

JAN 19 2018

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# A BILL FOR AN ACT

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RELATING TO THE LANDLORD TENANT CODE.

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

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

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

16      The purpose of this Act is to provide a specific exemption  
17      to the landlord-tenant code for instances in which a seller of



1 residential real property continues to occupy that property  
2 after the transfer of the seller's ownership rights.

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

5 "§521-7 Exclusions from application of chapter. Unless  
6 created solely to avoid the application of this chapter, this  
7 chapter shall not apply to:

8 (1) Residence at an institution, whether public or  
9 private, where residence is merely incidental to  
10 detention or the provision of medical, geriatric,  
11 educational, religious, or similar services;

12 (2) Residence in a structure directly controlled and  
13 managed by:

14 (A) The University of Hawaii or any other university  
15 or college in the State for housing its own  
16 students or faculty or residence in a structure  
17 erected on land leased from the university or  
18 college by a nonprofit corporation for the  
19 exclusive purpose of housing students or faculty  
20 of the college or university; or



1           (B) A private dorm management company that offers a  
2           minimum of fifty beds to students of any college,  
3           university, or other institution of higher  
4           education in the State;

5       (3) Occupancy under a bona fide contract of sale of the  
6       dwelling unit or the property of which it is a part  
7       where the tenant is, or succeeds to the interest of,  
8       the purchaser;

9       (4) Residence by a member of a fraternal organization in a  
10      structure operated without profit for the benefit of  
11      the organization;

12      (5) Transient occupancy on a day-to-day basis in a hotel  
13      or motel;

14      (6) Occupancy by an employee of the owner or landlord  
15      whose right to occupancy is conditional upon that  
16      employment or by a pensioner of the owner or landlord  
17      or occupancy for a period of up to four years  
18      subsequent thereto, pursuant to a plan for the  
19      transfer of the dwelling unit or the property of which  
20      it is a part to the occupant;



1           (7) A lease of improved residential land for a term of  
2           fifteen years or more, measured from the date of the  
3           commencement of the lease;

4           (8) Occupancy by the prospective purchaser after an  
5           accepted offer to purchase and prior to the actual  
6           transfer of the owner's rights;

7           (9) Occupancy by the seller of residential real property  
8           after the transfer of the seller's ownership rights;

9           ~~[(9)]~~ (10) Occupancy in a homeless facility or any other  
10          program for the homeless authorized under part XVII of  
11          chapter 346;

12          ~~[(10)]~~ (11) Residence or occupancy in a public housing  
13          project or complex directly controlled, owned, or  
14          managed by the Hawaii public housing authority  
15          pursuant to the federal low rent public housing  
16          program;

17          ~~[(11)]~~ (12) Residence or occupancy in a transitional  
18          facility for abused family or household members; or

19          ~~[(12)]~~ (13) Residence or occupancy in a structure or on a  
20          property directly controlled, owned, or managed by the  
21          Hawaii public housing authority."



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

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

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INTRODUCED BY: *Randy H. Beh*



# S.B. NO. 2640

**Report Title:**

Landlord Tenant Code; Holdover Seller; Exemption

**Description:**

Provides a specific exemption to the landlord tenant code for sellers who occupy the residential real property after the transfer of the seller's ownership rights.

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

