

ACT 90

H.B. NO. 2130-76

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 521-42, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The landlord shall at all times during the tenancy:

- (1) Comply with all applicable provisions of any state or county law, code, ordinance, or regulation, noncompliance with which would have the effect of endangering health or safety, governing maintenance, construction, use, or appearance of the dwelling unit and the premises of which it is a part;
- (2) Keep common areas of a multi-dwelling unit premises in a clean and safe condition;
- (3) Make all repairs and arrangements necessary to put and keep the premises in a habitable condition;
- (4) Maintain all electrical, plumbing, and other facilities and appliances supplied by him in good working order and condition, subject to reasonable wear and tear;
- (5) Except in the case of a single family residence, provide and maintain appropriate receptacles and conveniences for the removal of normal amounts of rubbish and garbage, and arrange for the frequent removal of such waste materials; and

- (6) Except in the case of a single family residence, or where the building is not required by law to be equipped for the purpose, provide for the supplying of running water as reasonably required by the tenant.

Prior to the initial date of initial occupancy, the landlord shall inventory the premises and make a written record detailing the condition of the premises and any furnishings or appliances provided. Duplicate copies of this inventory shall be signed by the landlord and by the tenant and a copy given to each tenant. In an action arising under this section, the executed copy of the inventory shall be presumed to be correct.”

SECTION 2. Section 521-43, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 521-43 Rental agreement, disclosure.** (a) A landlord or any person authorized to enter into a rental agreement on his behalf shall disclose to the tenant in writing at or before the commencement of the tenancy the name and address of:

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

The information required to be furnished shall be kept current and shall be enforceable against any successor landlord, owner, or manager.

(b) A person who fails to comply with subsection (a) becomes an agent of each person who is a landlord for:

- (1) Service of process and receiving and receipting for rents, notices, and demands; and
- (2) Performing the obligations of the landlord under this chapter and under the rental agreement and expending or making available for the purpose all rent collected from the premises.

(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 therefor, 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.

(g) Subsections (a) and (b) to the contrary notwithstanding, the information required to be disclosed to a tenant may, instead of being disclosed in the manner described in subsection (a) and (b), be disclosed as follows:

- (1) In each multi-unit single-owner dwelling structure containing an elevator, a printed or typewritten notice containing the information required by subsections (a) and (b) shall be placed and continuously maintained in every elevator and in one other conspicuous place; or
- (2) In each multi-unit single-owner dwelling structure not containing an elevator, a printed or typewritten notice containing the information required by subsections (a) and (b) shall be placed and continuously maintained in at least two conspicuous places.
- (3) In each multi-unit dwelling structure, a printed or typewritten notice containing the information required by subsections (a) and (b) shall be posted within the unit in a conspicuous place.”

SECTION 3. Section 521-45, Hawaii Revised Statutes, is amended to read:

“Sec. 521-45 Limitation of landlord and management liability. (a) Unless otherwise agreed, a landlord who conveys premises which include a dwelling unit subject to a rental agreement in a good faith sale to a person not connected with the landlord discloses in writing, in any form of contract for the sale of such premises is relieved of liability under the rental agreement and under this chapter as to events occurring subsequent to the conveyance.

(b) The new owner who purchases the premises referred to in subsection (a) is liable under the rental agreement and under this chapter.

(c) Unless otherwise agreed, a person who is a manager of premises which include a dwelling unit subject to a rental agreement is relieved of liability under the rental agreement and under this chapter as to events occurring subsequent to the termination of his management.”

SECTION 4. Section 521-61, Hawaii Revised Statutes, is amended to read:

“Sec. 521-61 Tenant’s remedies for failure by landlord to supply possession. (a) If the landlord fails to put the tenant into possession of the dwelling unit in the agreed condition at the beginning of the agreed term:

- (1) The tenant shall not be liable for the rent during any period he is unable to enter into possession;
- (2) At any time during the period the tenant is so unable to enter into possession he may notify the landlord that he has terminated the rental agreement; and
- (3) The tenant shall have the right to recover damages in the amount of reasonable expenditures necessary to secure adequate substitute housing, the recovery to be made either by action brought in the district court or by deduction from the rent upon submission to the landlord of receipts totaling at least

- (A) The amount of abated rent; plus
 - (B) The amount claimed against the rent; or
- (4) If the inability to enter results from the wrongful holdover of a prior occupant, the tenant may maintain a summary proceeding in the district court for possession.

(b) In any district court proceeding brought by the tenant under this section the court may award the tenant substitute housing expenditures, reasonable court costs, and attorney's fees."

SECTION 5. Section 521-64, Hawaii Revised Statutes, is amended to read:

"Sec. 521-64 Tenant's remedy of repair and deduction for minor defects.

(a) The landlord, upon written notification by the department of health or other state or county agencies that there exists a condition on the premises which constitutes a health or safety violation, shall commence repairs of the condition within five business days of the notification with a good faith requirement that the repairs be completed as soon as possible; provided that if the landlord is unable to commence the repairs within five business days for reasons beyond his control he shall inform the tenant of the reason for the delay and set a reasonable tentative date on which repairs will commence. Health or safety violations for the purpose of this section means any condition on the premises which is in noncompliance with section 521-42(a) (1).

(b) If the landlord fails to perform in the manner specified in subsection (a), the tenant may:

- (1) Immediately do or have done the necessary repairs in a workmanlike manner, and upon submission to the landlord of receipts amounting to at least the sum deducted, deduct from his rent not more than \$200 for his actual expenditures for work done to correct the health or safety violation; or
- (2) Submit to the landlord, at least five business days before having the work done, written signed estimates from each of two qualified workmen and proceed to have done the necessary work by the workman who provides the lower estimate; provided that the landlord may require in writing a reasonable substitute workman or substitute materials, and upon submission to the landlord of receipts amounting to at least the sum deducted, the tenant may deduct \$200 or one month's rent, whichever is greater, for his actual expenditures for work done to correct the health or safety violation.

(c) The landlord, upon written notification by the tenant of any defective condition on the premises which is in material noncompliance with section 521-42(a) or with the rental agreement, shall commence repairs of the condition within twelve business days of the notification with a good faith requirement that the repairs be completed as soon as possible; provided that if the landlord is unable to commence repairs within twelve business days for reasons beyond his control he shall inform the tenant of the reason for the delay and set a reasonable tentative date on which repairs will commence.

(d) If the landlord fails to perform in the manner specified in subsection (c),

the tenant may immediately do or have done the necessary work in a workmanlike manner and upon submission to the landlord of receipts amounting to at least the sums deducted, deduct from his rent not more than \$200 for his actual expenditures for work done to correct the defective condition.

(e) At the time the tenant initially notifies the landlord under subsection (c), the tenant shall list every condition that he knows or should know of noncompliance under subsection (c), 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.

(f) 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.

(g) 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 6. Section 521-69, Hawaii Revised Statutes, is amended to read:

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

- (1) May terminate the rental agreement and bring a summary proceeding for possession of the dwelling unit or any other proper proceeding, action, or suit for possession if the tenant is in material noncompliance with section 521-51(1); or
- (2) May remedy the tenant's failure to comply and bill the tenant for the actual and reasonable cost of such remedy if the noncompliance can be remedied by the landlord by cleaning, repairing, replacing a damaged item, or the like, which bill shall be treated by all parties as rent due and payable on the next regular rent collection date or, if the tenancy has terminated, immediately upon receipt by the tenant.

No allowance of time to remedy noncompliance shall be required when noncompliance by the tenant causes or threatens to cause irreparable damage to any person or property.

(b) The landlord may terminate the rental agreement and bring a summary proceeding for possession of the dwelling unit or any other proper proceeding, action, or suit for possession for any material noncompliance with section 521-51 by a roomer or boarder if the roomer or boarder fails to comply within the time specified in the notice.

(c) The landlord may bring an action or proceeding for waste or for breach of contract for damage suffered by the tenant's wilful or negligent failure to comply with his obligations under section 521-51."

SECTION 7. Section 521-72, Hawaii Revised Statutes, is amended to read:

"Sec. 521-72 Landlord's remedies for improper use. (a) If the tenant breaches any rule authorized under section 521-52, the landlord may notify the tenant in writing of his breach. The notice shall specify the time, not less than fifteen days, within which the tenant is required to remedy the breach and shall be in substantially the following form:

"(Name and address of tenant) (date)

You are hereby notified that you have failed to perform according to the following rule:

(specify rule allegedly breached)

Be informed that if you (continue violating) (again violate) this rule after (a date not less than fifteen days after this notice), the landlord may terminate the rental agreement and sue for possession of your dwelling unit."

No allowance of time to remedy the breach of any rule authorized under section 521-52 shall be required when the breach by the tenant causes or threatens to cause damage to any person or constitutes a violation of section 521-51(1) or (6).

(b) If the breach complained of continues or recurs after the date specified in the notice, the landlord may bring a summary proceeding for possession within thirty days after such continued or recurring breach."

SECTION 8. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 12, 1976.)

*Edited accordingly.