

JAN 27 2021

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. Section 521-68, Hawaii Revised Statutes, is
2 amended to read as follows:
3 "**§521-68 Landlord's remedies for failure by tenant to pay**
4 **rent.** (a) A landlord or the landlord's agent may, any time
5 after rent is due, demand payment thereof and notify the tenant
6 in writing that unless payment is made within a time mentioned
7 in the notice[~~-~~] as provided in subsection (b), not less than
8 [~~five-business~~] fifteen calendar days after receipt thereof, the
9 rental agreement will be terminated. If the tenant cannot be
10 served with notice as required, notice may be given the tenant
11 by posting the same in a conspicuous place on the dwelling
12 unit[~~-~~] and the notice will be deemed received on the date of
13 posting. If the tenant remains in default, the landlord may
14 thereafter bring a summary proceeding for possession of the
15 dwelling unit or any other proper proceeding, action, or suit
16 for possession[~~-~~], subject to subsections (b) through (h). The
17 notice required in this section need not be given if the action



1 is based on the breach of a mediated agreement or other
2 settlement agreement.

3 (b) The fifteen-calendar day notice shall provide the
4 following:

5 (1) The name of the landlord or the landlord's agent and
6 the landlord or landlord's agent's contact
7 information, including, if possible, phone number,
8 electronic mail address, and mailing address;

9 (2) The name and contact information of each tenant,
10 including, if possible, phone number, electronic mail
11 address, and mailing address;

12 (3) The monthly rental rate on the dwelling unit;

13 (4) The current amount of the rent due as of the date of
14 the notice, including all rent paid from all sources;

15 (5) Whether the landlord or landlord's agent has applied
16 for rental assistance or been contacted on behalf of
17 the tenant by any agency providing rental assistance;

18 (6) That any rental assistance received by the landlord or
19 landlord's agent has been credited to the tenant's
20 account;



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- 1 (7) That a copy of the fifteen-calendar day notice shall
2 be provided to the appropriate mediation center in
3 accordance with subsection (d) in order for the
4 mediation center to contact the landlord and tenant to
5 attempt to schedule a mediation;
- 6 (8) That the mediation center will provide proof to the
7 landlord that the notice was received and confirmation
8 when mediation is scheduled;
- 9 (9) That the landlord or landlord's agent may file an
10 action for summary possession if the rent due is not
11 paid or if mediation is not scheduled within fifteen
12 calendar days, regardless of whether the scheduled
13 mediation session occurs within the fifteen calendar
14 days, after receipt of the fifteen-calendar day
15 notice;
- 16 (10) A warning in bold typeface print that:
- 17 (A) If mediation is not scheduled within fifteen
18 calendar days after receipt of the notice,
19 regardless of whether the scheduled mediation
20 session occurs within the fifteen calendar days,
21 then the landlord may file an action for summary



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1 possession after the expiration of the fifteen-
2 calendar day period;

3 (B) If mediation is scheduled before the expiration
4 of the fifteen-calendar day period, regardless of
5 whether the scheduled mediation session occurs
6 within the fifteen calendar days, then the
7 landlord cannot file an action for summary
8 possession until thirty calendar days after
9 receipt of the fifteen-calendar day notice; and

10 (C) If the fifteen-calendar day notice is mailed,
11 receipt of notice shall be deemed to be two days
12 after the date of the postmark;

13 (11) Notice that the eviction may be subject to additional
14 requirements and protections under state or federal
15 law and that the tenant should seek the tenant's own
16 legal advice; and

17 (12) That the landlord or landlord's agent must engage in
18 mediation if mediation is scheduled.

19 If the fifteen-calendar day notice is mailed, receipt of the
20 notice shall be deemed to be two days after the date of the
21 postmark.



1 (c) The fifteen-calendar day notice required under this
2 section may be substantially in the following form:

3 "I, _____, am the landlord or landlord's
4 agent for the property at _____ and the contact
5 information of the landlord or landlord's agent is:

6 _____.

7 The tenant(s) are: _____ and the contact
8 information of the tenant(s) is: _____.

9 Under the terms of the lease for the property, you are
10 obligated to pay rent of \$ _____ per
11 _____.

12 The current amount of rent due as of the date of this
13 notice is \$ _____.

14 I applied to, or was notified that you applied to,
15 _____ (names of programs or agencies) for rental
16 assistance with respect to rent. Any rental assistance received
17 has already been included in calculating the amount stated in
18 the preceding sentence.

19 As required under Hawaii Revised Statutes section 521-68,
20 this notice is also being sent to _____
21 (appropriate mediation center) and they will contact you to



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1 schedule mediation regarding the nonpayment of rent. You may
 2 also contact this mediation center to schedule mediation and the
 3 contact information of the mediation center is:

4 _____.

5 IF MEDIATION IS NOT SCHEDULED WITHIN FIFTEEN (15) CALENDAR
 6 DAYS AFTER RECEIPT OF THIS NOTICE, REGARDLESS OF WHETHER THE
 7 SCHEDULED MEDIATION SESSION OCCURS WITHIN THE FIFTEEN (15)
 8 CALENDAR DAYS, THEN THE LANDLORD MAY FILE AN ACTION FOR SUMMARY
 9 POSSESSION AFTER THE EXPIRATION OF THE FIFTEEN (15) CALENDAR DAY
 10 PERIOD. BUT IF YOU DO SCHEDULE MEDIATION BEFORE THE EXPIRATION
 11 OF THE FIFTEEN (15) CALENDAR DAY PERIOD, REGARDLESS OF WHETHER
 12 THE SCHEDULED MEDIATION SESSION OCCURS WITHIN THE FIFTEEN (15)
 13 CALENDAR DAYS, THEN THE LANDLORD MAY NOT FILE AN ACTION FOR
 14 SUMMARY POSSESSION UNTIL THE EXPIRATION OF THIRTY (30) CALENDAR
 15 DAYS AFTER RECEIPT OF THIS NOTICE. IF THIS FIFTEEN (15)
 16 CALENDAR DAY NOTICE IS MAILED, THE RECEIPT OF THE NOTICE IS
 17 DEEMED TO HAVE OCCURRED TWO DAYS AFTER THE DATE OF THE POSTMARK.
 18 IF THIS NOTICE WAS POSTED ON YOUR PREMISES, RECEIPT IS DEEMED TO
 19 HAVE OCCURRED ON THE DATE OF POSTING.

20 If we reach an agreement before the filing of an action for
 21 summary possession, whether through mediation or otherwise, then



1 I will not bring an action for summary possession against you,
2 except as provided in any agreement we may reach. I will be
3 required to note the status of our mediation or settlement
4 effort and proof of my sending this notice to the mediation
5 center in the action for summary possession.

6 PLEASE BE AWARE THAT WE MAY BOTH BE SUBJECT TO ADDITIONAL
7 STATE OR FEDERAL REQUIREMENTS OR PROGRAMS REGARDING EVICTION AT
8 THE TIME OF THIS NOTICE. YOU ARE ENCOURAGED TO SEEK YOUR OWN
9 LEGAL ADVICE AS TO YOUR RIGHTS AND RESPONSIBILITIES.

10 As landlord, I must engage in mediation with you, if you
11 choose to schedule mediation.

12 (Date of notice and signature)"

13 (d) Landlords or their agents shall provide the fifteen-
14 calendar day notice to mediation centers that offer free
15 mediation for residential landlord-tenant matters. The
16 mediation center shall contact the landlord or landlord's agent
17 and the tenant to schedule the mediation. If a tenant schedules
18 mediation within the fifteen-calendar day period, regardless of
19 whether the scheduled mediation session occurs within the
20 fifteen days, the landlord shall not file a summary proceeding
21 for possession until the expiration of thirty days from the date



1 of receipt of the notice. If the tenant schedules mediation,
2 the landlord shall participate.

3 (e) The summary possession complaint for nonpayment of
4 rent shall include:

5 (1) A copy from the mediation center that shows proof that
6 the landlord provided a copy of the fifteen-calendar
7 day notice to the mediation center;

8 (2) A representation as to whether the landlord of
9 landlord's agent and tenant participated in, or will
10 participate in, any mediation scheduled; and

11 (3) If mediation is pending, the date on which the
12 mediation is scheduled.

13 (f) If the mediation has not occurred or been scheduled
14 for a future date, as of the return hearing date on the summary
15 possession complaint, the court may, in its discretion, based on
16 a finding of good cause, order a separate mediation.

17 (g) No landlord may issue a notice demanding payment of
18 rent or bring a summary proceeding for possession, an action for
19 rent alone, or any other proceeding, action, or suit for a
20 tenant's failure to pay rent except pursuant to this section and
21 as follows:



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1 (1) Beginning on May 1, 2021, through June 30, 2021, the
2 rent due is equal to or greater than four months'
3 rent;

4 (2) Beginning on July 1, 2021, through August 31, 2021,
5 the rent due is equal to or greater than three months'
6 rent;

7 (3) Beginning on September 1, 2021, through October 31,
8 2021, the rent due is equal to or greater than two
9 months' rent; and

10 (4) Beginning on November 1, 2021, through May 31, 2022,
11 the rent due is equal to or greater than one month
12 rent.

13 ~~(b)~~ (h) A landlord or the landlord's agent may bring an
14 action for rent alone at any time after the landlord has
15 demanded payment of past due rent and notified the tenant of the
16 landlord's intention to bring such an action."

17 SECTION 2. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun before its effective date; provided that any contract in
20 effect prior to the effective date of this Act that is



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1 subsequently renewed or extended on or after the effective date
2 of this Act shall comply with the requirements of this Act.

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

5 SECTION 4. This Act shall take effect on May 1, 2021;
6 provided that on June 1, 2022, this Act shall be repealed and
7 section 521-68, Hawaii Revised Statutes, shall be reenacted in
8 the form in which it read on the day prior to the effective date
9 of this Act.

10

INTRODUCED BY: _____



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Report Title:

Housing; Landlord-Tenant Code; Remedies; Notice; Failure to Pay Rent

Description:

Extends the period for a notice of summary possession from five days to fifteen. Requires landlords to enter into mediation and delays when a landlord may seek possession of a dwelling unit if the tenant schedules or attempts to schedule mediation. Requires landlords to provide the notice to mediation centers that offer free mediation for residential landlord-tenant disputes. Restricts when a landlord may exercise these remedies depending on the amount of rent due. Repeals on 06/01/2022.

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

