



The Judiciary, State of Hawai'i

Testimony to the Thirty-Second Legislature, 2024 Regular Session

Senate Committee on Commerce and Consumer Protection

Senator Jarrett Keohokalole, Chair

Senator Carol Fukunaga, Vice Chair

Senate Committee on Judiciary

Senator Karl Rhoads, Chair

Senator Mike Gabbard, Vice Chair

Wednesday, March 20, 2024 at 9:29 a.m.

State Capitol, Conference Room 229 & Videoconference

by

Judge Jeffrey P. Crabtree (ret.)

Director, Center for Alternative Dispute Resolution

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 2742, H.D. 1, Relating to the Landlord-Tenant Code

Purpose: Requires pre-litigation mediation before eviction proceedings for Maui tenants.

Judiciary's Position:

The Hawai'i State Judiciary Center for Alternative Dispute Resolution is submitting testimony in support of House Bill No. 2742, H.D. 1.

To protect Maui tenants who are struggling to pay rent, the Governor placed a moratorium on evictions. The moratorium will lapse, potentially causing numerous evictions in an already-vulnerable population. An early landlord-tenant mediation program through House Bill No. 2742, H.D. 1 would help both landlords and tenants avoid the eviction process with voluntary agreements between tenants and landlords.

Early mediation following a moratorium on evictions has already proven successful in Hawai'i. In 2021, following the lifting of the moratorium on evictions created during the

pandemic, Act 57 was implemented. During the one-year period that the Act 57 early mediation program was in effect, 1,660 landlord-tenant cases involving past due rent were mediated statewide, with 1,415 or 85% reaching agreement and enabling more than 1,140 tenants and their families to remain in their residence. House Bill No. 2742, H.D. 1 is modeled after Act 57 and will enable landlords and tenants on Maui to negotiate payment plans, keep tenants housed, and avoid the eviction process.

Even after the rent relief expired, the Mediation Center of the Pacific (“MCP”) continued with its pre-litigation mediation program. MCP reports it received 383 requests for early mediation, primarily from tenants. Not all of those requests were mediated because many landlords declined as they were not required to participate. Of the 383 requests, 119 tenants and landlords did mediate. Eighty mediations reached agreement. That's 67% – a strong rate of success even without rent relief.

We urge you to pass House Bill No. 2742, H.D. 1 to prevent unnecessary evictions on Maui when the moratorium on evictions ends.

In addition, the Judiciary respectfully requests that the effective date of the bill be restored to take effect upon approval, as set forth in the original version of the measure.

Mahalo for the opportunity to provide testimony on this important bill.

March 20, 2024

The Honorable Jarett Keohokalole, Chair
Senate Committee on Commerce and Consumer Protection

The Honorable Karl Rhoads, Chair
Senate Committee on Judiciary
State Capitol, Conference Room 308 & Videoconference

RE: House Bill 2742, HD1, Relating to Eviction Mediation

HEARING: Wednesday, March 20, 2024, at 9:29 a.m.

Aloha Chair Keohokalole, Chair Rhoads, and Members of the Joint Committees:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i and its over 11,000 members. HAR provides **comments** on House Bill 2742, HD1, which extends the notice period for summary possession proceedings from five days to fifteen days for failure to pay rent. Requires landlords to provide the notice to mediation centers. Requires landlords to enter into mediation if scheduled by a tenant, which will delay when a landlord may file an action for summary possession except in cases where a tenant cancels the mediation or does not appear. Restricts when landlord remedies are available depending on the amount of rent due. Appropriates funds. Effective 7/1/3000.

We appreciate the intent of this measure and support peaceful and expeditious mediation coupled to aid tenants that were affected by the devastating Maui wildfires. During the COVID-19 pandemic when there was an eviction moratorium, Act 57 was passed to create a mediation process for housing providers and tenants to engage in. A large part of the success of the program was that emergency rent relief was available and it was often paid directly to the housing provider. This helped both tenants struggling to make their rent payments as well as housing providers who may have mortgage payments. **Without emergency rent relief, the mediation process alone may not help these tenants who are struggling to pay rent.**

As such, HAR would respectfully recommend that this measure should also include rent relief to be paid directly to the housing provider to ensure that payments are not inadvertently lost or delayed ensuring the success of any proposed mediation process and help tenants avoid eviction.

HAR would also recommend that this measure require tenants to participate in mediation as well as landlords to avoid delays and encourage both parties to find resolution.

Mahalo for the opportunity to provide comments on this measure.

**Committee on Commerce & Consumer Protection
Committee on Judiciary
Hearing Date: Wednesday, March 20, 2024**

**Submitted by The Mediation Center of the Pacific, Inc.
SB 2742 HD1 - Relating to Eviction Mediation**

Dear Senators Keohokalole, Fukunaga, Rhoads, Gabbard, and Members of the Committee:

The Mediation Center of the Pacific is submitting testimony in STRONG SUPPORT OF SB 2742 HD1, which establishes and funds a pre-litigation mediation pilot program.

Evictions are harmful for everyone involved. Landlords and tenants both want stability in housing arrangements. For landlords, the process of eviction and finding new tenants is costly. For tenants and their families, the costs are even higher: A forced move may mean the loss of their security deposit and belongings, a change in schools, a longer commute to work, and a negative mark on their rental history that can make finding suitable housing more difficult. For some tenants, eviction will result in homelessness. Finding ways to resolve disputes between landlords and tenants and to increase housing stability benefits everyone. A pre-litigation mediation program supported by SB 2742 HD1 will increase housing stability by encouraging tenants and landlords to work out agreements early, enabling the tenants to remain housed and providing the landlords with their rental income.

Pre-litigation mediation programs for landlords and tenants have a proven track record of success in Hawaii. In 2021, in response to the ending of the moratorium on evictions and the creation of Act 57, Hawai'i established a statewide early landlord-tenant mediation program to prevent evictions. Through the Program, in a one-year period, 1,660 landlord-tenant cases involving past due rent were mediated, with 1,415 or 85% reaching agreement and enabling more than 1,140 tenants to remain in their residence. Like the Act 57 Program, SB 2742 HD1 will encourage landlords and tenants to start talking and negotiating agreements before going to court and will build a bridge towards creating a permanent early mediation program in the future.

And while there are no longer robust rental assistance programs available to assist tenants and landlords, early mediation has still been proven successful. In 2023, with the support of grants from private foundations, The Mediation Center of the Pacific (MCP) on Oahu continued offering early eviction mediation. 119 tenants and landlords participated in early mediation, with 80 or 67%, percent reaching agreement. These statistics reinforce that early mediation makes a difference in helping tenants and landlords.

Despite the ending of the restrictions and closures created by the pandemic, the number of eviction filings in Hawaii continues to grow. On Oahu alone in 2023, MCP opened 1,285 landlord-tenant cases compared to only 433 landlord-tenant cases in 2019, prior to COVID. These high numbers underscore the need for a different approach to helping landlords and tenants and increasing housing stability.

Please PASS SB 2742 HD1, to help prevent evictions and keep our island residents housed.

Mahalo for the opportunity to testify.

A handwritten signature in black ink, appearing to read 'Tracey S. Wiltgen'.

Tracey S. Wiltgen Executive Director
The Mediation Center of the Pacific, Inc.

**TESTIMONY IN SUPPORT OF HB 2742 HD 1 –
RELATING TO THE LANDLORD-TENANT CODE**

Senate Committee on Commerce and Consumer Protection and Senate Committee on Judiciary –
Room 229 & Videoconference

Senator Jarrett Keohokalole, Chair, Committee on Commerce and Consumer Protection
Senator Carol Fukunaga, Vice Chair, Committee on Commerce and Consumer Protection
Senator Karl Rhoads, Chair, Committee on Judiciary
Senator Mike Gabbard, Vice Chair, Committee on Judiciary

Wednesday, March 20, 2024 at 9:29 a.m.

The Legal Aid Society of Hawai`i (Legal Aid) submits testimony in support of SB 2742 HD 1 – Relating to the Landlord-Tenant Code. For Legal Aid, this testimony is submitted by Nicholas J. Severson, the Managing Attorney of Legal Aid’s Housing and Consumer Unit, a unit that provides legal assistance on landlord/tenant and housing discrimination matters, as well as consumer issues. Legal Aid’s focus in rental housing is advocating for the interests of tenants. We have extensive experience with the challenges Hawaii’s low-income population faces in finding, leasing, and maintaining their rental housing, more than any other law firm in the State.

The tragic Maui wildfires have severely impacted the Maui rental market, reducing inventory, increasing prices, and displacing thousands. Many who remained in their rentals lost or experienced a reduction in their employment. Accordingly, many renters have fallen behind on their rents, resulting in the Governor taking action to prohibit nonpayment evictions. However, these protections will not last forever, and eventually such eviction actions will again be permissible.

This bill does a few important things to lessen the impact of this tragedy on renters. First, it ensures that mediation be part of the process. During the COVID-19 pandemic, mandatory mediation in similar types of cases was overwhelmingly successful. Requiring both landlord and tenant to participate in mediation prior to court action provides both sides with a chance to communicate

and develop a mutually agreeable solution to a problem impacting each of them. This buy-in is crucial and such a resolution is typically preferable to a decision made by a judge, often at great expense and to the detriment of one party.

The second important thing this bill does is triage eviction filings to ensure that the court is not overwhelmed when the Governor's emergency proclamation lifts. Reducing this strain is important, as the court undoubtedly will see a significant increase in eviction filings. The staggered filing mechanism contained in this bill will ensure that everyone gets a swift and predictable day in court, should mediation prove unsuccessful.

Unfortunately, many nonpayment evictions will occur due to the Maui wildfires. This bill takes meaningful steps to help address this looming issue.

Thank you for this opportunity to provide testimony. Legal Aid supports HB 2742 HD 1.

Sincerely,

A handwritten signature in black ink, appearing to read 'N. Severson', with a long horizontal stroke extending to the right.

Nicholas J. Severson
Managing Attorney, Housing and Consumer Unit
Legal Aid Society of Hawai'i

The Legal Aid Society of Hawai'i is the only legal service provider with offices on every island in the state, and in 2022 provided legal assistance to over 8,200 Hawai'i residents in the areas of consumer fraud, public assistance, family law, the prevention of homelessness, employment, protection from domestic violence, and immigration. Legal Aid further had over 3,400 cases that addressed stabilizing families and preserving housing. Our mission is to achieve fairness and justice through legal advocacy, outreach, and education for those in need.



BOARD OF DIRECTORS

PRESIDENT
Shaunda A.K. Liu
Makaimoku

VICE PRESIDENT
Sandra Tokuke

TREASURER
James Kunimura

SECRETARY
Rebecca Choi

DIRECTORS
Haidee Abe
Rev. Eric S. Anderson
Julie Hugo
Ha'aheo Kaho'ohalahala
Kimberly Lin
Cathy Lowder
Cheryl Matsumura
Jessica Uchida

DIRECTORS EMERIT
Andrew Wilson
Jennifer Zelko-Schlueter

STAFF

EXECUTIVE DIRECTOR
Julie Mitchell

CASE MANAGER
Molly O'Quinn

LANDLORD TENANT MEDIATION SPECIALIST
Erika Ginnis

ADMINISTRATIVE & PROGRAM ASSISTANT
Kaitlyn Lacombe

Testimony to: Senate Committee on Commerce and Consumer Protection
& Senate Committee on Judiciary

Submitted by: Ku'ikahi Mediation Center

Hearing Date: Wednesday, March 20, 2024 at 9:29 am

Hearing Place: Videoconference, Conference Room 229, State Capitol

RE: Strong Support of HB 2742 HD1, Relating to the Landlord-Tenant Code

Dear Chair Keohokalole, Chair Rhoads, Vice Chair Fukunaga, Vice Chair Gabbard, and Members of the Committees:

As a local non-profit organization, we **strongly encourage you to support HB 2742 HD1**, which will establish a free landlord/tenant pre-litigation mediation diversion pilot program that will help avoid eviction and maintain stable tenancies on Maui, critical in the aftermath of the devastating Maui wildfires, especially once the Governor's Maui eviction moratorium expires.

Early mediation following an eviction moratorium has already proved successful in the State of Hawai'i. Because of the COVID pandemic, Hawai'i established a one-year Act 57 Landlord Tenant Eviction Mediation Program to slow the spread of COVID and prevent a "tsunami" of evictions. This program, combined with Emergency Rental Assistance Programs (ERAP), successfully kept tens of thousands of families across the state stably housed during the pandemic.

According to research by Hawai'i Appleseed Center for Law and Economic Justice, an estimated 2,500 evictions are filed each year across the state. Evictions are harmful to our housing ecosystem and the landlords who rely on rent payments and consistent tenants. Evictions are especially harmful to the individual or family losing their home and can led to homelessness. The cost of eviction on individuals and households includes, but is not limited to: interrupted employment and schooling leading to a loss of wages; negative health impacts, such as anxiety and depression; and impaired legal records and credit histories which make it harder to find future housing.

According to estimates provided by the "Eviction Cost Calculator," developed by Innovation for Justice, a social justice-focused legal innovation lab housed at both Arizona Law and University of Utah School of Business, Hawai'i's estimated 2,500 annual evictions led to over \$30 million in public costs. These costs result from the increased need for emergency shelters, in-patient care emergency room at hospitals, and foster care and juvenile detention. According to research by Hawai'i Appleseed Center, for every tax dollar spent on rental assistance and landlord/tenant mediation programs, the public saves six dollars on homeless services.

a partner agency of the



Ku'ikahi Mediation Center is a 501(c)(3) nonprofit organization, donations to which are tax-deductible. We welcome your support!



BOARD OF DIRECTORS

PRESIDENT
Shaunda A.K. Liu
Makaimoku

VICE PRESIDENT
Sandra Tokuuke

TREASURER
James Kunimura

SECRETARY
Rebecca Choi

DIRECTORS
Haidee Abe
Rev. Eric S. Anderson
Julie Hugo
Ha'aheo Kaho'ohalahala
Kimberly Lin
Cathy Lowder
Cheryl Matsumura
Jessica Uchida

DIRECTORS EMERIT
Andrew Wilson
Jennifer Zelko-Schlueter

STAFF

EXECUTIVE DIRECTOR
Julie Mitchell

CASE MANAGER
Molly O'Quinn

LANDLORD TENANT MEDIATION SPECIALIST
Erika Ginnis

ADMINISTRATIVE & PROGRAM ASSISTANT
Kaitlyn Lacombe

a partner agency of the



Ku'ikahi Mediation Center is a 501(c)(3) nonprofit organization, donations to which are tax-deductible. We welcome your support!

In the County of Hawai'i, Ku'ikahi Mediation Center (KMC) and West Hawai'i Mediation (WHMC), worked jointly on the Act 57 Statewide Landlord Tenant Eviction Mediation Program during the period of August 7, 2021 to August 6, 2022.

Of the 285 Act 57 landlord/tenant cases received via 15-day eviction notices by KMC and WHMC, 53% mediated. Of the cases that mediated, 79% were resolved and 21% were not resolved. Of the cases that did not mediate, 72% conciliated or settled prior to mediation (largely due to the receipt of rental assistance), 22% had tenants chose not to mediate, and 6% were closed for other reasons (e.g., unable to reach tenant). Thus, 76% of all 285 Act 57 landlord/tenant cases were successfully resolved, either through mediated agreements or conciliations and settlements prior to mediation.

Pre-filing programs are more successful at connecting tenants with resources than downstream interventions. Eviction diversion aims to prevent evictions from reaching the courts and diverts existing cases away from formal legal proceedings in the hopes of reducing harm and increasing housing stability.

According to nationwide studies by the Harvard Dispute System Design Clinic, research shows that there is support for eviction diversion programs. Although most landlords have no experience with mediation, a majority of those surveyed agreed that it would "more efficient" than going to court. Despite lack of familiarity, nearly three-quarters of landlords surveyed were more inclined to resolve housing disputes with tenants outside of court.

Establishing a post-wildfire Maui landlord/tenant mediation diversion pilot program is crucial step to reduce the social and financial harm caused by evictions, which negatively affect both landlords and tenants. The goal of eviction diversion goes beyond finding immediate solutions for owners and renters, it is also about keeping people housed in a safe and stable way.

We strongly urge you to pass this legislation to prevent a "tsumani" of evictions in Maui, whose population has already suffered enough. Thank you for reading this testimony.

Mahalo,

Julie Mitchell
Executive Director

Submitted by Laurie Arial Tochiki
HB 2742 HD1 - Relating to Landlord Tenant Code

I am writing to express my SUPPORT OF HB 2742 HD1, relating to requirements for mediation prior to eviction.

I serve as Chair of the Board of Directors of the Mediation Centers of Hawai'i. The Mediation Centers of Hawai'i unites the Mediation Centers across the state in order to work collaboratively and to promote the effectiveness of mediation processes to solve many problems that face members of our community every day. The mediation centers work with the judiciary to provide mediation services at courtrooms statewide.

In response to the pandemic, an eviction mediation program was established to stem the negative consequences of evictions. We learned a lot in that process, including the tremendous impact the program had helping tenants and landlords. Both landlords and tenants benefit from stability in housing arrangements. Both landlords and tenants benefit from curtailing the cost of eviction litigation. The community benefits because housing stability is a critical issue in Hawai'i.

A mediation program supported by HB 2742 will increase housing stability by encouraging tenants and landlords to work out agreements early, enabling the tenants to remain housed and providing the landlords with their rental income.

In a one year period starting in 2021, 1,660 landlord-tenant cases involving past due rent were mediated, with 1,415 or 85% reaching agreement and enabling more than 1,140 tenants to remain in their residence. We will benefit from the continuation of this program. HB 2742 will encourage landlords and tenants to start talking and negotiating agreements before going to court.

This is an urgent problem affecting more than 2000 individuals and families in Hawai'i each year. Please PASS HB 2742, to help prevent evictions and keep our island residents housed.

Mahalo,
Laurie Arial Tochiki, JD, Ph.D