



The Judiciary, State of Hawai‘i

Testimony to the Thirty-Second Legislature, 2024 Regular Session

House Committee on Finance

Representative Kyle T. Yamashita, Chair
Representative Lisa Kitagawa, Vice Chair

Thursday, February 2, 2024 at 10:00 a.m.
State Capitol, Conference Room 308 & Videoconference

by

Judge Jeffrey P. Crabtree (ret.)
Director, Center for Alternative Dispute Resolution

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.

Mahalo for the opportunity to testify on this important bill.



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

Testimony to: House Committee on Finance
Submitted by: Ku'ikahi Mediation Center
Hearing Date: Thursday, February 22, 2024 at 10 am
Hearing Place: Videoconference, Conference Room 308, State Capitol

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

Dear Chair Yamashita, Vice Chair Kitigawa, and Members of the Committee:

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.



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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

Committee on Finance

Hearing Date: Thursday, February 22, 2024

**Submitted by The Mediation Center of the Pacific, Inc.
HB 2742 HD1 - Relating to the Landlord-Tenant Code**

Dear Chair Yamashita, Vice-Chair Kitagawa, and Members of the Committee:

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

More than 2,200 structures were burned to the ground in the Maui wildfires and left more than 7,000 people in need of shelter. A January 17, 2024, article in the Civil Beat highlighted that there is currently a heightened wave of housing insecurity on Maui, particularly for renters. The article stated, "What was already a tight and expensive market before the August wildfires has contracted further as lucrative rent subsidies, scarce inventory and high demand entice landlords to replace existing tenants with those willing to pay much more, according to interviews with housing advocates, renters and property managers". To protect tenants impacted by the wildfires and are struggling to pay rent, the Governor placed a moratorium on evictions. However, when that moratorium is lifted, there could potentially be hundreds of evictions resulting in displaced families who have already suffered, and possible homelessness. The creation of an early landlord-tenant mediation program through HB 2742 HD1 would help landlords and tenants avoid the eviction process and provide them with the opportunity to negotiate payments plans that keep tenants housed and pay the landlords the rent that is owed.

The opportunity for early mediation following a moratorium on evictions has already proven successful in Hawaii. 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. HB 2742 HD1 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.

Thousands of tenants, as well as landlords living on Maui have already suffered tremendous loss due to the wildfires. Experiencing an eviction will compound that loss and suffering. Employment of tenants and schooling of their children will be disrupted, leading to a loss of wages, negative health impacts, such as anxiety and depression, and impaired legal records, which will make it harder to find future housing. These added strains and consequences can be avoided through the early mediation program created under HB 2742 HD1.

We urge you to pass HB 2742 HD1 to prevent a flood of evictions on Maui when the moratorium on evictions ends.



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

February 22, 2024

The Honorable Kyle T. Yamashita, Chair

House Committee on Finance

State Capitol, Conference Room 308 & Videoconference

RE: House Bill 2742 HD1, Relating to Eviction Mediation

HEARING: Thursday, February 22, 2024, at 10:00 a.m.

Aloha Chair Yamashita, Vice Chair Kitagawa, and Members of the Committee:

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 with rent relief to aid tenants that were affected by the 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 after the Governor's proclamation relating to wildfires and eviction moratorium ends.**

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.

HB-2742-HD-1

Submitted on: 2/21/2024 4:23:56 PM

Testimony for FIN on 2/22/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Laurie Tochiki	Mediation Centers of Hawaii	Support	Written Testimony Only

Comments:

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. Please pass this bill. Thank you for your consideration.

HB-2742-HD-1

Submitted on: 2/20/2024 1:15:55 PM

Testimony for FIN on 2/22/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
sandra szymanski	Individual	Oppose	Written Testimony Only

Comments:

Dear Sirs/Madams:

We do not support this change. My husband and I live in Pukalani. I have rewritten this statement for an hour and I am going to get straight to the point.

The Governor took away owners rights during Covid. Now the Governor takes owner's rights away again since the August Fires..Now the State is trying to further diminish owner's rights with HB2742.

There are good LOCAL property owners in this State! We are 2 of them. We have 2 long term rentals, Pukalani and Makawao, and 1 short term in Kihei. We have leased the Kihei condo to FEMA yet it remains empty now for 2 months. No rent paid to us yet \$10,000 paid by us in carrying costs.

Our Makawao property has a tenant who hasn't paid rent since last October because of the Governors moretorium. She is not paying rent because she doesn't have to, not because she can't. She, her family, nor her job were effected by the fires Upcountry or Lahaina. No rent paid to us since Oct. yet \$13,000 paid by us in carrying costs (plus her water and trash usage). And there is absolutely nothing we can do aabout it except continue to go broke.

Thanks to God, our Pukalani tenants are fine. If not, it would be devastating for us.

We fully understand the need for affordable housing and to keep local people in housing. But taking away the *earned* rights of local property owners like us...yes we *earn* every dollar that we pay our bills with...and forcing us to subsidize those that chose to spend their money otherwise, is not American. We are blessed and because of that we share extended amounts with our community. But to demand even more from us to the point of us needing to sell assetts to support others is not Hawaiian either. (I could list the numerous cash donations and 1st responder meals we made too as we own a restaurant, but I won't.)

We offer *quality* housing at affordable rents to our local community. 3bed/2bath is \$2800/mo and 2bed/1bath is \$2100/mo. We are not price gougers. We would not have given the STVR to FEMA if we were only in it for the money.

Please stop diminishing the rights of property owners and instead use your legislation to help people become property owners.

For whatever it's worth, thanks for listening.

With Aloha,

Sandy Szymanski and Tim Pagan

Pukalani, Maui, HI