



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2024**

ON THE FOLLOWING MEASURE:

S.B. NO. 2720, RELATING TO RESIDENTIAL TENANTS.

BEFORE THE:

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

DATE: Friday, February 2, 2024 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Room 229 and Videoconference

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Christopher T. Han or Bryan C. Yee, Deputy Attorneys General

Chair Keohokalole and Members of the Committee:

The Department of the Attorney General provides the following comments on this bill.

This bill establishes a process by which a neighbor of a tenant may seek relief from the tenant's landlord for acts of harassment by the tenant and includes an alternative process for the eviction of tenants.

This bill raises constitutionality concerns under the Contracts Clause of the U.S. Constitution. By creating a right of action by a neighbor to evict a tenant, a court may find that this impairs the contractual obligation in the residential lease. Neighbors currently have other legal remedies available for unruly tenants, such as obtaining a temporary restraining order. In the case of a condominium, the neighbor may also ask the association to evict a tenant for violations of the association's governing documents (i.e., declaration, by-laws, or house rules). See Haw. Rev. Stat. § 514B-104(b)(3).

We recommend inserting a purpose section to bolster the bill against potential Contract Clause challenges. Even where a law is found to impair a pre-existing contract, the court looks to whether the state law is drawn in an appropriate and reasonable way to advance a significant and legitimate public purpose. In *Galima v. Ass'n of Apartment Owners of Palm Ct. by & Through Bd. of Directors*, 453 F. Supp. 3d 1334, 1355-56 (D. Haw. 2020), the U.S. District Court for the District of Hawaii concluded that Act 282, Session Laws of Hawaii 2019, was unconstitutional as it found

that not only did the act impair the obligation of pre-existing contracts, the act did not appear to be for the public good, as it benefitted a favored group as opposed to a basic societal interest. Therefore, the purpose section of the bill should (1) identify a significant and legitimate public purpose, and (2) explain how the remedies in the bill appropriately and reasonably advance the bill's purpose. Furthermore, the public purpose identified should either be for the benefit of a vulnerable group or the advancement of a basic societal interest.

We also recommend adding a section to the bill as follows: "Section ____ . This Act shall not be applied so as to impair any contract existing as of the effective date of this Act in a manner violative of either the Constitution of the State of Hawai'i or article I, section 10, of the United States Constitution."

Based on the above, we respectfully ask that the Committee consider our recommendations. Thank you for the opportunity to offer comments.

The Judiciary, State of Hawai'i

Testimony to the Thirty-Second State Legislature, 2024 Regular Session

Senate Committee on Commerce and Consumer Protection

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair

Friday, February 2, 2024, 9:30 a.m.
Conference Room 229 & Via Videoconference

WRITTEN TESTIMONY ONLY

By:

Michelle D. Acosta
Deputy Chief Court Administrator
Court Operations and Court Services, First Circuit

Bill No. and Title: Senate Bill No. 2720 – Relating to Residential Tenants.

Purpose: Establishes a process by which a neighbor of a tenant may seek relief from the tenant's landlord for acts of harassment by the tenant. Includes an alternative process for the eviction of tenants.

Judiciary's Position:

The Judiciary takes no position regarding the intent of this measure and recognizes that issues between neighbors can often escalate and become hardships. There is in place a faster method available to neighbors through the courts that can be utilized. If a person is being harassed by a neighbor the person may petition the court for a temporary restraining order (TRO) authorized by Hawai'i Revised Statutes § 604-10.5. If granted, the petitioner will receive the requested relief quickly and within 15 days the court is required to set a hearing to determine if a longer injunction is warranted. The added benefit of a TRO is that violation of the TRO or the injunction may result in a criminal conviction and does not put a strain on the housing rental market especially in places like Maui that already are struggling with low rental supply.

Testimony for SB 2720 - Relating to Residential Tenants
Senate Committee on Commerce and Consumer Protection
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The Judiciary also notes that these two causes of actions - 1) liability of a landlord and 2) possession against a tenant -- are two very distinct causes of action and combining them may cause confusion. The defendants in these actions have very different interests that do not necessarily overlap with each other.

The Judiciary suggests a technical amendment to clarify the definition of “act of harassment” as the definition provided includes terms that may not usually be associated with “harassment” in general.

Thank you for the opportunity to testify on this measure.

February 2, 2024

The Honorable Jarrett Keohokalole, Chair

Senate Committee on Commerce and Consumer Protection
State Capitol, Conference Room 229 & Videoconference

RE: Senate Bill 2720, Relating to Residential Tenants

HEARING: Friday, February 2, 2024, at 9:30 a.m.

Aloha Chair Keohokalole, Vice Chair Fukunaga, and Members of the Committee:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawaii and its over 11,000 members. HAR **opposes** Senate Bill 2720, which establishes a process by which a neighbor of a tenant may seek relief from the tenant's landlord for acts of harassment by the tenant. Includes an alternative process for the eviction of tenants.

Under the Landlord-Tenant Code, Hawai'i Revised Statutes §521-72 relating to improper use by a tenant, a housing providers only remedy for complaints is to submit a notice writing to the tenant that they have no less than 10 days to remedy the breach. This would pertain to concerns such as the violation of house rules, such as excessive noise. If the tenant rectifies the violation within a 10-day period and a similar issue arises subsequently, the process resets. The sole exception is no grace period is allowed if the tenant either causes or threatens to cause harm to individuals or fails to comply with relevant building and housing laws affecting health and safety, or if they destroy or deface the property. Only in instances of recurring breaches may the housing provider initiate a summary proceeding for possession of the unit within 30 days after such continued or recurring breach.

Additionally, for instances that involve disputes such as harassment, it would place the housing provider in a position to act as mediators and intervene in disputes between a tenant and neighbor. Housing providers are not equipped or qualified to deal with domestic issues such as harassment. Disputes between neighbors may escalate and should be handled by the police, who are trained and qualified to deal with these matters. Moreover, having a housing provider intervene can be dangerous for all parties involved.

For the foregoing reasons, the Hawai'i Association of REALTORS® opposes this measure. Mahalo for the opportunity to testify.

TO: Members of the Committee on Commerce and Consumer Protection

FROM: Natalie Iwasa
808-395-3233

HEARING: 9:30 a.m. Friday, February 2, 2024

SUBJECT: SB 2720, Residential Tenants, Landlord Liability - **OPPOSED**

Aloha Chair Keohokalole and Committee Members,

Thank you for allowing me the opportunity to provide testimony on SB 2720, which would hold landlords liable for tenant harassment of neighbors in certain instances.

I oppose this bill. It is so wrong to hold someone else responsible for another adult's actions. We have police, lawyers and a court system for a reason - to hold people accountable for their own actions and to punish them when they do not follow laws. Harassment should be handled by that system, not via a new law that holds someone else responsible when that person has nothing to do with the harassment.

Please vote "**no**" on SB 2720.

SB-2720

Submitted on: 1/30/2024 10:09:09 AM

Testimony for CPN on 2/2/2024 9:30:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|---------------------------|
| Victor K. Ramos | Individual | Support | Written Testimony Only |

Comments:

I support. In some situations, the owner has no idea that their tenant is harassing the neighbors. Or the owner turns a blind eye to their tenants behavior.

LATE

SB-2720

Submitted on: 2/1/2024 9:30:46 AM

Testimony for CPN on 2/2/2024 9:30:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|---------------------------|
| Emma Stierhoff | Individual | Support | Written Testimony Only |

Comments:

I support HB 2720

LATE

SB-2720

Submitted on: 2/1/2024 4:11:12 PM

Testimony for CPN on 2/2/2024 9:30:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|------------------------|
| Aaron Won | Individual | Support | Written Testimony Only |

Comments:

I am in full support of house bill 2720.

My name is Aaron Kalani Won. I was born and raised in Kaneohe, but have made Pearl City my home when we purchased our house in Manana 19 years ago. My wife and I are hardworking citizens that support and give back to the people and community we live in. Our oldest daughter is going to and our younger daughter graduates from Pear City HS this summer and will also be going to college.

When we first moved into our home in Pearl City we were the new young family with a bunch of kupuna who've been living there their whole lives. We immediately made friends with our neighbors and they welcomed me and my family in. We helped each other, talked story a lot, and respected each other. Over the past couple of years that has all changed...especially late September and through November of last year.

A lot of the kupuna have passed or moved on. 3 homes that are my immediate neighbors have been sold to international buyers and only one lives in their home. We are friends with them and they are good neighbors. I cannot say the same for the other two homes....I've never met the owners of those homes that were just sold last year. There are renters in those homes and one of them has been a nightmare to deal with and my wife and daughters lives have changed. Below is a timeline of the events that has forced me to now have to spend thousands of dollars to protect my family.

9/28 1st peeping incident caught on video. Shows him creeping in our backyard and walking towards our bedroom windows. My security cameras at that time did not cover the bedroom windows so we did not see what he did back there. He said he was drunk and got lost so I did not call the police and press charges. That was a big mistake.

9/29 The perpetrator came outside the following morning to apologize before I went to work. He said when he drinks he doesn't know what he's doing. He said it wouldn't happen again. I told him not to come on my property and that if he wants to walk around in the middle of the night, to walk in his own property. He did apologize and the whole family said they want peace and it will never happen again. That was a big lie!

11/16 We caught him on camera creeping and peeping into our windows! What made it much worse this time is we have him on video camera masturbating outside my daughters window!!! I

heard a noise that night and chased my neighbor back into his house and called the police. We checked our cameras and we were all in shock of what we saw. The family protected him and said he ran away and was not in the house. No arrest was made that night.

11/19 This neighbor then has a barbecue in their garage making belligerent noise, and at around 9:30pm, they start arguing loudly for about 10 minutes. At 11:41pm, someone returned and they started arguing again and all of a sudden were in the middle of the street mobbing someone and beating him up pretty bad (3 vs 1). Found out later he was in OCCC from this incident and would be held there till least our Ewa court date on 12/4/23.

11/21/23 detective Claud Izuka and another detective came to get my statement and have me pick out B. Ruback out of a photograph lineup. Detective Izuka took my statement and the other detective had me select photo of B. Ruback.

11/29/23 At 8am went to Alakea court for TRO. Brian did not show up. TRO granted for 3 years.

12/1/23 We then were subpoenaed to attend court case 1DCW-23-0003645 State of Hi vs Brian Ruback. Ewa district court date was 12/4/23 at 8am. He plead no contest and the judge only gave him 1 year probation. He is free on the streets to continue to be a threat to my ohana.

I have no clue how to contact the owners because they are from China with no contact information online. I am in the process of totally enclosing my property with a fence to keep them out and to protect my family from him possibly escalating his sick intensions. They do not work and are bad neighbors. How can they be on section 8 and there be no consequences? How can they continue to live there and have my wife and daughters live in fear? How is it that foreign home owners cannot be contacted so they can be informed of what kind of persons are renting their home? If the Judges only throw these convicts back onto the street because there is no room in the prisons and due to cost...why is it the law abiding citizen/home owners that get punished? More has to be done when there are unruly neighbors who protect their 30 year old son that is a sexual predator to their next door neighbor. The peace and happiness in our neighborhood is forever changed until they are gone.

Mahalo for allowing me to submit my testimony.

Aloha,

Aaron