
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 termination of the
2 rental agreement from five days to fifteen calendar
3 days;
- 4 (2) Require landlords to engage in mediation and delay
5 filing an action for summary possession if a tenant
6 schedules or attempts to schedule a mediation;
- 7 (3) Require landlords to provide specific information in
8 the fifteen-calendar day notice to tenants, which
9 shall also be provided to a mediation center that
10 offers free mediation for residential landlord-tenant
11 disputes;
- 12 (4) Restrict when a landlord may exercise remedies,
13 depending on the number of days that have elapsed
14 following the expiration of the governor's eviction
15 moratorium and the amount of rent due;
- 16 (5) Provide for the expungement and sealing of court
17 records of eviction judgments for failure to pay rent
18 that are entered during the one-year period following
19 the expiration of the governor's final eviction
20 moratorium; and



1 (6) Repeal these amendments made to Hawaii's residential
2 landlord-tenant code one year after the expiration of
3 the governor's final eviction moratorium.

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

6 **"§521-68 Landlord's remedies for failure by tenant to pay**
7 **rent.** (a) A landlord or the landlord's agent may, any time
8 after rent is due, demand payment thereof and notify the tenant
9 in writing that unless payment is made within a time mentioned
10 in the notice[~~-~~] as provided in subsection (b), not less than
11 [~~five business~~] fifteen calendar days after receipt thereof, the
12 rental agreement [~~will~~] shall be terminated. If the tenant
13 cannot be served with notice as required, notice may be given to
14 the tenant by posting the same in a conspicuous place on the
15 dwelling unit[~~-~~], and the notice shall be deemed received on the
16 date of posting. If the tenant remains in default, the landlord
17 may thereafter bring a summary proceeding for possession of the
18 dwelling unit or any other proper proceeding, action, or suit
19 for possession[~~-~~], subject to subsections (b) through (h). The
20 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, at a
4 minimum, the 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 address of the dwelling unit subject to the rental
10 agreement;
- 11 (3) The name and contact information of each tenant,
12 including, if possible, phone number, electronic mail
13 address, and mailing address;
- 14 (4) The monthly rental rate of the dwelling unit;
- 15 (5) The current amount of the rent due as of the date of
16 the notice, after applying all rent paid from all
17 sources;
- 18 (6) Whether the landlord or landlord's agent has applied
19 for rental assistance or been contacted on behalf of
20 the tenant by any agency providing rental assistance;



- 1 (7) That any rental assistance received by the landlord or
2 landlord's agent has been credited to the tenant's
3 amount due;
- 4 (8) That a copy of the fifteen-calendar day notice being
5 provided to the tenant is also being provided to the
6 mediation center to be identified by the landlord and,
7 in accordance with subsection (c), in order for the
8 mediation center to contact the landlord and tenant to
9 attempt to schedule a mediation regarding the
10 nonpayment of rent;
- 11 (9) That the mediation center will provide proof to the
12 landlord that the notice was received and provide
13 confirmation of the scheduled date of mediation;
- 14 (10) That the landlord or landlord's agent may file an
15 action for summary possession if the rent due is not
16 paid and if mediation is not scheduled within fifteen
17 calendar days after the tenant's receipt of the
18 fifteen-calendar day notice, regardless of whether the
19 scheduled mediation session occurs within the fifteen
20 calendar days;



1 (11) A warning in bold typeface print that says: "If
2 mediation is not scheduled within fifteen calendar
3 days after receipt of the notice, regardless of
4 whether the scheduled mediation session occurs within
5 the fifteen-calendar day period, then the landlord may
6 file an action for summary possession after the
7 expiration of the fifteen-calendar day period. If
8 mediation is scheduled before the expiration of the
9 fifteen-calendar day period, regardless of whether the
10 scheduled mediation session occurs within the fifteen
11 calendar days, then the landlord shall only file an
12 action for summary possession after the expiration of
13 thirty calendar days following the tenant's receipt of
14 the fifteen-calendar day notice. If the fifteen-
15 calendar day notice was mailed, receipt of notice
16 shall be deemed to be two days after the date of the
17 postmark. If the fifteen-calendar day notice was
18 posted on the premises, receipt of notice shall be
19 deemed to be the date of posting. If an agreement is
20 reached before the filing of an action for summary
21 possession, whether through mediation or otherwise,



1 then the landlord shall not bring an action for
2 summary possession against the tenant, except as
3 provided in any agreement that may be reached. The
4 landlord shall be required to note the status of the
5 mediation or settlement effort and proof of sending or
6 posting the fifteen-calendar day notice to the
7 mediation center in the action for summary
8 possession.";

9 (12) Notice that the eviction may be subject to additional
10 requirements and protections under state or federal
11 law and that the tenant is encouraged to seek the
12 tenant's own legal advice regarding their rights and
13 responsibilities; and

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

16 (c) Landlords or their agents shall provide the fifteen-
17 calendar day notice to a mediation center that offers free
18 mediation for residential landlord-tenant matters. The
19 mediation center shall contact the landlord or landlord's agent
20 and the tenant to schedule the mediation. If a tenant schedules
21 mediation within the fifteen-calendar day period, regardless of



1 whether the scheduled mediation session occurs within the
2 fifteen-day period, the landlord shall only file a summary
3 proceeding for possession after the expiration of thirty
4 calendar days from the date of receipt of the notice. If the
5 tenant schedules mediation, the landlord shall participate.

6 (d) The summary possession complaint for nonpayment of
7 rent shall include:

8 (1) A document or documents from the mediation center
9 verifying that the landlord provided a copy of the
10 required fifteen-calendar day notice to the mediation
11 center;

12 (2) A statement as to whether the landlord or landlord's
13 agent and tenant have participated in, or will
14 participate in, any scheduled mediation; and

15 (3) If mediation is pending, the date on which the
16 mediation is scheduled.

17 (e) If the mediation has not occurred as of, or been
18 scheduled for a future date after, the return hearing date on
19 the summary possession complaint, the court, in its discretion
20 and based on a finding of good cause, may order a separate
21 mediation.



1 (f) If there is any defect in the fifteen-calendar day
2 notice described in subsection (b) provided by the landlord and
3 the court determines the defect was unintentional and
4 immaterial, the court may allow the landlord to cure the defect
5 without dismissing the action for summary possession.

6 (g) No landlord may issue a notice demanding payment of
7 rent or commence a summary proceeding for possession; an action
8 for rent alone; or any other proceeding, action, or suit for a
9 tenant's failure to pay rent except as follows:

10 (1) Beginning on the third day after the expiration date
11 of the final eviction moratorium through the thirtieth
12 day after the expiration date of the final eviction
13 moratorium, the rent due shall be equal to or greater
14 than four months' rent;

15 (2) Beginning on the thirty-first day after the expiration
16 date of the final eviction moratorium through the
17 ninety-first day after the expiration date of the
18 final eviction moratorium, the rent due shall be equal
19 to or greater than three months' rent;

20 (3) Beginning on the ninety-second day after the
21 expiration date of the final eviction moratorium



1 through the one hundred fifty-second day after the
2 expiration date of the final eviction moratorium, the
3 rent due shall be equal to or greater than two months'
4 rent; and

5 (4) Beginning on the one hundred fifty-third day after the
6 expiration date of the final eviction moratorium
7 through the three hundred sixty-fifth day after the
8 expiration day of the final eviction moratorium, the
9 rent due shall be equal to or greater than one month's
10 rent.

11 For purposes of this section, "final eviction moratorium"
12 means an emergency proclamation or supplementary proclamation,
13 or any extension thereof, issued by the governor and related to
14 the coronavirus disease 2019 pandemic, that prohibits any
15 eviction from a residential dwelling for a failure to pay rent.

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



1 SECTION 3. (a) Upon written application by a person
2 against whom a judgment terminating the tenancy for a dwelling
3 unit pursuant to section 521-68, Hawaii Revised Statutes, was
4 entered during the one-year period immediately following the
5 expiration date of the final eviction moratorium, the court
6 shall issue an order to expunge and seal the record for that
7 judgment.

8 (b) As used in this section, "final eviction moratorium"
9 means an emergency proclamation or supplementary proclamation,
10 or any extension thereof, issued by the governor and related to
11 the coronavirus disease 2019 pandemic, that prohibits any
12 eviction from a residential dwelling for a failure to pay rent.

13 SECTION 4. This Act does not affect rights and duties that
14 matured, penalties that were incurred, and proceedings that were
15 begun before its effective date; provided that any contract in
16 effect prior to the effective date of this Act that is
17 subsequently renewed or extended on or after the effective date
18 of this Act shall comply with the requirements of this Act.

19 SECTION 5. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



1 SECTION 6. This Act shall take effect on July 1, 2050;
2 provided that the governor shall notify the chief justice,
3 legislature, and revisor of statutes no later than twenty days
4 prior to the expiration of the final eviction moratorium
5 identified in sections 2 and 3 of this Act, that the governor
6 will not be issuing any further eviction moratoriums in response
7 to the COVID-19 pandemic. Upon the one year anniversary of the
8 expiration date identified by the governor:

9 (1) All provisions of this Act except section 3 shall be
10 repealed; and

11 (2) Section 521-68, Hawaii Revised Statutes, shall be
12 reenacted in the form in which it read on the day
13 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 termination of the rental agreement from 5 days to 15 days. 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 of termination of the rental agreement to a mediation center that offers free mediation for residential landlord-tenant disputes. Restricts when a landlord may exercise these remedies depending on the amount of rent due. Provides for the expungement and sealing of court records of eviction judgments entered during the 1-year period following the final eviction moratorium. Repeals certain provisions 1 year after expiration of the governor's final eviction moratorium emergency supplementary proclamation related to the coronavirus disease 2019 pandemic. Effective 7/1/2050.
(SD2)

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