
A BILL FOR AN ACT

RELATING TO LANDLORD-TENANT DISPUTES.

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

1 SECTION 1. The legislature finds that stable housing
2 yields a multitude of opportunities and stronger outcomes for
3 children, youth, and adults. Due to the lack of housing
4 stability, young people are more vulnerable to mental health
5 problems, developmental delays, and poor cognitive outcomes.
6 Furthermore, there is a correlation between housing instability
7 and trauma. Housing stability additionally improves educational
8 outcomes by reducing the likelihood of repeating a grade and
9 dropping out of school.

10 The legislature further finds that while rentals satisfy
11 many Hawaii residents' need for stable housing, tenants have
12 very little support when facing eviction in the State. In its
13 2018 report, "Evicted in Hawai'i: Lives Hanging in the Balance",
14 Lawyers for Equal Justice found that approximately seventy per
15 cent of landlords are represented by counsel in eviction
16 proceedings, whereas only five per cent of tenants are
17 represented. This disparity in representation results in



1 eighty-five to ninety-five per cent of eviction cases ending in
2 the eviction of the tenant.

3 The legislature additionally finds that representation in
4 eviction proceedings can substantially increase the likelihood
5 for a tenant to remain in the home. Research suggests that
6 tenants who are represented in eviction proceedings are six to
7 ten times more likely to remain in the home. In New York City,
8 where low-income tenants have full and free access to counsel in
9 eviction proceedings, eighty-six per cent of represented tenants
10 were able to remain in their homes.

11 The legislature also finds that access to representation
12 may be substantially increased by permitting lay persons to
13 advocate for tenants in court. Under existing state law,
14 landlords may be represented by property managers. However,
15 there is no corresponding right to lay advocacy for tenants.
16 The legislature notes that in February 2021, a first of its kind
17 tenant-advocate pilot project was established by the Hawaii
18 supreme court to assist self-represented litigants in landlord-
19 tenant disputes, but this project is currently limited to the
20 first circuit.



1 Accordingly, the purpose of this Act is to increase access
2 to representation for residential tenants in actions or
3 proceedings for possession by:

4 (1) Providing for state-funded access to legal services
5 for residential tenants, with full access to each
6 income-eligible tenant available by July 1, 2027;

7 (2) Authorizing attorneys, paralegals, and law students to
8 provide the legal services; and

9 (3) Appropriating funds to the judiciary to contract with
10 legal service organizations or clinical training
11 programs to carry out this purpose.

12 SECTION 2. Chapter 666, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "**§666- Access to representation; representation by**
16 **whom; no private right of action.** (a) Subject to the
17 availability of moneys appropriated for the purposes of this
18 section, the judiciary shall contract with designated
19 organizations for the provision of legal services to residential
20 tenants in any action or proceeding for possession as follows:



1 (1) Each residential tenant shall receive access to brief
2 legal assistance no later than the residential
3 tenant's first scheduled appearance in an action or
4 proceeding, or as soon thereafter as is practicable;
5 and

6 (2) No later than July 1, 2027, each income-eligible
7 tenant shall receive access to full legal
8 representation no later than the income-eligible
9 tenant's first scheduled appearance in an action or
10 proceeding, or as soon thereafter as is practicable;
11 provided that the legal services rendered pursuant to this
12 section shall be at no cost to the tenant.

13 (b) The legal services rendered by designated
14 organizations pursuant to subsection (a) may be provided by:

15 (1) Attorneys;

16 (2) Paralegals; or

17 (3) Law students;

18 provided that paralegals and law students shall be under the
19 general supervision of an attorney employed with or contracted
20 by the designated organization.



1 (c) Notwithstanding any provision of law requiring the
2 licensure of persons practicing in any court, the persons listed
3 under subsection (b) may appear on behalf of residential tenants
4 in district court.

5 (d) Nothing in this section or the administration or
6 application of this section shall be construed to create a
7 private right of action on the part of any person or entity
8 against the judiciary or State.

9 (e) For purposes of this section:

10 "Brief legal assistance" means individualized legal
11 assistance provided in a single consultation by a designated
12 organization to a tenant in connection with an action or
13 proceeding for possession.

14 "Designated organization" means a nonprofit organization or
15 association or clinical training program that has the capacity
16 to provide legal services and is designated by the judiciary
17 pursuant to this section.

18 "Full legal representation" means ongoing legal
19 representation provided by a designated organization to an
20 income-eligible tenant and all legal advice, advocacy, and
21 assistance associated with such representation. "Full legal



1 representation" includes the filing of a notice of appearance on
2 behalf of the income-eligible tenant in an action or proceeding
3 for possession.

4 "General supervision" includes paralegals and law students
5 appearing on behalf of tenants in court without the physical
6 presence of the supervising attorney.

7 "Income-eligible tenant" means a residential tenant whose
8 annual gross household income is no more than eighty per cent of
9 the area median income for a family of the same size.

10 "Legal services" means brief legal assistance or full legal
11 representation."

12 SECTION 3. Section 605-2, Hawaii Revised Statutes, is
13 amended to read as follows:

14 **"§605-2 Attorneys; license required.** Except as provided
15 by the rules of court, no person shall be allowed to practice in
16 any court of the State unless that person has been duly licensed
17 so to do by the supreme court; provided that nothing in this
18 chapter shall prevent any person, plaintiff, defendant, or
19 accused, from appearing in person before any court, and there
20 prosecuting or defending that person's, plaintiff's,
21 defendant's, or accused's own cause, without the aid of legal



1 counsel; provided further that in the district courts
2 sections 605-13 [~~and~~], 633-28, and 666- shall apply."

3 SECTION 4. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$ or so
5 much thereof as may be necessary for fiscal year 2022-2023 for
6 the judiciary to contract for the representation services
7 required by this Act.

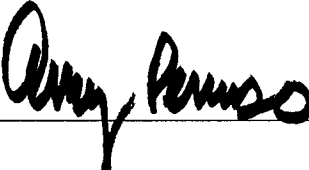
8 The sum appropriated shall be expended by the judiciary for
9 the purposes of this Act.

10 SECTION 5. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 6. This Act shall take effect on July 1, 2022.

13

INTRODUCED BY: _____


JAN 21 2022



H.B. NO. 1863

Report Title:

Landlord; Tenant; Action or Proceeding for Possession; Legal Services; Access to Representation; Judiciary; Appropriation

Description:

Provides for state-funded access to legal services to residential tenants in actions or proceedings for possession, with full access to each income-eligible tenant available by 7/1/2027. Authorizes attorneys, paralegals, and law students to provide the legal services. Appropriates funds for the judiciary to contract for the legal services.

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