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# 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 the  
2 coronavirus disease 2019 (COVID-19) pandemic, tens of thousands  
3 of Hawaii residents have lost their jobs and have been unable to  
4 pay their rent. To provide protections for those tenants  
5 struggling to pay rent during this time, in April 2020, the  
6 governor signed a fifth emergency supplementary proclamation,  
7 which includes an eviction moratorium that prohibits any  
8 eviction from a residential dwelling unit for failure to pay  
9 rent. The legislature finds, however, that while this  
10 moratorium has been extended at various times throughout the  
11 course of the COVID-19 pandemic, at some point, the eviction  
12 moratorium will expire. Therefore, a balanced approach is  
13 needed to encourage communications and facilitate mediation  
14 between landlords and tenants to help reduce the large number of  
15 summary possession cases that are expected to follow the  
16 expiration of certain COVID-19 emergency proclamations.

17           Accordingly, the purpose of this Act is to:



- 1           (1) Extend the period for a notice of a summary possession  
2                   action from five days to fifteen calendar days;
- 3           (2) Require landlords to engage in mediation and delay  
4                   filing a summary possession action if a tenant  
5                   schedules or attempts to schedule a mediation;
- 6           (3) Require landlords to provide specific information in  
7                   the fifteen-calendar day notice to tenants, which  
8                   shall also be provided to a mediation center that  
9                   offers free mediation for residential landlord-tenant  
10                  disputes;
- 11          (4) Restrict when a landlord may exercise remedies,  
12                  depending on the number of days that have elapsed  
13                  following the expiration of the governor's eviction  
14                  moratorium and the amount of rent due; and
- 15          (5) Repeal these amendments made to Hawaii's residential  
16                  landlord-tenant code one year after the expiration of  
17                  the governor's final eviction moratorium.

18           SECTION 2. Section 521-68, Hawaii Revised Statutes, is  
19 amended to read as follows:

20           "**§521-68 Landlord's remedies for failure by tenant to pay**  
21 **rent.** (a) A landlord or the landlord's agent may, any time

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

16 (b) 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 or landlord's agent's contact  
20 information, including, if possible, phone number,  
21 electronic mail address, and mailing address;



- 1        (2) The address of the dwelling unit subject to the rental
- 2                    agreement;
- 3        (3) The name and contact information of each tenant,
- 4                    including, if possible, phone number, electronic mail
- 5                    address, and mailing address;
- 6        (4) The monthly rental rate of the dwelling unit;
- 7        (5) The current amount of the rent due as of the date of
- 8                    the notice, after applying all rent paid from all
- 9                    sources;
- 10       (6) Whether the landlord or landlord's agent has applied
- 11                    for rental assistance or been contacted on behalf of
- 12                    the tenant by any agency providing rental assistance;
- 13       (7) That any rental assistance received by the landlord or
- 14                    landlord's agent has been credited to the tenant's
- 15                    amount due;
- 16       (8) That a copy of the fifteen-calendar day notice being
- 17                    provided to the tenant is also being provided to the
- 18                    mediation center to be identified by the landlord and,
- 19                    in accordance with subsection (c), in order for the
- 20                    mediation center to contact the landlord and tenant to



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 when mediation is scheduled;

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

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



1 scheduled mediation session occurs within the fifteen  
2 calendar days, then the landlord shall not file an  
3 action for summary possession until thirty calendar  
4 days after tenant's receipt of the fifteen-calendar  
5 day notice. If the fifteen-calendar day notice was  
6 mailed, receipt of notice shall be deemed to be two  
7 days after the date of the postmark. If the fifteen-  
8 calendar day notice was posted on the premises,  
9 receipt is deemed to have occurred on the date of  
10 posting. If an agreement is reached before the filing  
11 of an action for summary possession, whether through  
12 mediation or otherwise, then the landlord shall not  
13 bring an action for summary possession against the  
14 tenant, except as provided in any agreement that may  
15 be reached. The landlord will be required to note the  
16 status of the mediation or settlement effort and proof  
17 of sending or posting the fifteen-calendar day notice  
18 to the mediation center in the action for summary  
19 possession.";

20 (12) Notice that the eviction may be subject to additional  
21 requirements and protections under state or federal



1           law and that the tenant is encouraged to seek the  
2           tenant's own legal advice regarding their rights and  
3           responsibilities; and

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

6           (c) Landlords or their agents shall provide the fifteen-  
7           calendar day notice to mediation centers that offer free  
8           mediation for residential landlord-tenant matters. The  
9           mediation center shall contact the landlord or landlord's agent  
10          and the tenant to schedule the mediation. If a tenant schedules  
11          mediation within the fifteen-calendar day period, regardless of  
12          whether the scheduled mediation session occurs within the  
13          fifteen days, the landlord shall not file a summary proceeding  
14          for possession until the expiration of thirty days from the date  
15          of receipt of the notice. If the tenant schedules mediation,  
16          the landlord shall participate.

17          (d) The summary possession complaint for nonpayment of  
18          rent shall include:

19          (1) A document or documents from the mediation center that  
20          show proof that the landlord provided a copy of the



1           required fifteen-calendar day notice to the mediation  
2           center;

3           (2) A representation as to whether the landlord or  
4           landlord's agent and tenant participated in, or will  
5           participate in, any scheduled mediation; and

6           (3) If mediation is pending, the date on which the  
7           mediation is scheduled.

8           (e) If the mediation has not occurred or been scheduled  
9           for a future date, as of the return hearing date on the summary  
10           possession complaint, the court may, in its discretion, and  
11           based on a finding of good cause, order a separate mediation.

12           (f) If there is any defect in the fifteen-calendar day  
13           notice required in subsection (b) provided by the landlord, and  
14           the court determines such defect was unintentional and  
15           immaterial, the court may allow the landlord to cure the defect  
16           without dismissing the action for summary possession.

17           (g) No landlord may issue a notice demanding payment of  
18           rent; 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 as follows:



- 1       (1) Beginning on the third day after the expiration date  
2       of the final eviction moratorium through the thirtieth  
3       day after the expiration date of the final eviction  
4       moratorium, the rent due is equal to or greater than  
5       four months' rent;
- 6       (2) Beginning on the thirty-first day after the expiration  
7       date of the final eviction moratorium through the  
8       ninety-first day after the expiration date of the  
9       final eviction moratorium, the rent due is equal to or  
10      greater than three months' rent;
- 11      (3) Beginning on the ninety-second day after the  
12      expiration date of the final eviction moratorium  
13      through the one hundred fifty-second day after the  
14      expiration date of the final eviction moratorium, the  
15      rent due is equal to or greater than two months' rent;  
16      and
- 17      (4) Beginning on the one hundred fifty-third day after the  
18      expiration date of the final eviction moratorium  
19      through the three hundred sixty-fifth day after the  
20      expiration day of the final eviction moratorium, the  
21      rent due is equal to or greater than one month rent.



1        For purposes of this section, "final eviction moratorium"  
2 means an emergency proclamation or supplementary proclamation,  
3 or any extension thereof, issued by the governor related to the  
4 coronavirus disease 2019 pandemic that prohibits any eviction  
5 from a residential dwelling for a failure to pay rent.

6        [~~(b)~~—A] (h) Except as provided in subsection (g), a  
7 landlord or the landlord's agent may bring an action for rent  
8 alone at any time after the landlord has demanded payment of  
9 past due rent and notified the tenant of the landlord's  
10 intention to bring such an action."

11        SECTION 3. This Act does not affect rights and duties that  
12 matured, penalties that were incurred, and proceedings that were  
13 begun before its effective date; provided that any contract in  
14 effect prior to the effective date of this Act that is  
15 subsequently renewed or extended on or after the effective date  
16 of this Act shall comply with the requirements of this Act.

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

19        SECTION 5. This Act shall take effect on 5/6/2137;  
20 provided this Act shall be repealed one year after the  
21 expiration date of the final eviction moratorium identified in



1 section 2 of this Act, and section 521-68, Hawaii Revised  
2 Statutes, shall be reenacted in the form in which it read on the  
3 day prior to the effective date of this Act.



**Report Title:**

Housing; Landlord-tenant Code; Remedies; Notice; Failure to Pay Rent; Mediation

**Description:**

Extends the required period for a notice of summary possession from five days to fifteen. Requires landlords to provide notice with specified terms and enter into mediation. 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 one year after expiration of the governor's final eviction moratorium emergency supplementary proclamation related to the coronavirus disease 2019 pandemic. Effective 5/6/2137. (SD2)

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

