

ACT 194

H.B. NO. 1869

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

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

SECTION 1. The legislature finds that in the typical residential real estate transaction, buyers take occupancy and control of the property upon closing of escrow and the transfer of title from the seller to the buyer. In some instances, the buyer takes early occupancy of the property through mutually agreeable early occupancy terms. These occupancies are excluded from the landlord-tenant code.

Occasionally, however, a seller may improperly maintain occupancy after closing of escrow, or refuse to vacate the property. In such situations, the buyer can suffer significant inconvenience and even monetary damages. In the event a seller remains in possession of the property without a legal right, such as a written lease between the seller and the new owner, the law should be clear that no landlord-tenant relationship has been created by the seller's wrongful occupancy.

The purpose of this Act is to provide a specific exemption to the landlord-tenant code for instances in which a seller of residential real property continues to occupy that property after the transfer of the seller's ownership rights.

SECTION 2. Section 521-7, Hawaii Revised Statutes, is amended to read as follows:

“§521-7 Exclusions from application of chapter. Unless created solely to avoid the application of this chapter, this chapter shall not apply to:

- (1) Residence at an institution, whether public or private, where residence is merely incidental to detention or the provision of medical, geriatric, educational, religious, or similar services;
- (2) Residence in a structure directly controlled and managed by:
 - (A) The University of Hawaii or any other university or college in the State for housing its own students or faculty or residence in a structure erected on land leased from the university or college by a nonprofit corporation for the exclusive purpose of housing students or faculty of the college or university; or
 - (B) A private dorm management company that offers a minimum of fifty beds to students of any college, university, or other institution of higher education in the State;
- (3) Occupancy under a bona fide contract of sale of the dwelling unit or the property of which it is a part where the tenant is, or succeeds to the interest of, the purchaser;
- (4) Residence by a member of a fraternal organization in a structure operated without profit for the benefit of the organization;
- (5) Transient occupancy on a day-to-day basis in a hotel or motel;
- (6) Occupancy by an employee of the owner or landlord whose right to occupancy is conditional upon that employment or by a pensioner of the owner or landlord or occupancy for a period of up to four years subsequent thereto, pursuant to a plan for the transfer of the dwelling unit or the property of which it is a part to the occupant;
- (7) A lease of improved residential land for a term of fifteen years or more, measured from the date of the commencement of the lease;
- (8) Occupancy by the prospective purchaser after an accepted offer to purchase and prior to the actual transfer of the owner’s rights;
- (9) Occupancy by the seller of residential real property after the transfer of the seller’s ownership rights;
- [~~9~~] (10) Occupancy in a homeless facility or any other program for the homeless authorized under part XVII of chapter 346;
- [~~10~~] (11) Residence or occupancy in a public housing project or complex directly controlled, owned, or managed by the Hawaii public housing authority pursuant to the federal low rent public housing program;
- [~~11~~] (12) Residence or occupancy in a transitional facility for abused family or household members; or
- [~~12~~] (13) Residence or occupancy in a structure or on a property directly controlled, owned, or managed by the Hawaii public housing authority.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on November 1, 2018.

(Approved July 10, 2018.)