
A BILL FOR AN ACT

RELATING TO THE RESIDENTIAL LANDLORD-TENANT CODE.

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

1 SECTION 1. The purpose of this Act is to establish a
2 process for the early termination of a rental agreement for
3 certain active duty servicemembers who:

4 (1) Receive military orders to vacate civilian housing and
5 move into on-post government quarters;

6 (2) Become eligible to live in on-post government quarters
7 and failure to move into on-post government quarters
8 will result in a forfeiture of basic allowance for
9 housing; or

10 (3) Die while serving on active duty.

11 SECTION 2. Chapter 521, Hawaii Revised Statutes, is
12 amended by adding a new section to be appropriately designated
13 and to read as follows:

14 "§521- Early termination of tenancy; servicemember
15 tenants. (a) A servicemember tenant may terminate a rental
16 agreement of a term of one year or less without penalty or fees



1 for early termination or liability for future rent if the
2 servicemember tenant:

3 (1) Receives military orders requiring the servicemember
4 tenant to vacate civilian housing and move into on-
5 post government quarters; or

6 (2) Becomes eligible to live in on-post government
7 quarters and failure to move into on-post government
8 quarters will result in a forfeiture of the tenant's
9 basic allowance for housing;

10 provided that the servicemember tenant submits at least thirty
11 days written notice to the landlord.

12 (b) When the tenancy is from month to month, a
13 servicemember tenant may terminate a rental agreement without
14 penalty or fees for early termination or liability for future
15 rent if the servicemember tenant:

16 (1) Receives military orders requiring the servicemember
17 tenant to vacate civilian housing and move into on-
18 post government quarters; or

19 (2) Becomes eligible to live in on-post government
20 quarters and failure to move into on-post government



1 quarters will result in a forfeiture of the
2 servicemember tenant's basic allowance for housing;
3 provided that the servicemember tenant submits at least fifteen
4 days written notice to the landlord.

5 (c) The written notice required under section (a) or (b)
6 shall be accompanied by one of the following documents:

7 (1) A copy of official military orders; or

8 (2) A written verification signed by the servicemember
9 tenant's commanding officer;

10 (d) In the event a servicemember tenant dies during active
11 duty, an adult member of the servicemember tenant's family may
12 terminate a rental agreement of a term of one year or less, or a
13 rental agreement with a month to month tenancy agreement,
14 without penalty or fees for early termination or liability for
15 future rent if the family member provides at least fifteen days
16 written notice to the landlord. The notice shall be accompanied
17 by a copy of the servicemember tenant's death certificate and:

18 (1) A copy of official military orders showing the
19 servicemember tenant was on active duty; or

20 (2) A written verification signed by the servicemember
21 tenant's commanding officer.



1 (e) If the servicemember tenant is solely liable on the
2 rental agreement, the rental agreement shall terminate on the
3 early termination date described in subsection (a), (b), or (d),
4 and the servicemember tenant or servicemember tenant's estate or
5 family member, as applicable, shall be liable for rent owed
6 through the early termination date plus any previous obligations
7 outstanding as of that date. The amount due from the
8 servicemember tenant shall be paid to the landlord on or before
9 the early termination date.

10 (f) If there are multiple tenants who are parties to the
11 rental agreement, the release of one or more servicemember
12 tenants under this section shall not terminate the rental
13 agreement with respect to the other non-terminating tenants;
14 provided that the other non-terminating tenants demonstrate an
15 ability to pay the rent under the rental agreement, as
16 determined by the landlord. If the other non-terminating
17 tenants fail to demonstrate an ability to pay the rent, the
18 landlord may terminate the rental agreement by giving notice of
19 early termination to the other non-terminating tenants at least
20 fourteen days prior to the early termination date specified in
21 the notice; provided that the landlord shall not assess any



1 penalty or fees for the early termination. The amount due from
2 the other non-terminating tenants shall be paid to the landlord
3 on or before the early termination date.

4 The landlord shall not be required to refund security
5 deposits under section 521-44 or prepaid rent until:

6 (1) The rental agreement terminates with respect to all
7 tenants and the dwelling unit is surrendered to the
8 landlord; or

9 (2) Early termination is effected pursuant to this
10 subsection, in which case each terminating tenant
11 shall receive a prorated share of any security deposit
12 or prepaid rent from the landlord upon termination of
13 the rental agreement; provided that the percentage of
14 any security deposit to be returned shall be
15 determined by the parties in writing; provided further
16 that if there is no determination made by the parties
17 regarding the percentage share of the security
18 deposit, the landlord shall be permitted to refund the
19 security deposit in equal shares to each tenant on the
20 rental agreement.



1 (g) If a servicemember tenant or an adult member of the
2 servicemember tenant's family submits notice of early
3 termination in compliance with this section, the landlord shall:

4 (1) Return a prorated share of all security deposits
5 recoverable by the terminating servicemember tenant or
6 the terminating servicemember tenant's family member
7 under section 521-44 and prepaid rent recoverable by
8 the terminating servicemember tenant's family member
9 following the tenant's or family member's surrender of
10 the dwelling unit, except as otherwise provided in
11 subsection (f); provided that the landlord may
12 withhold a prorated amount of the security deposit for
13 payment of damages that the landlord has suffered by
14 reason of the terminating servicemember tenant's
15 noncompliance with section 521-51; and

16 (2) Not assess any fee or penalty against the terminating
17 servicemember tenant for exercising any right granted
18 under this section.

19 (h) This section shall not affect a servicemember tenant's
20 liability for delinquent, unpaid rent, or other amounts owed to
21 the landlord before the rental agreement was terminated by the



1 servicemember tenant or servicemember tenant's family member
2 under this section.

3 (i) Nothing in this section shall be construed to infringe
4 upon or affect in any way the rights a servicemember tenant may
5 have under the federal Servicemembers Civil Relief Act, P.L.
6 108-189, or chapter 657D.

7 (j) For the purposes of this section, "servicemember
8 tenant" means an active duty member of the regular or reserve
9 component of the United States armed forces, the United States
10 Coast Guard, or the Hawaii National Guard, who is on ordered
11 federal duty for a period of ninety days or more."

12 SECTION 3. This Act does not affect rights and duties that
13 matured, penalties that were incurred, and proceedings that were
14 begun before its effective date.

15 SECTION 4. New statutory material is underscored.

16 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:



JAN 22 2021



H.B. NO. 391

Report Title:

Residential Landlord-Tenant Code; Rental Agreements; Early Termination; Servicemembers; Servicemember Tenant

Description:

Establishes a process for the early termination of a rental agreement for certain active duty servicemembers who receive military orders to vacate civilian housing and move into on-post government quarters; become eligible to live in on-post government quarters and failure to move into on-post government quarters will result in a forfeiture of basic allowance for housing; or die while serving on active duty.

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