

A Bill for an Act Relating to the Residential Landlord-Tenant Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 521-43, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 521-43 Rental agreement, disclosure.** (a) On each written rental agreement, the landlord shall disclose:

- (1) The name and usual address of each person authorized to manage the premises; and
- (2) The name and usual address of each person who is an owner of the premises or who is authorized to act for and on behalf of the owner for the purposes of service of process and of receiving and receipting rents, notices, and demands.

(b) In case of an oral rental agreement the landlord shall, on demand, furnish the tenant with a written statement containing the information specified in subsection (a).

(c) Any owner or landlord not dealing directly with the tenant shall be responsible for compliance with this section by an owner or landlord dealing directly with the tenant and shall be estopped from any objection to a failure to serve process upon an owner or landlord in any proceeding arising under this chapter when such failure is due to failure to comply with this section. The owner or landlord who deals directly with the tenant and fails to comply with this section shall be deemed an agent of every other landlord under the rental agreement for performing the obligations of the landlord under this chapter and under the rental agreement.

(d) In the case of a written rental agreement, the landlord shall furnish a copy of the lease or rental agreement to the tenant.

(e) The landlord shall furnish to the tenant a written receipt for rents paid at the time of said payment. Cancelled checks shall also constitute and fulfill the requirement of a written receipt. If rent is paid by check, the landlord shall furnish a receipt therefore, provided such receipt is requested by the tenant.

(f) Any owner or landlord who resides without the State or on another island from where the rental unit is located must designate on the written rental agreement an agent residing on the same island where the unit is located to act in his behalf. In the case of an oral rental agreement, such information shall be supplied to the tenant, on demand, in a written statement.”

SECTION 2. Section 521-64, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 521-64 Tenant’s remedy of repair and deduction for minor defects.**

(a) If the landlord fails to repair, maintain, keep in sanitary condition, or perform in any other manner required by sections 321-9 to 321-11 and 322-1 to 322-7, or by regulations thereunder, or as agreed to in a rental agreement, or if the landlord is in material noncompliance with section 521-42(a), and does

not remedy the failure or noncompliance within twelve business days after being notified in writing by the tenant to do so, or if the cost to the landlord of remedying the failure or noncompliance would exceed \$200, within five business days after being notified in writing by the department of health that there is a health violation, the tenant may further notify the landlord in writing of his intention to correct the objectionable condition at the landlord's expense and:

- (1) Immediately do or have done the necessary work in a workmanlike manner; or
- (2) The tenant may submit to the landlord, at least five business days before having the work done, a written signed estimate from each of two qualified workmen and proceed to have done the necessary work by the workman who provides the lower estimate; provided the landlord may require in writing a reasonable substitute workman or substitute materials; and provided further that if the lower estimate exceeds \$200, the tenant shall not proceed to have done the necessary work until he obtains from the department of health a written statement that the objectionable condition in fact constitutes a violation of health law or regulation, a copy of which statement shall be mailed by certified or registered mail by the department of health to the landlord.

(b) A tenant may deduct from his rent not more than \$200 for his actual expenditures for work done to correct an objectionable condition pursuant to subsection (a)(1) and may deduct not more than one month's rent for his actual expenditures for work done to correct an objectionable condition pursuant to subsection (a)(2), if he submits to the landlord copies of receipts amounting to at least the sum deducted.

(c) At the time the tenant initially notifies the landlord under subsection (a), the tenant shall list every condition that he knows or should know of noncompliance under subsection (a), in addition to the objectionable condition that the tenant then intends to correct or have corrected at the landlord's expense. Failure by a tenant to list such a condition that he knew of or should have known of shall estop the tenant from requiring the landlord to correct it and from having it corrected at the landlord's expense under this section for a period of six months after the initial notification to the landlord. Total correction and repair work costs under this section chargeable to the landlord's expense during each six-month period shall not exceed an amount equal to three months' rent.

(d) In no event may a tenant repair a dwelling unit at the landlord's expense when the condition complained of was caused by the want of due care by the tenant, a member of his family, or other person on the premises with his consent.

(e) Before correcting a condition affecting facilities shared by more than one dwelling unit, the tenant shall notify all other tenants sharing such facilities of his plans, and shall so arrange the work as to create the least practicable inconvenience to the other tenants."

SECTION 3. Section 521-71, Hawaii Revised Statutes, is amended to

read as follows:

**“Sec. 521-71 Termination of tenancy; landlord’s remedies for holdover tenants.** (a) When the tenancy is month to month, the landlord or the tenant may terminate the rental agreement upon his notifying the other at least twenty-eight days in advance of the anticipated termination or in cases of voluntary demolition of the dwelling units, ninety days in advance of the anticipated demolition. If notice is revoked or amended and re-issued, the ninety day period shall begin from the date it was re-issued or amended.

(b) When the tenancy is less than month to month, the landlord or the tenant may terminate the rental agreement upon his notifying the other at least ten days before the anticipated termination.

(c) Whenever the term of the rental agreement expires, whether by passage of time, by mutual agreement, by the giving of notice as provided in subsection (a) or (b), or by the exercise by the landlord of a right to terminate given under this chapter, if the tenant continues in possession after the date of termination without the landlord’s consent, the tenant shall be liable for and shall pay to the landlord a sum not to exceed twice the monthly rent under the previous rental agreement, computed and prorated on a daily basis, for each day he remains in possession for any period up to one month. If the tenant remains in possession for a period longer than one month, he shall be liable for and shall pay to the landlord a sum equal to the monthly rent under the previous rental agreement for each additional month or fraction thereof. The landlord may bring a summary proceeding for recovery of the possession of the dwelling unit at any time during the first sixty days of holdover, except that the landlord’s acceptance of rent in advance after the first month of holdover shall create a month-to-month tenancy in the absence of an agreement between the parties to the contrary at the time of such acceptance.”

SECTION 4. Section 521-73, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 521-73 Landlord’s and tenant’s remedies for abuse of access.** (a) The tenant shall be liable to the landlord for any damage proximately caused by the tenant’s unreasonable refusal to allow access as provided in section 521-53(a).

(b) Except for an entry under an emergency such as fire, the landlord shall be liable to the tenant for any theft, casualty, or other damage proximately caused by an entry into the dwelling unit by the landlord or by another person with the permission or license of the landlord:

- (1) When the tenant is absent and has, after having been notified by the landlord of a proposed entry or entries, refused consent to any such specific entry;
- (2) Without the tenant’s actual consent when he is present and able to consent; or
- (3) In any other case, when the damage suffered by the tenant is proximately caused by the landlord’s negligence.

(c) In the event of repeated demands by the landlord for unreasonable entry, or any entry by the landlord or by another with the landlord’s permission

or license which is unreasonable and not consented to by the tenant:

- (1) The tenant may treat such actions as grounds for termination of the rental agreement;
- (2) Any circuit court judge on behalf of one or more of the tenants may issue an injunction against a landlord to enjoin violation of this subsection;
- (3) Any circuit court judge hearing a dispute as set out in subsection (2) may also assess a fine not to exceed \$100.
- (d) Every agreement or understanding between a landlord and a tenant which purports to exempt the landlord from any liability imposed by this section, except consent by a tenant to a particular entry, shall be void."

SECTION 5. Section 521-74, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 521-74 Retaliatory evictions and rent increases prohibited.** (a) Notwithstanding that the tenant has no written rental agreement or that it has expired, so long as the tenant continues to tender the usual rent to the landlord or proceeds to tender receipts for rent lawfully withheld, no action or proceeding to recover possession of the dwelling unit may be maintained against the tenant, nor shall the landlord otherwise cause the tenant to quit the dwelling unit involuntarily, nor demand an increase in rent from the tenant; nor decrease the services to which the tenant has been entitled, after:

- (1) The tenant has complained in good faith to the department of health, landlord, building department, office of consumer protection, or any other governmental agency concerned with landlord-tenant disputes of conditions in or affecting his dwelling unit which constitutes a violation of a health law or regulation or of any provision of this chapter; or
  - (2) The department of health or other governmental agency has filed a notice or complaint of a violation of a health law or regulation or any provision of this chapter; or
  - (3) The tenant has in good faith requested repairs under section 521-63 or 521-64.
- (b) Notwithstanding subsection (a), the landlord may recover possession of the dwelling unit if:
- (1) The tenant is committing waste, or a nuisance, or is using the dwelling unit for an illegal purpose or for other than living or dwelling purposes in violation of his rental agreement;
  - (2) The landlord seeks in good faith to recover possession of the dwelling unit for immediate use as his own abode or that of his immediate family;
  - (3) The landlord seeks in good faith to recover possession of the dwelling unit for the purpose of substantially altering, remodeling, or demolishing the premises;
  - (4) The landlord seeks in good faith to recover possession of the dwelling unit for the purpose of immediately terminating for at least six months use of the dwelling unit as a dwelling unit;

- (5) The complaint or request of subsection (a) relates only to a condition or conditions caused by the lack of ordinary care by the tenant or another person in his household or on the premises with his consent;
  - (6) The landlord has received from the department of health certification that the dwelling unit and other property and facilities used by or affecting the use and enjoyment of the tenant were on the date of filing of the complaint or request in compliance with health laws and regulations;
  - (7) The landlord has in good faith contracted to sell the property, and the contract for sale contains a representation by the purchaser corresponding to paragraph (2), (3), or (4); or
  - (8) The landlord is seeking to recover possession on the basis of a notice to terminate a periodic tenancy, which notice was given to the tenant previous to the complaint or request of subsection (a).
- (c) Any tenant from whom possession has been recovered or who has been otherwise involuntarily dispossessed, in violation of this section, is entitled to recover the damages sustained by him and the cost of the suit, including reasonable attorney's fees.

(d) Notwithstanding subsection (a), the landlord may increase the rent if:

- (1) The landlord has received from the department of health certification that the dwelling unit and other property and facilities used by and affecting the use and enjoyment of the tenant were on the date of filing of the complaint or request of subsection (a) in compliance with health laws and regulations;
- (2) The landlord has become liable for a substantial increase in property taxes, or a substantial increase in other maintenance or operating costs not associated with his complying with the complaint or request, not less than four months prior to the demand for an increase in rent; and the increase in rent does not exceed the prorated portion of the net increase in taxes or costs;
- (3) The landlord has completed a capital improvement of the dwelling unit or the property of which it is a part and the increase in rent does not exceed the amount which may be claimed for federal income tax purposes as a straight-line depreciation of the improvement, prorated among the dwelling units benefited by the improvement;
- (4) The complaint or request of subsection (a) relates only to a condition or conditions caused by the want of due care by the tenant or another person of his household or on the premises with his consent; or
- (5) The landlord can establish, by competent evidence, that the rent now demanded of the tenant does not exceed the rent charged other tenants of similar dwelling units in his building or, in the case of a single-family residence or where there is no similar dwelling unit in the building, does not exceed the market value of the dwelling unit."

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not in-

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clude the brackets, the bracketed material, or the underscoring.\*

**SECTION 7.** This Act shall take effect upon its approval.

(Approved May 17, 1975.)

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\*Edited accordingly.