

STAND. COM. REP. NO. **836**

Honolulu, Hawaii

MAR 03 2023

RE: S.B. No. 26
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committees on Commerce and Consumer Protection and
Judiciary, to which was referred S.B. No. 26 entitled:

"A BILL FOR AN ACT RELATING TO THE LANDLORD-TENANT CODE,"

beg leave to report as follows:

The purpose and intent of this measure is to

- (1) Prohibit a landlord from recovering possession of a dwelling unit from a tenant if the habitability of the premises is significantly impaired;
- (2) Limit a tenant's liability for rent if the habitability of the premises is significantly impaired; and
- (3) Provide remedies for retaliatory evictions.

Your Committees received testimony in support of this measure from the Department of Commerce and Consumer Affairs and one individual. Your Committees received testimony in opposition to this measure from the Hawai'i Association of REALTORS. Your Committees received comments on this measure from the Department of Human Services.

Your Committees find that the State has one of the highest percentages of renter households in the nation, but the least amount of affordable housing. As a result, thousands of families



in Hawaii, many of whom are already facing eviction, are unable to find alternative housing. Your Committees further find that eviction procedures must carefully balance the landlord's need for sufficient enforcement against the tenant's need for sufficient protection. Under existing law, it is difficult for tenants to defend themselves against wrongful evictions. While the Landlord-Tenant Code clearly outlines landlords' responsibilities, it fails to provide tenants with suitable methods of recourse and ways to hold landlords accountable in various situations. Although existing law guarantees compensation for certain landlord offenses, it also places on the tenant the burden of proving entitlement to compensation for a landlord's retaliation. The result is often that tenants who have been retaliated against are not made whole, allowing landlords to continue these retaliatory practices. This measure provides greater protections for tenants against eviction and incentivizes landlords to keep their rental units in a safe and sanitary condition.

Your Committees acknowledge the concerns raised in testimony that the cap on the damages in an amount equal to two months' rent may be an insufficient remedy for a tenant who is subjected to a particularly egregious eviction. Therefore, amendments to this measure are necessary to set the two months' rent as a floor for damages, rather than a cap.

Accordingly, your Committees have amended this measure by:

- (1) Inserting language allowing a tenant who was retaliatorily evicted by a landlord to recover damages in an amount equal to not less than two months' rent;
- (2) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Commerce and Consumer Protection and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 26, as amended herein, and recommend that it pass Second Reading in the form attached hereto



as S.B. No. 26, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committees on Commerce and
Consumer Protection and
Judiciary,



KARL RHOADS, Chair



JARRETT KEOHOKALOLE, Chair



The Senate
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:* SB26	Committee Referral: CPN/JDC	Date: 2/28/23		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KEOHOKALOLE, Jarrett (C)	✓			
FUKUNAGA, Carol (VC)	✓			
MCKELVEY, Angus L.K.	✓			
RICHARDS, III, Herbert M. "Tim"		✓		
AWA, Brenton			✓	
TOTAL	3	1	1	0
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

The Senate
Thirty-Second Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

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The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye ✓	Aye (WR)	Nay	Excused
RHOADS, Karl (C)	✓			
GABBARD, Mike (VC)	✓			
ELEFANTE, Brandon J.C.	✓			
SAN BUENAVENTURA, Joy A.			✓	✓
AWA, Brenton			✓	
TOTAL	3	—	1	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
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