
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 wildfires on
2 Maui during 2023, thousands of Hawaii residents have lost their
3 jobs and have been unable to pay their rent. The governor has
4 issued proclamations relating to wildfires to provide
5 protections for tenants struggling to pay rent during this time,
6 including an eviction moratorium that prohibits any eviction
7 from a residential dwelling unit for failure to pay rent. The
8 legislature finds, however, that the eviction moratorium will
9 expire. Therefore, a balanced approach is needed to encourage
10 communications and facilitate mediation between landlords and
11 tenants to help reduce the large number of summary possession
12 proceedings that are expected to follow the expiration of
13 certain wildfire proclamations.

14 Accordingly, the purpose of this Act is to establish a
15 pre-litigation mediation procedure for tenancies that are
16 subject to the eviction moratorium issued under the governor's



1 emergency proclamations relating to wildfires once the eviction
2 moratorium expires. The procedure includes:

- 3 (1) Requiring landlords to:
 - 4 (A) Provide tenants a fifteen-calendar-day written
 - 5 notice before bringing an action for summary
 - 6 possession of the dwelling unit;
 - 7 (B) Provide the notice to a state-funded mediation
 - 8 center that offers free mediation for residential
 - 9 landlord tenant matters; and
 - 10 (C) Engage in mediation and delay filing of the
 - 11 action for summary possession if a tenant
 - 12 schedules or attempts to schedule a mediation;
- 13 (2) Prohibiting landlords from bringing summary possession
- 14 actions for failure to pay rent unless the rent amount
- 15 due exceeds certain months' worth depending on the
- 16 period passed after the expiration of the final
- 17 eviction moratorium; and
- 18 (3) Requiring tenants and landlords to be responsible for
- 19 their own attorney's fees and costs related to
- 20 pre-litigation mediation.



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

4 "§521- Pre-litigation mediation for tenancies subject
5 to certain emergency proclamations. (a) This section shall
6 apply to any tenancy subject to suspension of sections 521-68
7 and 521-71 and chapter 666, under emergency proclamations issued
8 by the governor and relating to wildfires when it becomes
9 legally permissible to terminate a residential tenancy for
10 nonpayment of rent.

11 (b) A landlord or the landlord's agent, any time after
12 rent is due, may demand payment thereof and notify the tenant in
13 writing that unless payment is made within a time period
14 mentioned in the notice as provided in subsection (c), not less
15 than fifteen calendar days after receipt thereof, the rental
16 agreement shall be terminated. If the tenant cannot be served
17 with notice as required, notice may be given to the tenant by
18 posting the same in a conspicuous place on the dwelling unit,
19 and the notice shall be deemed received on the date of posting.
20 If the tenant remains in default, the landlord may thereafter
21 bring a summary proceeding for possession of the dwelling unit



1 or any other proper proceeding, action, or suit for possession,
2 subject to subsections (c) through (j). The notice required in
3 this section need not be given if the action is based on the
4 breach of a mediated agreement or other settlement agreement.

5 (c) The fifteen-calendar-day notice shall provide, at a
6 minimum, the following information:

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

11 (2) The address of the dwelling unit subject to the rental
12 agreement;

13 (3) The name and contact information of each tenant,
14 including, if possible, phone number, electronic mail
15 address, and mailing address;

16 (4) The monthly rental rate of the dwelling unit;

17 (5) The current amount of the rent due as of the date of
18 the notice, after applying all rent paid from all
19 sources;



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

1 fifteen-calendar-day notice, regardless of whether the
2 scheduled mediation session occurs within the fifteen
3 calendar days;

4 (11) A warning in bold typeface print that says: "If
5 mediation is not scheduled within fifteen calendar
6 days after receipt of the notice, regardless of
7 whether the scheduled mediation session occurs within
8 the fifteen-calendar-day period, then the landlord may
9 file an action for summary possession after the
10 expiration of the fifteen-calendar-day period. If
11 mediation is scheduled before the expiration of the
12 fifteen-calendar-day period, regardless of whether the
13 scheduled mediation session occurs within the fifteen
14 calendar days, then the landlord shall only file an
15 action for summary possession after the expiration of
16 thirty calendar days following the tenant's receipt of
17 the fifteen-calendar-day notice. If the tenant
18 cancels the scheduled mediation or does not appear at
19 the scheduled mediation, the landlord may file the
20 summary possession action immediately and shall not be
21 required to wait for the expiration of the thirty



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

16 (12) Notice that the eviction may be subject to additional
17 requirements and protections under state or federal
18 law and that the tenant is encouraged to seek the
19 tenant's own legal advice regarding their rights and
20 responsibilities; and



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

3 (d) Landlords or their agents shall provide the
4 fifteen-calendar-day notice to any mediation center funded by
5 the State that offers free mediation for residential
6 landlord-tenant matters. The mediation center shall contact the
7 landlord or landlord's agent and the tenant to schedule the
8 mediation. The mediation center shall offer to facilitate the
9 mediation using remote means, such as video conferencing,
10 telephone, or other similar means, and shall not require
11 in-person mediation. If a tenant schedules mediation within the
12 fifteen-calendar-day period, regardless of whether the scheduled
13 mediation session occurs within the fifteen-calendar-day period,
14 the landlord shall only file a summary proceeding for possession
15 after the expiration of thirty calendar days from the date of
16 receipt of the notice. If the tenant schedules mediation, the
17 landlord shall participate. If the tenant schedules, but then
18 Cancels, a mediation, or if the tenant does not appear at the
19 scheduled mediation, the landlord may file the action for
20 summary possession immediately and shall not be required to wait
21 for the expiration of the thirty calendar days.



1 (e) The summary possession complaint for nonpayment of
2 rent shall include:

3 (1) A document or documents from the mediation center
4 verifying that the landlord provided a copy of the
5 required fifteen-calendar-day notice to the mediation
6 center;

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

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

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

17 (g) If the mediation has occurred as of the return hearing
18 date on the summary possession complaint, the court, in its
19 discretion and based on a finding of good cause, may order a
20 separate mediation.



1 (h) If there is any defect in the fifteen-calendar-day
2 notice described in subsection (c) provided by the landlord, and
3 the court determines that 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 (i) No landlord may bring an action for summary possession
7 for a tenant's failure to pay rent except pursuant to this
8 section and as follows:

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

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

19 (3) Beginning on the ninety-second day after the
20 expiration date of the final eviction moratorium
21 through the one hundred fifty-second day after the



1 expiration date of the final eviction moratorium, the
2 rent due shall be equal to or greater than two months
3 of rent; and

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

10 For purposes of this subsection, "final eviction
11 moratorium" means an emergency proclamation or supplementary
12 proclamation, or any extension thereof, issued by the governor
13 and relating to wildfires, that prohibits any eviction from a
14 residential dwelling for a failure to pay rent, and either is
15 not intended to be renewed by the governor or, if renewed or
16 extended, is not intended to include any prohibition related to
17 evictions from a residential dwelling unit for failure to pay
18 rent; provided that nothing in this section shall prevent the
19 governor from either renewing or issuing a new emergency
20 proclamation that contains a prohibition against eviction from a



1 residential dwelling for failure to pay rent if that intention
2 should change.

3 (j) Each tenant and landlord shall be responsible for
4 bearing the party's own costs, including attorney's fees,
5 relating to the mediation.

6 (k) A landlord or the landlord's agent may bring an action
7 for rent alone at any time after the landlord has demanded
8 payment of past due rent and notified the tenant of the
9 landlord's intention to bring such an action."

10 SECTION 3. The suspension of sections 521-68 and 521-71,
11 Hawaii Revised Statutes, and chapter 666, Hawaii Revised
12 Statutes, in effect as of _____, under the various
13 proclamations issued by the governor and relating to wildfires
14 may continue until termination of the proclamation by the
15 governor or expiration of the proclamation.

16 SECTION 4. There is appropriated out of the general
17 revenues of the State of Hawaii the sum of \$ _____ or so
18 much thereof as may be necessary for fiscal year 2024-2025 for
19 the judiciary to contract for mediation services required by
20 this Act.



1 The sum appropriated shall be expended by the judiciary for
2 the purposes of this Act.

3 SECTION 5. In accordance with section 9 of article VII, of
4 the Constitution of the State of Hawaii and sections 37-91 and
5 37-93, Hawaii Revised Statutes, the legislature has determined
6 that the appropriation contained in this Act will cause the
7 state general fund expenditure ceiling for fiscal year 2024-2025
8 to be exceeded by \$, or per cent. The reasons
9 for exceeding the general fund expenditure ceiling are that the
10 appropriation made in this Act is necessary to serve the public
11 interest and to meet the needs provided for by this Act.

12 SECTION 6. 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; provided that any contract in
15 effect prior to the effective date of this Act that is
16 subsequently renewed or extended on or after the effective date
17 of this Act shall comply with the requirements of this Act.

18 SECTION 7. This Act shall not be applied so as to impair
19 any contract existing as of the effective date of this Act in a
20 manner violative of either the Hawaii State Constitution or
21 article I, section 10, of the United States Constitution.



1 SECTION 8. New statutory material is underscored.

2 SECTION 9. This Act shall take effect on July 1, 2040;

3 provided that the governor shall notify the chief justice,

4 legislature, and revisor of statutes no later than twenty days

5 prior to the expiration of the final eviction moratorium

6 identified in section 2 of this Act, that the governor will not

7 issue any further eviction moratoria in response to the

8 wildfires; provided further that section 2 of this Act shall

9 take effect on the date of the expiration of the final eviction

10 moratorium identified in section 2 of this Act.



Report Title:

Landlord-Tenant Code; Summary Possession Proceedings; Notice; Mediation; Wildfires; Moratorium; Emergency Proclamation; Expenditure Ceiling; Appropriation

Description:

Extends the notice period for summary possession proceedings from 5 days to 15 days for failure to pay rent. Requires landlords to provide the notice to mediation centers. Requires landlords to enter into mediation if scheduled by a tenant, which will delay when a landlord may file an action for summary possession except in cases where a tenant cancels the mediation or does not appear. Restricts when landlord remedies are available depending on the amount of rent due. Declares that the general fund expenditure ceiling is exceeded. Appropriates funds. Takes effect 7/1/2040. (SD2)

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