

# SB14

**Measure Title:** RELATING TO THE RESIDENTIAL LANDLORD-TENANT CODE.

**Report Title:** Residential Landlord-tenant Code; Security Deposit

**Description:** Amends the residential landlord-tenant code to allow the security deposit to be used for unpaid charges, penalties, and fees that were agreed to by the landlord and tenant pursuant to the rental agreement.

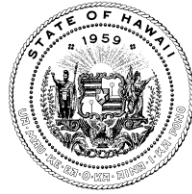
**Companion:** [HB270](#)

**Package:** None

**Current Referral:** CPN

**Introducer(s):** BAKER, CHUN OAKLAND, ENGLISH, HARIMOTO, INOUYE, KEITH-AGARAN, KIDANI, NISHIHARA, RIVIERE, WAKAI, Gabbard, Green

<u>Sort by Date</u>		<b>Status Text</b>
1/22/2015	S	Introduced.
1/22/2015	S	Passed First Reading.
1/22/2015	S	Referred to CPN.
2/13/2015	S	The committee(s) on CPN has scheduled a public hearing on 02-19-15 9:00AM in conference room 229.



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PRESENTATION OF THE  
OFFICE OF CONSUMER PROTECTION

TO THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

THE TWENTY-EIGHTH LEGISLATURE  
REGULAR SESSION OF 2015

FEBRUARY 19, 2015  
9:00 AM

TESTIMONY ON SENATE BILL NO. 14, RELATING TO THE RESIDENTIAL  
LANDLORD-TENANT CODE.

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,  
AND TO THE HONORABLE BRIAN T. TANIGUCHI, VICE CHAIR,  
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs, Office of Consumer Protection (“OCP”), appreciates the opportunity to testify in opposition to Senate Bill No. 14, Relating to the Residential Landlord-Tenant Code. My name is Stephen Levins, and I am the Executive Director of the OCP.

Senate Bill No. 14 seeks to amend the Residential Landlord-Tenant Code by allowing the security deposit to be used for unpaid charges, penalties, and fees that were agreed to by the landlord and tenant pursuant to the rental agreement.

The OCP opposes Senate Bill No. 14 because the proposed amendment to the Residential Landlord-Tenant Code is vague and may potentially lead to abuses of tenants’ rights.

The objectionable language appears on Page 2, lines 16 to 18, of the Bill, and states in pertinent part, the following:

(D) Failure to pay any charges, penalties, or fees owed pursuant to the rental agreement at the termination of the rental agreement;

The policy behind the security deposit provision of the Landlord-Tenant Code is to provide all of the parties to the rental agreement specific guidance as to what the law requires. Current law already does this in a very specific manner and affords landlords with the same rights that are available to them in many other jurisdictions, including California, North Carolina, and Massachusetts. Amongst its provisions is the right to receive compensation from a tenant for:

- Failing to comply with all applicable building and housing laws;
  - Failing to maintain the premises in a clean and safe condition;
  - Failing to dispose of waste in a clean and safe manner;
  - Failing to keep plumbing fixtures in clean condition;
  - Failing to properly use electrical and plumbing fixtures;
  - Failing to keep all facilities, appliances, furniture, and furnishings in fit condition;
- and
- Failing to comply with rules which the landlord can demonstrate are reasonably necessary for the preservation of the property and the protection of others.

See, sections 521-44 and 521-51 of the Haw. Rev. Stats.

Unless a compelling justification is presented to amend the areas reserved for security deposits, and to do so in a way that will subject all tenants to the same specific legal obligations, the OCP does not believe that a change is warranted at this time.

Thank you for allowing me the opportunity to testify on Senate Bill No. 14. I would be happy to address any questions or concerns the committee members may have.

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February 19, 2015

**The Honorable Rosalyn H. Baker, Chair**

Senate Committee on Commerce & Consumer Protection  
State Capitol, Room 229  
Honolulu, Hawaii 96813

**RE: S.B. 14, Relating to the Residential Landlord-Tenant Code**

**HEARING: Thursday, February 19, 2015, at 9:00 a.m.**

Aloha Chair Baker, Vice Chair Taniguchi, and Members of the Committee:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,400 members. HAR **strongly supports** S.B. 14, which amends the residential landlord-tenant code to allow the security deposit to be used for unpaid charges, penalties, and fees that were agreed to by the landlord and tenant pursuant to the rental agreement.

It is common practice for Hawai'i landlords and property managers to collect a security deposit from tenants as part of a residential rental agreement pursuant to Hawai'i Revised Statutes ("HRS") Section 521-44 (Hawaii's Residential Landlord-Tenant Code). When a landlord collects a security deposit, it helps ensure that the tenant will keep the property in good shape, pay the rent, and not suddenly break the lease and disappear, which could mean the tenant doesn't get the deposit returned.

Under current statutes, the amount of a security deposit shall not exceed one month's rent and can only be used by the landlord for the following:

1. Remedy a tenant's defaults for accidental or intentional damages resulting from failure to comply with Section 521-51 of Hawaii's Residential Landlord-Tenant Code, for failure to pay rent due, or for failure to return all keys furnished by the landlord at the termination of the Hawaii rental agreement;
2. Clean the dwelling unit or have it cleaned at the termination of the Hawaii rental agreement so as to place the condition of the dwelling unit in as fit a condition as that which the tenant entered into possession of the dwelling unit; and
3. Compensate for damages caused by a tenant who wrongfully quits the dwelling unit.

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In addition to the above, tenants typically have other obligations under their Rental Agreement, such as, but not limited to sewer, water, and electricity expenses; penalties assessed by condominium associations for violation of bylaws and house rules (example: excessive noise, storage of goods on lanai, smoking, etc.); charges for late payment of rent; attorney's fees; and bank charges for checks returned due to non-sufficient funds.

However, these charges, fees, or penalties that are included in the Rental Agreement do not fall within the scope of the uses of a security deposit. This is a problem that has grown in incidence and tenants are taking on obligations that affect the property and could put a landlord at risk if a tenant walks away from these obligations, which often times can add up.

HAR believes that allowing a security deposit to be used for charges, penalties, and fees that are the tenant's responsibility is fair and reasonable to ensure that all tenant obligations are met under the Rental Agreement.

Mahalo for the opportunity to testify in support of this measure and ask for your favorable passage.