

JAN 15 2025

A BILL FOR AN ACT

RELATING TO LANDLORD-TENANT LAW.

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

1 SECTION 1. The legislature finds that clarifications are
2 needed to ensure the fairness of the State's landlord tenant
3 laws. For example, tenants who do not receive income on the
4 first day of the month, or who otherwise prefer to pay rent on a
5 date other than the first day of the month, should have the
6 option of establishing a new rent payment date. Currently, the
7 law allows a tenant who receives public assistance to establish
8 a new due date for the tenant's rent by making a one-time
9 payment to cover the period between the original due date and
10 the newly established date. The legislature believes that all
11 tenants in the State should have this flexibility.

12 The legislature also finds that any fees assessed for late
13 or unpaid rent should be proportionate and fair. The existing
14 law allows landlords, in certain circumstances, to charge late
15 fees amounting to a maximum of eight percent of the rent. The
16 legislature notes that Hawaii's eight per cent cap on late fees
17 is more than double the cap in most states. The fees are



1 especially high when taking into account the State's median rent
2 amount, which is almost \$900 higher than median rents
3 nationally. Additionally, when a tenant makes a partial rent
4 payment but pays the remaining balance of the rent late, the law
5 currently allows landlords to assess a late fee on the entire
6 rent amount instead of the late portion. The legislature
7 believes that the law on this point should be clarified.

8 Finally, the legislature finds that tenants who renew their
9 leases should be notified in advance if the landlord intends to
10 require an additional security deposit. A longstanding
11 provision in the State's landlord tenant code specifies that a
12 security deposit may be in an amount equivalent to no more than
13 one month's rent. Currently, when a renewing tenant's rent is
14 increased, some landlords require a corresponding increase in
15 the security deposit. The legislature believes that, in these
16 circumstances, renewing tenants should be provided at least
17 thirty days' notice before any additional security deposit is
18 due.

19 Accordingly, the purpose of this Act is to:

- 20 (1) Authorize a tenant to change the date on which the
21 tenant's rent is due by making a one-time payment to



1 cover the period between the original due date and the
2 newly established due date;

3 (2) Clarify that a landlord may only assess a late fee on
4 any unpaid rent and not the entire monthly rent;

5 (3) Reduce the maximum amount of a late charge for unpaid
6 rent from eight per cent of the unpaid amount to five
7 per cent of the unpaid amount; and

8 (4) Specify that if rent is increased, the landlord may
9 also proportionately increase the amount due as a
10 security deposit; provided that a continuing or
11 renewing tenant shall be provided at least thirty days
12 to pay the additional amount due.

13 SECTION 2. Section 445-95.2, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "[~~§~~445-95.2~~]~~ **Unfair and deceptive practices defined.**

16 The following are defined as unfair or deceptive practices in
17 the rooming house business:

18 (1) Requiring, seeking, or encouraging any resident or
19 prospective resident to execute a power of attorney in
20 which the resident or prospective resident names the



- 1 rooming house, its owner, or any of its agents or
2 employees as attorney-in-fact;
- 3 (2) Making any representation that the rooming house
4 offers medical care, rehabilitation, or therapeutic
5 benefits of any type;
- 6 (3) Negotiating public assistance checks payable to a
7 resident;
- 8 (4) Refusing to refund any deposit as provided in sections
9 ~~[521-44(e)]~~ 521-44(d) and 521-66;
- 10 (5) Refusing to give any resident a partial rent refund in
11 accordance with section 521-66;
- 12 (6) Encouraging, soliciting, or requiring any resident or
13 prospective resident to consent to the release of
14 information concerning the resident or prospective
15 resident which is maintained by any government agency
16 and otherwise confidential;
- 17 (7) Encouraging, soliciting, or requiring a resident or
18 prospective resident to:
- 19 (A) Turn over food stamps to the rooming house, its
20 agents, or employees; or



1 (B) Permit authorization to purchase [~~ATP~~] food
2 stamp cards to be negotiated by the rooming
3 house, its agents, or employees;

4 (8) Limiting, hindering, or restricting access of
5 residents who are food stamp recipients to foodstuffs,
6 food containers, refrigerators, or other food storage
7 facilities;

8 (9) Encouraging, soliciting, or requiring any resident or
9 prospective resident to apply for or receive food
10 stamps if the rooming house has meal service;

11 (10) Accepting food stamps as payment for or in reduction
12 of rent;

13 (11) Charging different rents for similar accommodations
14 based on the amount of a resident's public assistance
15 benefits;

16 (12) Encouraging, soliciting, or requiring any resident or
17 prospective resident to have public assistance
18 benefits mailed to the rooming house, its owner, or
19 its agents or employees; and



1 (13) Denying any prospective resident or evicting any
2 resident from living accommodations solely on the
3 basis of age or disability."

4 SECTION 3. Section 521-21, Hawaii Revised Statutes, is
5 amended as follows:

6 1. By amending subsection (b) to read:

7 "(b) Rents shall be payable at the time and place agreed
8 to by the parties. Unless otherwise agreed, the entire rent
9 shall be payable at the beginning of any term for one month or
10 less, and for longer terms in equal monthly installments payable
11 at the beginning of each month[~~—When a rental agreement with a~~
12 ~~public assistance recipient requires that the rent be paid on or~~
13 ~~before the third day after the day on which the public~~
14 ~~assistance check is usually received,]; provided that the tenant
15 shall have the option of establishing a new due date by making a
16 one-time payment to cover the period between the original due
17 date and the newly established date[~~—The new date shall not~~
18 ~~exceed by more than three days, excluding Saturdays, Sundays,~~
19 ~~and holidays, the date on which checks are mailed. The one-time~~
20 ~~payment shall be established] by dividing the monthly [rental]~~~~



1 rent by thirty and multiplying the result by the number of days
2 between the original and the new due dates."

3 2. By amending subsection (f) to read:

4 "(f) Where the rental agreement provides for a late charge
5 payable to the landlord for rent not paid when due, the late
6 charge shall not exceed [~~eight~~] five per cent of the amount of
7 rent that was not paid when due."

8 SECTION 4. Section 521-44, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§521-44 Security deposits.** (a) As used in this section
11 "security deposit" means money deposited by or for the tenant
12 with the landlord to be held by the landlord to:

13 (1) Remedy tenant defaults for accidental or intentional
14 damages resulting from failure to comply with section
15 521-51, for failure to pay rent due, or for failure to
16 return all keys, including key fobs, parking cards,
17 garage door openers, and mail box keys, furnished by
18 the landlord at the termination of the rental
19 agreement;

20 (2) Clean the dwelling unit or have it cleaned at the
21 termination of the rental agreement so as to place the



1 condition of the dwelling unit in as fit a condition
2 as that which the tenant entered into possession of
3 the dwelling unit;

4 (3) Compensate for damages caused by a tenant who
5 wrongfully quits the dwelling unit;

6 (4) Compensate for damages under subsection (b) caused by
7 any pet animal allowed to reside in the premises
8 pursuant to the rental agreement; and

9 (5) Compensate the landlord for moneys owed by the tenant
10 under the rental agreement for utility service
11 provided by the landlord but not included in the rent.

12 (b) The landlord may require, as a condition of a rental
13 agreement, a security deposit to be paid by or for the tenant
14 for the items in subsection (a) and no others in an amount not
15 in excess of a sum equal to one month's rent, plus an amount
16 agreed upon by the landlord and tenant to compensate the
17 landlord for any damages caused by any pet animal allowed to
18 reside in the premises pursuant to the rental agreement;
19 provided that the additional security deposit amount for a pet
20 animal under this subsection:

21 (1) Shall not be required:



1 (A) From any tenant who does not have a pet animal
2 that resides in the premises; or

3 (B) For an assistance animal that is a reasonable
4 accommodation for a tenant with a disability
5 pursuant to section 515-3; and

6 (2) Shall be in an amount not in excess of a sum equal to
7 one month's rent.

8 The landlord may not require or receive from or on behalf of a
9 tenant at the beginning of a rental agreement any money other
10 than the money for the first month's rent and a security deposit
11 as provided in this section. No part of the security deposit
12 shall be construed as payment of the last month's rent by the
13 tenant, unless mutually agreed upon, in writing, by the landlord
14 and tenant if the tenant gives forty-five days' notice of
15 vacating the premises; in entering such agreement, the landlord
16 shall not be deemed to have waived the right to pursue legal
17 remedies against the tenant for any damages the tenant causes.
18 Any such security deposit shall be held by the landlord for the
19 tenant and the claim of the tenant to the security deposit shall
20 be prior to the claim of any creditor of the landlord, including



1 a trustee in bankruptcy, even if the security deposits are
2 commingled.

3 (c) If the rent is increased as permitted by this chapter
4 and pursuant to the rental agreement, the security deposit,
5 including any security deposit for a pet animal, may be
6 proportionally increased. Any continuing or renewing tenant
7 shall have at least thirty days from the date of receiving
8 notice of the increased security deposit to pay the additional
9 amount owed.

10 [~~e~~] (d) At the termination of a rental agreement in
11 which the landlord required and received a security deposit, if
12 the landlord proposes to retain any amount of the security
13 deposit for any of the purposes specified in subsection (a), the
14 landlord shall [~~se~~] notify the tenant, in writing, unless the
15 tenant [~~had~~] wrongfully quit the dwelling unit, together with
16 the particulars of and grounds for the retention, including
17 written evidence of the costs of remedying tenant defaults, such
18 as estimates or invoices for material and services or of the
19 costs of cleaning, such as receipts for supplies and equipment
20 or charges for cleaning services. The security deposit, or the
21 portion of the security deposit remaining after the landlord has



1 claimed and retained amounts authorized under this section, if
2 any, shall be returned to the tenant not later than fourteen
3 days after the termination of the rental agreement. If the
4 landlord does not furnish the tenant with the written notice and
5 other information required by this subsection[7] within fourteen
6 days after the termination of the rental agreement, the landlord
7 shall not be entitled to retain the security deposit or any part
8 of it, and the landlord shall return the entire amount of the
9 security deposit to the tenant. A return of the security
10 deposit or the furnishing of the written notice and other
11 required information in compliance with the requirements of this
12 subsection shall be presumptively proven if mailed to the
13 tenant, at an address supplied to the landlord by the tenant,
14 with acceptable proof of mailing and postmarked before midnight
15 of the fourteenth day after the date of the termination of the
16 rental agreement or if there is an acknowledgment by the tenant
17 of receipt within the fourteen-day limit. All actions for the
18 recovery of a landlord's complete or partial retention of the
19 security deposit shall be instituted not later than one year
20 after termination of the rental agreement.



1 [~~(d)~~] (e) For the purposes of this section if a tenant is
2 absent from the dwelling unit for a [~~continuous~~] period of
3 twenty continuous days or [~~more~~] longer without providing
4 written notice to the landlord, the tenant shall be deemed to
5 have wrongfully quit the dwelling unit; provided that the tenant
6 shall not be considered to be absent from the dwelling unit
7 without providing notice to the landlord during any period for
8 which the landlord has received payment of rent. In addition to
9 any other right or remedy the landlord has with respect to such
10 a tenant the landlord may retain the entire amount of any
11 security deposit the landlord has received from or on behalf of
12 [~~such~~] the tenant.

13 [~~(e)~~] (f) The landlord shall not require the delivery of
14 any postdated check or other negotiable instrument to be used
15 for payment of rent.

16 [~~(f)~~] (g) If [~~the~~] a landlord who required and received a
17 security deposit transfers the landlord's interest in the
18 dwelling unit, whether by sale, assignment, death, appointment
19 of a receiver, or otherwise, the landlord's successor in
20 interest [~~is~~] shall be bound by this section. The original
21 landlord shall provide an accounting of the security deposits



1 received for each dwelling unit to the landlord's successor at
2 or before the time of the transfer of the landlord's interest;
3 within twenty days thereafter the landlord's successor shall
4 give written notice to each tenant of the amount of the security
5 deposit credited to the tenant. In the event the landlord's
6 successor fails to satisfy the requirements of this subsection,
7 it shall be presumed that the tenant has paid a security deposit
8 equal to no less than one month's rent at the rate charged when
9 the tenant originally rented the dwelling unit and the
10 landlord's successor shall be bound by this amount in all
11 further matters relating to the security deposit.

12 [~~g~~] (h) If the landlord and the tenant disagree about
13 the right of the landlord to claim and retain the security
14 deposit or any portion of it, either the landlord or the tenant
15 may commence an action in the small claims division of the
16 district court, as provided in chapter 633 and the rules of
17 court thereunder, to adjudicate the matter.

18 [~~h~~] (i) In any action in the small claims division of
19 the district court pursuant to subsection [~~g~~] (h) where the
20 court determines that:



- 1 (1) The landlord wrongfully and wilfully retained a
2 security deposit or part of a security deposit, the
3 court may award the tenant damages in an amount equal
4 to three times the amount of the security deposit, or
5 part thereof, wrongfully and wilfully retained and the
6 cost of suit[-];
- 7 (2) The landlord wrongfully retained a security deposit or
8 part of a security deposit, the court shall award the
9 tenant damages in an amount equal to the amount of the
10 security deposit, or part thereof, wrongfully retained
11 and the cost of suit[-];
- 12 (3) The landlord was entitled to retain the security
13 deposit or a part of it, the court shall award the
14 landlord damages in an amount equal to the amount of
15 the security deposit, or part thereof, in dispute and
16 the cost of suit[-];
- 17 (4) In any [~~such~~] action[-] pursued in the small claims
18 division, neither the landlord nor the tenant may be
19 represented by an attorney, including salaried
20 employees of the landlord or tenant."



1 SECTION 5. Section 521-56, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) When the tenant [~~within the meaning of section~~
4 ~~521-70(d) or section 521-44(d),~~] has wrongfully quit the
5 premises [~~within the meaning of section 521-70(d) or section~~
6 ~~521-44(e),~~ or when the tenant has quit the premises pursuant to
7 a notice to quit or upon the natural expiration of the term, and
8 has abandoned personalty [~~which~~] that the landlord, in good
9 faith, determines to be of value, in or around the premises, the
10 landlord may sell [~~such~~] the personalty [~~in a commercially~~
11 ~~reasonable manner, store [such] the personalty at the tenant's~~
12 ~~expense, or donate [such] the personalty to a charitable~~
13 ~~organization. Before selling or donating such personalty, the~~
14 ~~landlord shall make reasonable efforts to apprise the tenant of~~
15 ~~the identity and location of, and the landlord's intent to sell~~
16 ~~or donate [such] the personalty by mailing notice to the~~
17 ~~tenant's forwarding address, or to an address designated by the~~
18 ~~tenant for the purpose of notification or if neither of these is~~
19 ~~available, to the tenant's previous known address. [Following~~
20 ~~such] Once the tenant receives notice, the landlord may sell the~~
21 ~~personalty after advertising the sale in a daily paper of~~



1 general circulation within the circuit in which the premises is
2 located for at least three consecutive days, or the landlord may
3 donate the personalty to a charitable organization; provided
4 that [~~such~~] the sale or donation shall not take place until
5 fifteen days after notice is mailed, after which the tenant is
6 deemed to have received notice."

7 SECTION 6. Section 521-63, Hawaii Revised Statutes, is
8 amended by amending subsection (c) to read as follows:

9 "(c) If the landlord removes or excludes the tenant from
10 the premises overnight without cause or without court order so
11 authorizing, the tenant may recover possession or terminate the
12 rental agreement and, in either case, recover an amount equal to
13 two months rent or free occupancy for two months, and the cost
14 of suit, including reasonable attorney's fees. If the rental
15 agreement is terminated, the landlord shall comply with section
16 [~~521-44(e).~~] 521-44(d). The court may also order any injunctive
17 or other equitable relief it deems proper. If the court
18 determines that the removal or exclusion by the landlord was
19 with cause or was authorized by court order, the court may award
20 the landlord the cost of suit, including reasonable attorney's



1 fees if the attorney is not a salaried employee of the landlord
2 or the landlord's assignee."

3 SECTION 7. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun before its effective date.

6 SECTION 8. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 9. This Act shall take effect upon its approval.

9

INTRODUCED BY: _____

Karl Rhoad



Report Title:

Landlord Tenant Law; Unpaid Rent; Security Deposit

Description:

Authorizes a tenant to change the date on which the tenant's rent is due by making a one-time payment to cover the period between the original due date and the newly established due date. Clarifies that a landlord may only assess a late fee on any unpaid rent and not the entire monthly rent. Reduces the maximum amount of a late charge for unpaid rent from 8% of the unpaid amount to 5% of the unpaid amount. Specifies that if rent is increased, the landlord may also proportionately increase the amount due as a security deposit; provided that a continuing or renewing tenant shall have at least 30 days to pay the additional amount due. Makes conforming amendments.

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