

JAN 24 2024

---

---

# A BILL FOR AN ACT

RELATING TO THE LANDLORD-TENANT CODE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that, due to wildfires on  
2 Maui during 2023, thousands of Hawaii residents have lost their  
3 jobs and have been unable to pay their rent. The governor has  
4 issued proclamations relating to wildfires to provide  
5 protections for tenants struggling to pay rent during this time,  
6 including an eviction moratorium that prohibits any eviction  
7 from a residential dwelling unit for failure to pay rent. The  
8 legislature finds, however, that the eviction moratorium will  
9 expire. Therefore, a balanced approach is needed to encourage  
10 communications and facilitate mediation between landlords and  
11 tenants to help reduce the large number of summary possession  
12 cases that are expected to follow the expiration of certain  
13 wildfire proclamations.

14           Accordingly, the purpose of this Act is to:

15           (1) Establish a procedure that requires those landlords to  
16           engage in mediation and delay filing an action for  
17           summary possession if a tenant schedules or attempts



1 to schedule a mediation, and restricts when those  
2 landlords may exercise certain remedies; and  
3 (2) Require tenants and landlords to be responsible for  
4 their own attorney's fees and costs related to  
5 pre-litigation mediation; provided that, if the tenant  
6 defaults on a mediated agreement or fails to attend a  
7 scheduled mediation, the landlord may file for  
8 eviction and request payment of all attorney's fees  
9 and costs incurred during the pre-litigation mediation  
10 process.

11 SECTION 2. The suspension of sections 521-68 and 521-71,  
12 Hawaii Revised Statutes, and chapter 666, Hawaii Revised  
13 Statutes, under the various proclamations issued by the governor  
14 and relating to wildfires shall continue until termination of  
15 the proclamation by the governor or expiration of the  
16 proclamation.

17 SECTION 3. **Alternative process of landlord's remedies for**  
18 **failure by tenant to pay rent.** (a) This section shall apply to  
19 any tenancy subject to section 2 of this Act when it becomes  
20 legally permissible to terminate a residential tenancy for  
21 nonpayment of rent.



1 (b) A landlord or the landlord's agent, any time after  
2 rent is due, may demand payment thereof and notify the tenant in  
3 writing that unless payment is made within a time period  
4 mentioned in the notice as provided in subsection (c), not less  
5 than fifteen calendar days after receipt thereof, the rental  
6 agreement shall be terminated. If the tenant cannot be served  
7 with notice as required, notice may be given to the tenant by  
8 posting the same in a conspicuous place on the dwelling unit,  
9 and the notice shall be deemed received on the date of posting.  
10 If the tenant remains in default, the landlord may thereafter  
11 bring a summary proceeding for possession of the dwelling unit  
12 or any other proper proceeding, action, or suit for possession,  
13 subject to subsections (c) through (j). The notice required in  
14 this section need not be given if the action is based on the  
15 breach of a mediated agreement or other settlement agreement.

16 (c) The fifteen calendar day notice shall provide, at a  
17 minimum, the following:

18 (1) The name of the landlord or the landlord's agent and  
19 the landlord's or landlord's agent's contact  
20 information, including, if possible, phone number,  
21 electronic mail address, and mailing address;





1 attempt to schedule a mediation regarding the  
2 nonpayment of rent;

3 (9) That the mediation center will provide proof to the  
4 landlord that the notice was received and provide  
5 confirmation of the scheduled date and time of  
6 mediation;

7 (10) That the landlord or landlord's agent may file an  
8 action for summary possession if the rent due is not  
9 paid and if mediation is not scheduled within fifteen  
10 calendar days after the tenant's receipt of the  
11 fifteen calendar day notice, regardless of whether the  
12 scheduled mediation session occurs within the fifteen  
13 calendar days;

14 (11) A warning in bold typeface print that says: "**If**  
15 **mediation is not scheduled within fifteen calendar**  
16 **days after receipt of the notice, regardless of**  
17 **whether the scheduled mediation session occurs within**  
18 **the fifteen calendar day period, then the landlord may**  
19 **file an action for summary possession after the**  
20 **expiration of the fifteen calendar day period. If**  
21 **mediation is scheduled before the expiration of the**



1           fifteen calendar day period, regardless of whether the  
2           scheduled mediation session occurs within the  
3           fifteen calendar days, then the landlord shall only  
4           file an action for summary possession after the  
5           expiration of thirty calendar days following the  
6           tenant's receipt of the fifteen calendar day notice.  
7           If the tenant cancels the scheduled mediation or does  
8           not appear at the scheduled mediation, the landlord  
9           may file the summary possession action immediately and  
10          shall not be required to wait for the expiration of  
11          the thirty calendar days. If the fifteen calendar day  
12          notice was mailed, receipt of notice shall be deemed  
13          to be two days after the date of the postmark. If the  
14          fifteen calendar day notice was posted on the  
15          premises, receipt of notice shall be deemed to be the  
16          date of posting. If an agreement is reached before  
17          the filing of an action for summary possession,  
18          whether through mediation or otherwise, then the  
19          landlord shall not bring an action for summary  
20          possession against the tenant, except as provided in  
21          any agreement that may be reached. The landlord shall



1           be required to note the status of the mediation or  
2           settlement effort and proof of sending or posting the  
3           fifteen calendar day notice to the mediation center in  
4           the action for summary possession.";

5           (12) Notice that the eviction may be subject to additional  
6           requirements and protections under state or federal  
7           law and that the tenant is encouraged to seek the  
8           tenant's own legal advice regarding their rights and  
9           responsibilities; and

10          (13) That the landlord or landlord's agent shall engage in  
11          mediation if mediation is scheduled.

12          (d) Landlords or their agents shall provide the fifteen  
13          calendar day notice to any mediation center funded by the State  
14          that offers free mediation for residential landlord-tenant  
15          matters. The mediation center shall contact the landlord or  
16          landlord's agent and the tenant to schedule the mediation. The  
17          mediation center shall offer to facilitate the mediation using  
18          remote means, such as video conferencing, telephone, or other  
19          similar means, and shall not require in-person mediation. If a  
20          tenant schedules mediation within the fifteen calendar day  
21          period, regardless of whether the scheduled mediation session



1 occurs within the fifteen day period, the landlord shall only  
2 file a summary proceeding for possession after the expiration of  
3 thirty calendar days from the date of receipt of the notice. If  
4 the tenant schedules mediation, the landlord shall participate.  
5 If the tenant schedules, but then cancels, a mediation, or if  
6 the tenant does not appear at the scheduled mediation, the  
7 landlord may file the summary proceeding for possession  
8 immediately and shall not be required to wait for the expiration  
9 of the thirty calendar days.

10 (e) The summary possession complaint for nonpayment of  
11 rent shall include:

12 (1) A document or documents from the mediation center  
13 verifying that the landlord provided a copy of the  
14 required fifteen calendar day notice to the mediation  
15 center;

16 (2) A statement as to whether the landlord or landlord's  
17 agent and tenant have participated in, or will  
18 participate in, any scheduled mediation; and

19 (3) If mediation is pending, the date on which the  
20 mediation is scheduled.



1 (f) If the mediation has not occurred as of, or been  
2 scheduled for a future date after, the return hearing date on  
3 the summary possession complaint, the court, in its discretion  
4 and based on a finding of good cause, may order a separate  
5 mediation.

6 (g) If the mediation has occurred as of the return hearing  
7 date on the summary possession complaint, the court, in its  
8 discretion and based on a finding of good cause, may order a  
9 separate mediation.

10 (h) If there is any defect in the fifteen calendar day  
11 notice described in subsection (c) provided by the landlord and  
12 the court determines the defect was unintentional and  
13 immaterial, the court may allow the landlord to cure the defect  
14 without dismissing the action for summary possession.

15 (i) No landlord may bring a summary proceeding for  
16 possession for a tenant's failure to pay rent except pursuant to  
17 this section and as follows:

18 (1) Beginning on the first day after the expiration date  
19 of the final eviction moratorium through the  
20 thirtieth day after the expiration date of the final



1           eviction moratorium, the rent due shall be equal to or  
2           greater than four months of rent;

3           (2) Beginning on the thirty-first day after the expiration  
4           date of the final eviction moratorium through the  
5           ninety-first day after the expiration date of the  
6           final eviction moratorium, the rent due shall be equal  
7           to or greater than three months of rent;

8           (3) Beginning on the ninety-second day after the  
9           expiration date of the final eviction moratorium  
10          through the one hundred fifty-second day after the  
11          expiration date of the final eviction moratorium, the  
12          rent due shall be equal to or greater than two months  
13          of rent; and

14          (4) Beginning on the one hundred fifty-third day after the  
15          expiration date of the final eviction moratorium  
16          through the three hundred sixty-fifth day after the  
17          expiration day of the final eviction moratorium, the  
18          rent due shall be equal to or greater than one month  
19          rent.

20          For purposes of this section, "final eviction moratorium"  
21          means an emergency proclamation or supplementary proclamation,



1 or any extension thereof, issued by the governor and relating to  
2 wildfires, that prohibits any eviction from a residential  
3 dwelling for a failure to pay rent.

4 (j) Each tenant and landlord shall be responsible for  
5 bearing the party's own costs, including attorney's fees,  
6 relating to the mediation; provided that, if the tenant defaults  
7 on a mediated agreement or fails to attend a scheduled  
8 mediation, the landlord may request payment of all costs,  
9 including reasonable attorney's fees, incurred during the pre-  
10 litigation mediation process.

11 (k) A landlord or the landlord's agent may bring an action  
12 for rent alone at any time after the landlord has demanded  
13 payment of past due rent and notified the tenant of the  
14 landlord's intention to bring such an action.

15 SECTION 4. In accordance with section 9 of article VII, of  
16 the Constitution of the State of Hawaii and sections 37-91 and  
17 37-93, Hawaii Revised Statutes, the legislature has determined  
18 that the appropriation contained in this Act will cause the  
19 state general fund expenditure ceiling for fiscal year 2024-2025  
20 to be exceeded by \$ , or per cent. The reasons  
21 for exceeding the general fund expenditure ceiling are that the



1 appropriation made in this Act is necessary to serve the public  
2 interest and to meet the needs provided for by this Act.

3 SECTION 5. There is appropriated out of the general  
4 revenues of the State of Hawaii the sum of \$ or so  
5 much thereof as may be necessary for fiscal year 2024-2025 for  
6 the judiciary to contract for mediation services required by  
7 this Act.

8 The sum appropriated shall be expended by the judiciary for  
9 the purposes of this Act.

10 SECTION 6. This Act does not affect rights and duties that  
11 matured, penalties that were incurred, and proceedings that were  
12 begun before its effective date; provided that any contract in  
13 effect prior to the effective date of this Act that is  
14 subsequently renewed or extended on or after the effective date  
15 of this Act shall comply with the requirements of this Act.

16 SECTION 7. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 8. This Act shall take effect upon approval;  
19 provided that the governor shall notify the chief justice,  
20 legislature, and revisor of statutes no later than twenty days  
21 prior to the expiration of the final eviction moratorium

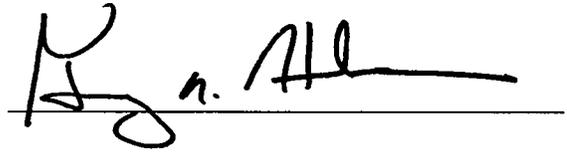


# S.B. NO. 3331

1 identified in section 2 of this Act, that the governor will not  
2 issue any further eviction moratoria in response to the  
3 wildfires; provided further that sections 2 and 3 of this Act  
4 shall take effect on the date of the expiration of the final  
5 eviction moratorium identified in section 2 of this Act.

6

INTRODUCED BY:

A handwritten signature in black ink, appearing to be "A. H. [unclear]", is written over a horizontal line.



# S.B. NO. 3331

**Report Title:**

Housing; Landlord-tenant Code; Remedies; Notice; Failure to Pay Rent; Mediation; Wildfires; Governor Notice; Appropriation; General Fund Expenditure Ceiling Exceeded

**Description:**

Establishes an alternative process for the termination of the rental agreement that involves mediation. Requires the Governor to notify the Chief Justice, Legislature, and Revisor of Statutes when the final wildfire proclamation will expire. Declares that the appropriation exceeds the state general fund expenditure ceiling for 2024-2025. Appropriates funds.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

