report its findings and 8 recommendations, including any proposed legislation, to the 9 legislature no later than twenty days prior to the convening of 10 the regular session of 2027. 11 (f) The working group shall be dissolved on June 30, 2027. 12 SECTION 3. This Act does not affect rights and duties that 13 matured, penalties that were incurred, and proceedings that were 14 begun before its effective date. SECTION 4. Statutory material to be repealed is bracketed 15 16 and stricken. New statutory material is underscored. 17 SECTION 5. This Act shall take effect on July 1, 2050.

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Report Title:

Landlord-Tenant Code; Waste; Failure to Maintain; Unlawful Use; Working Group; Report

Description:

Authorizes a landlord to petition a district court for a temporary restraining order, permanent restraining order, or injunction to compel a tenant's compliance with section 521-51, HRS. Establishes a working group facilitated by the Judiciary to conduct a comprehensive review of and recommend updates to the Residential Landlord-Tenant Code. Requires a report to the Legislature. Effective 7/1/2050. (SD1)

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

