



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

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 3331, RELATING TO THE LANDLORD-TENANT CODE.

**BEFORE THE:**

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

**DATE:** Wednesday, February 7, 2024      **TIME:** 9:40 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

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Chair Keohokalole and Members of the Committee:

The Department of the Attorney General has legal concerns regarding this bill and provides the following comments.

This bill (1) requires the suspension of sections 521-68 and 521-71, Hawaii Revised Statutes (HRS), and chapter 666, HRS, under the various proclamations relating to wildfires issued by the Governor until the proclamations' termination or expiration; (2) requires a mediation process prior to termination of a rental agreement for failure to pay rent after the eviction moratorium due to gubernatorial proclamation relating to wildfires is lifted; (3) requires the Governor to provide notice when the final eviction moratorium will expire; and (4) appropriates funds for the Judiciary to contract for mediation services as provided by the bill. This bill raises multiple legal concerns.

First, this bill raises subject-title concerns with respect to section 3 of this bill. Under article III, section 14, of the Constitution of the State of Hawai'i, "[e]ach law shall embrace but one subject, which shall be expressed in its title." The title of the bill is "Relating to the Landlord-Tenant Code." Section 3, however, does not amend the Landlord-Tenant Code.

Second, section 3 of the bill imposes substantial limitations on landlords without codifying the change. This will make it difficult for both landlords and tenants to know of or find the new requirements. This concern as well as the subject-title issue can be resolved by inserting section 3 into the applicable portion of chapter 521, HRS. For

example, House Bill No. 2642 inserts similar mediation procedures in the chapter by amending section 521-68, Hawaii Revised Statutes. However, because this bill only applies to tenancies subject to the emergency proclamation, we recommend that section 3 be codified in the HRS, as a new section in chapter 521, with the following changes to the title and subsection (a) at page 2, lines 17-21, including the addition of prefatory wording. The placement of this section would then need to be reorganized in the bill, to comply with drafting requirements for HRS section order in bills.

Section X. Chapter 521, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§521- . Pre-litigation mediation for tenancies subject to the emergency proclamation. (a) This section shall apply to any tenancy subject to suspension of sections 521-68, 521-71, and chapter 666, under emergency proclamations issued by the governor and relating to wildfires when it becomes legally permissible to terminate a residential tenancy for nonpayment of rent."** (thereafter, continue with subsections (b) through (k) at page 3, line 1, through page 11, line 14.)

Third, the bill repeatedly utilizes the phrase "final eviction moratorium," which is problematic because no provision of chapter 127A, HRS, would preclude the Governor from reinstating suspensions of law, previously unsuspending, if the Governor decides to reinstate them. Flexibility to suspend and unsuspend laws as the emergency dictates is a hallmark of executive emergency response—it gives the Governor the discretion to balance how best to protect the public interest, particularly in an ongoing, extended emergency. In other words, a "final eviction moratorium" could theoretically be followed by a subsequent moratorium if the situation required, and this could lead to unintended consequences.

We also note that the current definition of the phrase "final eviction moratorium" is ambiguous and could apply to any of the proclamations relating to the wildfires issued so far. Page 10, line 20, to page 11, line 3. We would be happy to work with the Legislature on creating a workable definition or an alternative legislative structure.

Fourth, as currently drafted, section 2 could be construed as mandating that the Governor continue the eviction moratorium until the termination or expiration of any emergency proclamation relating to the Maui wildfires even if the Governor decides that the eviction moratorium is no longer justified. Consequently, we believe the intent may have been to specifically authorize the Governor to continue the eviction moratorium rather than require it.

We recommend substituting the term "shall" to "may" on page 2, lines 11-16, of this bill as follows: "The suspension of sections 521-68 and 521-71, Hawaii Revised Statutes, and chapter 666, Hawaii Revised Statutes, under the various proclamations issued by the governor and relating to wildfires [~~shall~~] may continue until termination of the proclamation by the governor or expiration of the proclamation."

Fifth, to protect against any Contract Clause claim, we recommend adding a new section to the bill that provides 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."

Finally, section 8 regarding the effective date of the Act creates an internal inconsistency. The bill provides that section 2 of this bill—which, in turn, provides for the Governor to continue the eviction moratorium until the termination or expiration of the proclamations—shall take effect "on the date of the expiration of the final eviction moratorium identified in section 2 of this Act." It is unclear how section 2 would apply if it only comes into effect after the "final eviction moratorium" expires.

We recommend section 8, page 13, lines 3-5, be amended as follows: "provided further that [~~sections 2 and~~] section 3 of this Act shall take effect on the date of the expiration of the final eviction moratorium identified in section 2 of this Act."

Thank you for the opportunity to offer comments.



*The Judiciary, State of Hawai‘i*

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

**Senate Committee on Commerce and Consumer Protection**

Senator Jarrett Keohokalole, Chair

Senator Carol Fukunaga, Vice Chair

Wednesday, February 7, 2024 at 9:40 a.m.  
State Capitol, Conference Room 229 & Videoconference

by

Judge Jeffrey P. Crabtree (ret.)

Director, Center for Alternative Dispute Resolution

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**Bill No. and Title:** Senate Bill No. 3331, Relating to the Landlord-Tenant Code.

**Purpose:** Requires pre-litigation mediation before eviction proceedings for Maui tenants.

**Judiciary's Position:**

The Hawai‘i State Judiciary Center for Alternative Dispute Resolution is submitting testimony in support of Senate Bill No. 3331.

To protect Maui tenants who are struggling to pay rent, the Governor placed a moratorium on evictions. The moratorium will lapse, potentially causing numerous evictions in an already-vulnerable population. An early landlord-tenant mediation program through Senate Bill No. 3331 would help both landlords and tenants avoid the eviction process with voluntary agreements between tenants and landlords.

Early mediation following a moratorium on evictions has already proven successful in Hawai‘i. In 2021 following the lifting of the moratorium on evictions created during the pandemic, Act 57 was implemented. During the one-year period that the Act 57 early mediation program was in effect, 1,660 landlord-tenant cases involving past due rent were mediated statewide, with 1,415 or 85% reaching agreement and enabling more than 1,140 tenants and their families to remain in their residence. Senate Bill No. 3331 is modeled after Act 57 and will enable

Testimony to the Senate Committee on Commerce and Consumer Protection  
Senate Bill No. 3331, Relating to the Landlord Tenant Code  
February 7, 2024, 9:40 a.m.  
Page 2

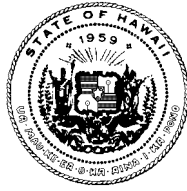
landlords and tenants on Maui to negotiate payment plans, keep tenants housed, and avoid the eviction process.

Even after the rent relief expired, the Mediation Center of the Pacific (“MCP”) continued with its pre-litigation mediation program. MCP reports it received 383 requests for early mediation, primarily from tenants. Not all of those requests were mediated because many landlords declined as they were not required to participate. Of the 383 requests, 119 tenants and landlords did mediate. Eighty mediations reached agreement. That's 67% – a strong rate of success even without rent relief.

We urge you to pass Senate Bill No. 3331 to prevent unnecessary evictions on Maui when the moratorium on evictions ends.

Mahalo for the opportunity to testify on this important bill.

JOSH GREEN, M.D.  
GOVERNOR  
KE KIA'ĀINA



CATHY BETTS  
DIRECTOR  
KA LUNA HO'OKELE

JOSEPH CAMPOS II  
DEPUTY DIRECTOR  
KA HOPE LUNA HO'OKELE

STATE OF HAWAII  
KA MOKU'ĀINA O HAWAI'I  
**DEPARTMENT OF HUMAN SERVICES**  
KA 'OIHANA MĀLAMA LAWELAWE KANAKA  
Office of the Director  
P. O. Box 339  
Honolulu, Hawaii 96809-0339

TRISTA SPEER  
DEPUTY DIRECTOR  
KA HOPE LUNA HO'OKELE

February 5, 2024

TO: The Honorable Senator Jarrett Keohokalole, Chair  
Senate Committee on Commerce & Consumer Protection

FROM: Cathy Betts, Director

SUBJECT: **SB 3331 – RELATING TO THE LANDLORD-TENANT CODE.**

Hearing: February 7, 2024, 9:40 a.m.  
Conference Room 329, State Capitol & Video Conference

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) appreciates the intent of this measure that supports mediation to address eviction proceedings impacted by the Maui Wildfires. DHS defers to the Judiciary, the Department of Commerce & Consumer Affairs, and organizations that provide mediation services. DHS respectfully requests an amendment.

**PURPOSE:** This bill establishes an alternative process for the termination of the rental agreement that involves mediation. Requires the Governor to notify the Chief Justice, Legislature, and Revisor of Statutes when the final wildfire proclamation will expire. Declares that the appropriation exceeds the state general fund expenditure ceiling for 2024-2025. Appropriates funds.

DHS appreciates the Legislature's effort to incorporate the pre-litigation mediation program that is like the program established by Act 57, Session Laws of Hawaii 2021, during the COVID-19 pandemic. Maui residents are rebuilding their lives and communities, and housing stability is foundational to recovery. During the COVID-19 pandemic, mediation assisted many renters in avoiding eviction or allowed a negotiated move-out that avoided further judicial

proceedings and judgments. The program also gave assurance to landlords that payment was forthcoming.

Preventing eviction allows families, especially with children, to remain in stable housing, allows children to continue to attend their community schools, and maintains their community social connections. Conversely, housing instability can result in long-term health outcomes, school and employment disruption, and increased family stress.

DHS respectfully requests an amendment to **delete** the proviso on attorney's fees, starting at page 2, lines 5-10,

"...provided that, if the tenant defaults on a mediated agreement or fails to attend a scheduled mediation, the landlord may request payment of all costs, including reasonable attorney's fees, incurred during the pre-litigation mediation process."

Allowing landlords to request attorney's fees to include the pre-litigation process and the eviction process may serve as a chill on tenants' willingness to engage in the prelitigation process altogether if they may end up paying for the entire amount of the landlord's attorney's fees. Given the financial and emotional losses residents are facing and the limited housing inventory on Maui, renters and homeowners whose homes were destroyed and are in the process of figuring out how and when they can rebuild may not be able to locate an affordable rental to move into despite their good faith participation in pre-litigation mediation and available rental subsidies. Renters facing eviction, may just leave at the end of the tenancy and move to the beach or move into an overcrowded setting rather than incur an additional debt.

Lastly, providing funds for mediation services, civil legal services, and emergency rent relief programs will help residents and families who are back on rent or cannot afford high rental costs and provide support for impacted Maui residents.

Thank you for the opportunity to provide testimony on this measure.

**Committee on Consumer Protection & Commerce**  
**Hearing Date: Wednesday, February 7, 2024**

**Submitted by The Mediation Center of the Pacific, Inc.**  
**SB 3331 - Relating to the Landlord-Tenant Code**

Dear Senator Keohokalole, Senator Fukunaga, and Members of the Committee:

The Mediation Center of the Pacific is submitting testimony in STRONG SUPPORT OF SB3331, which establishes and funds a pre-litigation mediation program.

More than 2,200 structures were burned to the ground in the Maui wildfires and left more than 7,000 people in need of shelter. A January 17, 2024, article in the Civil Beat highlighted that there is currently a heightened wave of housing insecurity on Maui, particularly for renters. The article stated, "What was already a tight and expensive market before the August wildfires has contracted further as lucrative rent subsidies, scarce inventory and high demand entice landlords to replace existing tenants with those willing to pay much more, according to interviews with housing advocates, renters and property managers". To protect tenants impacted by the wildfires and are struggling to pay rent, the Governor placed a moratorium on evictions. However, when that moratorium is lifted, there could potentially be hundreds of evictions resulting in displaced families who have already suffered, and possible homelessness. The creation of an early landlord-tenant mediation program through SB 3331 would help landlords and tenants avoid the eviction process and provide them with the opportunity to negotiate payments plans that keep tenants housed and pay the landlords the rent that is owed.

The opportunity for early mediation following a moratorium on evictions has already proven successful in Hawaii. In 2021 following the lifting of the moratorium on evictions created during the pandemic, Act 57 was implemented. During the one-year period that the Act 57 early mediation program was in effect, 1,660 landlord-tenant cases involving past due rent were mediated statewide, with 1,415 or 85% reaching agreement and enabling more than 1,140 tenants and their families to remain in their residence. SB 3331 is modeled after Act 57 and will enable landlords and tenants on Maui to negotiate payment plans, keep tenants housed, and avoid the eviction process.

Thousands of tenants, as well as landlords living on Maui have already suffered tremendous loss due to the wildfires. Experiencing an eviction will compound that loss and suffering. Employment of tenants and schooling of their children will be disrupted, leading to a loss of wages, negative health impacts, such as anxiety and depression, and impaired legal records, which will make it harder to find future housing. These added strains and consequences can be avoided through the early mediation program created under SB 3331.

We urge you to pass SB 3331 to prevent a flood of evictions on Maui when the moratorium on evictions ends.



Tracey S. Wiltgen  
The Mediation Center of the Pacific, Inc.



February 7, 2024

**The Honorable Jarrett Keohokalole, Chair**

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

**RE: Senate Bill 3331, Relating to the Landlord-Tenant Code**

**HEARING: Wednesday, February 7, 2024, at 9:40 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 provides **comments** on Senate Bill 3331, which establishes an alternative process for the termination of the rental agreement that involves mediation. Requires the Governor to notify the Chief Justice, Legislature, and Revisor of Statutes when the final wildfire proclamation will expire. Declares that the appropriation exceeds the state general fund expenditure ceiling for 2024-2025. Appropriates funds.

We appreciate the intent of this measure and support peaceful and expeditious mediation coupled with rent relief to aid struggling tenants. During the COVID-19 pandemic when there was an eviction moratorium, Act 57 was passed to create a mediation process for housing providers and tenants to engage in. A large part of the success of the program was that emergency rent relief was available and it was often paid directly to the housing provider. This helped both tenants struggling to make their rent payments as well as housing providers who may have mortgage payments. **Without emergency rent relief, the mediation process alone may not help these tenants who are struggling to pay rent.**

As such, HAR would respectfully recommend that this measure should also include rent relief to be paid directly to the housing provider to ensure that payments are not inadvertently lost or delayed ensuring the success of any proposed mediation process and help tenants avoid eviction.

HAR would also recommend that this measure require tenants to participate in mediation as well as landlords to avoid delays and encourage both parties to find resolution.

Mahalo for the opportunity to provide comments on this measure.

**Committee on Commerce and Consumer Protection**

**Hearing Date: Wednesday, February 7, 2024**

**Submitted by Mediation Services of Maui, Inc**

**SB3331- Relating to the Landlord-Tenant Code**

Dear Senator Keohokalole, Senator Fukunaga, and Members of the Committee:

Mediation Services of Maui, Inc. (MSM) wholeheartedly supports SB3331, which establishes and funds a pre-litigation mediation pilot program.

For more than 40 years, MSM has facilitated mediation for Maui County. The innovative approach of mandatory mediation before landlords can proceed with an eviction significantly fosters fair and compassionate housing solutions for our community.

In 2021, a moratorium on evictions was ordered in Hawai'i due to the Covid pandemic. Once the moratorium was lifted, Act 57 was put in place, and our agency served more than 700 eviction cases during the lifespan of this legislation. Frequently, our case managers heard the cries for help and also sighs of relief from tenants and landlords, who, prior to the Act, seemed unable to speak to one another, much less resolve any rental dispute.

Housing stability is a fundamental aspect of a thriving and harmonious society. On August 8, 2023, Maui fires left more than 2,200 structures destroyed and an estimated 7,000 residents houseless. With the current challenges facing renters and landlords alike, it is crucial to explore alternative avenues that prioritize understanding, communication, and resolution. SB3331 embraces these values by introducing mandatory mediation, creating a space where both parties can voice their concerns, explore potential compromises, and work towards sustainable resolutions.

The mediation process outlined in this bill not only empowers tenants and landlords to find common ground but also provides an opportunity to address underlying issues contributing to the dispute. By fostering open communication, we can mitigate the often adversarial nature of landlord-tenant relationships and, in turn, cultivate a more resilient and compassionate community.

Furthermore, the proposed legislation aligns with the broader goals of creating a more equitable housing landscape. In a time when housing affordability is a pressing concern, SB3331 demonstrates a commitment to finding practical solutions that balance the needs of both landlords and tenants.

We urge you to pass SB3331 to help protect our county from a flood of evictions.

Mahalo for your consideration,

Bevanne J. Bowers, Esq.  
Executive Director  
Mediation Services of Maui, Inc.  
808.244.5744 ext. 203



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**LANDLORD TENANT MEDIATION SPECIALIST**  
Erika Ginnis

**ADMINISTRATIVE & PROGRAM ASSISTANT**  
Kaitlyn Lacombe

*a partner agency of the*



Ku'ikahi Mediation Center is a 501(c)(3) nonprofit organization, donations to which are tax-deductible. We welcome your support!

Testimony to: Senate Committee on Commerce and Consumer Protection

Submitted by: Ku'ikahi Mediation Center

Hearing Date: Wednesday, February 7, 2024 at 9:40 am

Hearing Place: Videoconference, Conference Room 229, State Capitol

**RE: Strong Support of SB 3331, Relating to the Landlord-Tenant Code**

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

As a local non-profit organization, we **strongly encourage you to support SB 3331**, which will establish a free landlord/tenant pre-litigation mediation diversion pilot program that will help avoid eviction and maintain stable tenancies on Maui, critical in the aftermath of the devastating Maui wildfires, especially once the Governor's Maui eviction moratorium expires.

Early mediation following an eviction moratorium has already proved successful in the State of Hawai'i. Because of the COVID pandemic, Hawai'i established a one-year Act 57 Landlord Tenant Eviction Mediation Program to slow the spread of COVID and prevent a "tsunami" of evictions. This program, combined with Emergency Rental Assistance Programs (ERAP), successfully kept tens of thousands of families across the state stably housed during the pandemic.

According to research by Hawai'i Appleseed Center for Law and Economic Justice, an estimated 2,500 evictions are filed each year across the state. Evictions are harmful to our housing ecosystem and the landlords who rely on rent payments and consistent tenants. Evictions are especially harmful to the individual or family losing their home and can led to homelessness. The cost of eviction on individuals and households includes, but is not limited to: interrupted employment and schooling leading to a loss of wages; negative health impacts, such as anxiety and depression; and impaired legal records and credit histories which make it harder to find future housing.

According to estimates provided by the "Eviction Cost Calculator," developed by Innovation for Justice, a social justice-focused legal innovation lab housed at both Arizona Law and University of Utah School of Business, Hawai'i's estimated 2,500 annual evictions led to over \$30 million in public costs. These costs result from the increased need for emergency shelters, in-patient care emergency room at hospitals, and foster care and juvenile detention. According to research by Hawai'i Appleseed Center, for every tax dollar spent on rental assistance and landlord/tenant mediation programs, the public saves six dollars on homeless services.



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**LANDLORD TENANT MEDIATION SPECIALIST**  
Erika Ginnis

**ADMINISTRATIVE & PROGRAM ASSISTANT**  
Kaitlyn Lacombe

In the County of Hawai'i, Ku'ikahi Mediation Center (KMC) and West Hawai'i Mediation (WHMC), worked jointly on the Act 57 Statewide Landlord Tenant Eviction Mediation Program during the period of August 7, 2021 to August 6, 2022.

Of the 285 Act 57 landlord/tenant cases received via 15-day eviction notices by KMC and WHMC, 53% mediated. Of the cases that mediated, 79% were resolved and 21% were not resolved. Of the cases that did not mediate, 72% conciliated or settled prior to mediation (largely due to the receipt of rental assistance), 22% had tenants chose not to mediate, and 6% were closed for other reasons (e.g., unable to reach tenant). Thus, 76% of all 285 Act 57 landlord/tenant cases were successfully resolved, either through mediated agreements or conciliations and settlements prior to mediation.

Pre-filing programs are more successful at connecting tenants with resources than downstream interventions. Eviction diversion aims to prevent evictions from reaching the courts and diverts existing cases away from formal legal proceedings in the hopes of reducing harm and increasing housing stability.

According to nationwide studies by the Harvard Dispute System Design Clinic, research shows that there is support for eviction diversion programs. Although most landlords have no experience with mediation, a majority of those surveyed agreed that it would "more efficient" than going to court. Despite lack of familiarity, nearly three-quarters of landlords surveyed were more inclined to resolve housing disputes with tenants outside of court.

Establishing a post-wildfire Maui landlord/tenant mediation diversion pilot program is crucial step to reduce the social and financial harm caused by evictions, which negatively affect both landlords and tenants. The goal of eviction diversion goes beyond finding immediate solutions for owners and renters, it is also about keeping people housed in a safe and stable way.

We strongly urge you to pass this legislation to prevent a "tsumani" of evictions in Maui, whose population has already suffered enough. Thank you for reading this testimony.

Mahalo,

Julie Mitchell  
Executive Director

*a partner agency of the*



Ku'ikahi Mediation Center is a 501(c)(3) nonprofit organization, donations to which are tax-deductible. We welcome your support!

**SB-3331**

Submitted on: 2/6/2024 9:24:51 AM

Testimony for CPN on 2/7/2024 9:40:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Lisa Jacobs	Testifying for Mediation Center of the Pacific	Support	Written Testimony Only

Comments:

**Committee on Consumer Protection & Commerce**

**Hearing Date: Wednesday, February 7, 2024**

**Submitted by Lisa Jacobs, Esq., Volunteer Mediator at The Mediation Center of the Pacific, Inc. and private solo practitioner Mediator and Collaborative Attorney**

**SB 3331 - Relating to the Landlord-Tenant Code**

Dear Senator Keohokalole, Senator Fukunaga, and Members of the Committee:

In my capacity as a volunteer Mediator at The Mediation Center of the Pacific, I am submitting testimony in STRONG SUPPORT OF SB3331, which establishes and funds a pre-litigation mediation program.

I have been an attorney in Hawai'i for almost 30 years. In 2012, I opened up my own private solo practitioner mediation and collaborative law office, and I also started volunteering as a mediator at the Mediation Center of the Pacific. In my earlier years as an attorney for a large law firm in Honolulu, I handled some landlord-tenant litigation work, which had included going to trial and even overseeing an actual eviction process. Being part of a litigated landlord-tenant process was tough on everyone.

As my legal career had matured, I have arrived at the conclusion that mediation is a more effective process to resolve many types of conflicts, including landlord-tenant cases, along with other situations where it may be important or necessary for the parties to have an ongoing relationship. Both as a Volunteer Mediator at the Mediation Center of the Pacific, and also as a private Mediator with my own Mediation and Collaborative Law practice, I have been a part of hundreds of successful mediations where people could discuss their differences, reach an agreement, and then move forward in their lives with realistic plans. I strongly believe that conflicts between landlords and tenants should first try to be settled using mediation, INSTEAD OF litigation being the first step.

Passing SB 3331 would help alleviate manage the difficult housing crisis on Maui that is expected to occur when the moratorium on evictions ends. Thousands of tenants, as well as landlords living on Maui, have already suffered tremendous loss due to the wildfires.

Experiencing an eviction will compound that loss and suffering. Employment of tenants and schooling of their children will be disrupted, leading to a loss of wages, negative health impacts, such as anxiety and depression, and impaired legal records, which will make it harder to find future housing. These added strains and consequences can be avoided through the early mediation program created under SB 3331.

We urge you to pass SB 3331 to prevent a flood of evictions on Maui when the moratorium on evictions ends.

Lisa Jacobs, Esq., for the Mediation Center of the Pacific, Inc.

**SB-3331**

Submitted on: 2/6/2024 12:44:11 PM

Testimony for CPN on 2/7/2024 9:40:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Poranee Sponsel	Individual	Support	Written Testimony Only

Comments:

**Committee on Consumer Protection & Commerce**

**Hearing Date: Wednesday, February 7, 2024**

**Submitted by Poranee Sponsel, Ed.D**

**SB 3331 - Relating to the Landlord-Tenant Code**

Dear Senator Keohokalole, Senator Fukunaga, and Members of the Committee:

The Mediation Center of the Pacific is submitting testimony in **STRONG SUPPORT OF SB3331**, which establishes and funds a pre-litigation mediation program.

More than 2,200 structures were burned to the ground in the Maui wildfires and left more than 7,000 people in need of shelter. A January 17, 2024, article in the Civil Beat highlighted that there is currently a heightened wave of housing insecurity on Maui, particularly for renters. The article stated, “What was already a tight and expensive market before the August wildfires has contracted further as lucrative rent subsidies, scarce inventory and high demand entice landlords to replace existing tenants with those willing to pay much more, according to interviews with housing advocates, renters and property managers”. To protect tenants impacted by the wildfires and are struggling to pay rent, the Governor placed a moratorium on evictions. However, when that moratorium is lifted, there could potentially be hundreds of evictions resulting in displaced families who have already suffered, and possible homelessness. The creation of an early landlord-tenant mediation program through SB 3331 would help landlords and tenants avoid the eviction process and provide them with the opportunity to negotiate payments plans that keep tenants housed and pay the landlords the rent that is owed.



The opportunity for early mediation following a moratorium on evictions has already proven successful in Hawaii. In 2021 following the lifting of the moratorium on evictions created during the pandemic, Act 57 was implemented. During the one-year period that the Act 57 early mediation program was in effect, 1,660 landlord-tenant cases involving past due rent were mediated statewide, with 1,415 or 85% reaching agreement and enabling more than 1,140 tenants and their families to remain in their residence. SB 3331 is modeled after Act 57 and will enable landlords and tenants on Maui to negotiate payment plans, keep tenants housed, and avoid the eviction process.

Thousands of tenants, as well as landlords living on Maui have already suffered tremendous loss due to the wildfires. Experiencing an eviction will compound that loss and suffering. Employment of tenants and schooling of their children will be disrupted, leading to a loss of wages, negative health impacts, such as anxiety and depression, and impaired legal records, which will make it harder to find future housing. These added strains and consequences can be avoided through the early mediation program created under SB 3331.

We urge you to pass SB 3331 to prevent a flood of evictions on Maui when the moratorium on evictions ends.

*Poranee Sponsel*

**Poranee Sponsel, Ed.D,** Volunteer Mediator

The Mediation Center of the Pacific, Inc.

**Committee on Commerce & Consumer Protection**  
**Hearing Date: Friday, February 6, 2024**

**Submitted by Laurie Arial Tochiki**  
**SB3331 - Relating to Landlord Tenant Code**

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

**I am writing to express my STRONG SUPPORT OF SB 3331, which protects extends a mediation process for Maui residents facing eviction**

I serve as Chair of the Board of Directors of the Mediation Centers of Hawai'i. The Mediation Centers of Hawai'i unites the Mediation Centers across the state in order work collaboratively and to promote the effectiveness of mediation processes to solve many problems that face members of our community every day.

The devastating effects of the Maui wildfires will have a prolonged affect on the lives of many Maui residents. Mediation is a proven and effective way to improve communication and promote a balanced approach to the crisis.

In response to the pandemic, and eviction mediation program was established to stem the negative consequences of evictions. We learned a lot in that process, including the tremendous impact the program had helping tenants and landlords. Both landlords and tenants benefit from stability in housing arrangements. Both landlords and tenants benefit from curtailing the cost of eviction litigation. The community benefits because housing stability is a critical issue in Hawai'i.

A pre-litigation mediation program supported by SB 3331 will increase housing stability by encouraging tenants and landlords to work out agreements early, enabling the tenants to remain housed and providing the landlords with their rental income.

In a one year period starting in 2021, 1,660 landlord-tenant cases involving past due rent were mediated, with 1,415 or 85% reaching agreement and enabling more than 1,140 tenants to remain in their residence. We will benefit from the continuation of this program. HB 2642 will encourage landlords and tenants to start talking and negotiating agreements before going to court and will build a bridge towards creating a permanent early mediation program in the future.

This is an urgent problem affecting more than 2000 individuals and families in Hawai'i each year. Please PASS SB3331, to help prevent evictions and keep our Maui residents housed.

Mahalo,  
Laurie Arial Tochiki, JD, Ph.D

**SB-3331**

Submitted on: 2/5/2024 8:28:34 PM

Testimony for CPN on 2/7/2024 9:40:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Robert A Marks	Individual	Support	Written Testimony Only

Comments:

Chair and members - this important measure will help to calm and rationalize the broken Maui rental housing market. I strongly urge its passage.

Respectfully submitted,

Robert Marks

**Committee on Consumer Protection & Commerce**  
**Hearing Date: Wednesday, February 7, 2024**

**Submitted by Charles W. Crumpton**  
**SB 3331 - Relating to the Landlord-Tenant Code**

Dear Senator Keohokalole, Senator Fukunaga, and Members of the Committee:

**I am submitting testimony in STRONG SUPPORT OF SB 3331, which establishes and funds a pre-litigation mediation pilot program.**

Eviction is a traumatizing and destabilizing event that can put families on a path to financial, health, and social challenges. After an eviction, families often struggle to find high-quality housing and may end up in a less safe neighborhood with fewer opportunities. Parents may lose their jobs because of the instability that evictions create and have difficulty finding a new one, further exacerbating the crisis (Desmond and Gershenson 2016). Children can be forced to move to new schools or experience other educational disruptions, which in turn can negatively affect their achievement (Clark 2016; Vásquez-Vera et al. 2017). Therefore, intervening during or before an eviction crisis occurs is key for reducing the hardships that families face, and mediation has been an important tool for empowering better outcomes. [Getting Landlords and Tenants to Talk: The Use of Mediation in Eviction](https://www.urban.org/sites/default/files/publication/101991/getting-landlords-and-tenants-to-talk_3.pdf); Bieretz, Burrowes and Bramhall, Urban Institute, Apr. 2020. [https://www.urban.org/sites/default/files/publication/101991/getting-landlords-and-tenants-to-talk\\_3.pdf](https://www.urban.org/sites/default/files/publication/101991/getting-landlords-and-tenants-to-talk_3.pdf).

Eviction mediation programs, such as Hawai'i's act 57 program in 2021 that has become a national model, and programs in other states and cities, including Illinois, Florida, North Carolina, Palo Alto, Philadelphia, San Francisco and others, have proven exceptionally cost-effective in achieving a high level of mutual benefits and savings of time and money for both landlords and tenants, and of great savings of expense and disruption for the communities and states as well. <https://www.nlc.org/article/2020/08/07/long-term-approaches-to-preventing-evictions-now-and-beyond-covid-19/>.

Evictions are harmful for everyone involved. Landlords and tenants both want stability in housing arrangements. For landlords, the process of eviction and finding new tenants is costly. For tenants and their families, the financial and personal costs are even higher: A forced move may mean the loss of their security deposit and belongings, a change in schools, a longer commute to work, and a negative mark on their rental history that can make finding suitable housing more difficult. For some tenants, eviction can result in homelessness, loss of employment, health issues, and other adverse effects. Finding expedited, low-cost, objectively fair ways to resolve disputes between landlords and tenants and to increase housing stability benefits everyone. A pre-litigation mediation program supported by SB 3331 will increase housing stability and minimize adverse effects for landlords, tenants and the community by neutral mediators' facilitating tenants' and landlords' working out agreements early, enabling the tenants to remain housed and providing the landlords with their rental income, enabling financial and personal stability for both.

Pre-litigation mediation programs for landlords and tenants have a proven track record of success in Hawai'i. In 2021, in response to the ending of the moratorium on evictions and the creation of Act 57, Hawai'i established a statewide early landlord-tenant mediation program to prevent evictions. Through the Program, in a one-year period, 1,660 landlord-tenant cases involving past due rent were mediated, with 1,415 or 85% reaching agreement and enabling more than 1,140 tenants to remain in their residence. Like the Act 57 Program, HB 2642 will

encourage landlords and tenants to start talking and negotiating agreements before going to court and will build a bridge towards creating a permanent early mediation program in the future.

Despite the ending of the restrictions and closures created by the pandemic, the number of eviction filings in Hawaii continues to grow. According to research by Hawai'i Appleseed Center for Law and Economic Justice, there are an estimated 2,500 evictions filed each year across the state of Hawaii. Evictions are harmful to the housing ecosystem and the landlords who rely on rent payments and consistent tenants. Evictions are especially harmful to the individual or family losing their home and in severe cases can lead to homelessness. The cost of eviction on individuals and households includes but is not limited to interrupted employment and school leading to a loss of wages; negative health impacts, such as anxiety and depression, and impaired legal records which make it harder to find future housing. A pre-litigation mediation program is needed to keep tenants in their residences or alternately provide them with sufficient time to find an alternate location they can afford.

Finally, evictions also create large public costs. According to estimates provided by the "Eviction Cost Calculator", developed by Innovation for Justice, a social justice-focused legal innovation lab housed at both Arizona Law and University of Utah School of Business, Hawai'i's estimated 2,500 annual evictions led to over \$30 million in public costs. These costs result from the increased need for emergency shelters, in-patient care emergency rooms at hospitals, and foster care and juvenile detention. Establishing a pre-litigation landlord-tenant mediation program is a necessary step to reduce the social and financial harm caused by evictions.

Having been a civil litigation attorney here from 1978 to 2014, and having been a civil and public policy mediator and arbitrator here since 1985, and personally familiar with the practice of mediation here, including in eviction and landlord-tenant cases, and with the exemplary mediation services and management provided here by The Mediation Center of the Pacific, Ku'ikahi Mediation Center, Dispute Prevention & Resolution, Inc. and others, I can affirm from personal knowledge that the level, scope and value of mediation professionals and services here, including in eviction and landlord-tenant mediation, and the mediation eviction program that The Mediation Center of the Pacific serviced in 2021, are among the very best in the country, and have earned and well deserve national respect, recognition and admiration. There could be no better choice and investment for the cost-effective, fair, and exceptionally beneficial management and resolution of eviction cases in Hawai'i than that offered under HB 2642.

There could be no better return on the investment in that eviction mediation program than the social, financial, personal and community benefits, both tangible and intangible, that that eviction mediation program can provide.

Please PASS SB 3331, to help prevent evictions and keep our island residents housed, and for the substantial and established benefits for landlords, tenants and the community.

Mahalo for the opportunity to testify.

Respectfully submitted,

Charles W. Crumpton

Mediator

Honolulu, HI

Crumpton Collaborative Solutions

1251 Heulu St. #1001

Honolulu, HI 96822-3087

PH: (808) 284-9209

E-mail: [crumpton@chjustice.com](mailto:crumpton@chjustice.com)

**Committee on Consumer Protection & Commerce**  
**Hearing Date: Wednesday, February 7, 2024**

**Submitted by Kellie Chun**  
**SB 3331 - Relating to the Landlord-Tenant Code**

Dear Senator Keohokalole, Senator Fukunaga, and Members of the Committee:

I am submitting testimony in STRONG SUPPORT OF SB3331, which establishes and funds a pre-litigation mediation program.

The loss and devastation of over 2,200 structures were completely destroyed in the Maui wildfires, leaving more than 7,000 people in need of shelter. Referenced in the Civil Beat article, there is currently a heightened wave of housing insecurity on Maui, particularly for renters. The article stated, "What was already a tight and expensive market before the August wildfires has contracted further as lucrative rent subsidies, scarce inventory and high demand entice landlords to replace existing tenants with those willing to pay much more, according to interviews with housing advocates, renters and property managers".

Through the moratorium on evictions which was issued through the Governor, for an undisclosed time, those tenants impacted by the wildfires are protected. However, not if, but when that moratorium is lifted, there could potentially be hundreds of evictions resulting in displaced families who have already suffered, and possible homelessness. The creation of an early landlord-tenant mediation program through SB 3331 would help landlords and tenants avoid the eviction process and provide them with the opportunity to negotiate payments plans that keep tenants housed and pay the landlords the rent that is owed.

The opportunity for early mediation following a moratorium on evictions has already proven successful in Hawaii. In 2021 following the lifting of the moratorium on evictions created during the pandemic, Act 57 was implemented. During the one-year period that the Act 57 early mediation program was in effect, 1,660 landlord-tenant cases involving past due rent were mediated statewide, with 1,415 or 85% reaching agreement and enabling more than 1,140 tenants and their families to remain in their residence. SB 3331 is modeled after Act 57 and will enable landlords and tenants on Maui to negotiate payment plans, keep tenants housed, and avoid the eviction process.

Thousands of tenants, as well as landlords living on Maui have already suffered tremendous loss due to the wildfires. Experiencing an eviction will compound that loss and suffering. Employment of tenants and schooling of their children will be disrupted, leading to a loss of wages, negative health impacts, such as anxiety and depression, and impaired legal records, which will make it harder to find future housing. These added strains and consequences can be avoided through the early mediation program created under SB 3331.

I urge you to pass SB 3331 to prevent a flood of evictions on Maui when the moratorium on evictions ends.

Thank you,

Kellie Chun

**SB-3331**

Submitted on: 2/5/2024 9:38:33 PM

Testimony for CPN on 2/7/2024 9:40:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Brandon Madix	Testifying for Palehua Townhouse Association	Support	Written Testimony Only

Comments:

Our association supports SB 3331 to prevent a flood of evictions on Maui when the moratorium on evictions ends. Please pass this bill.

Mike Golojuch, President



**SB-3331**

Submitted on: 2/6/2024 8:38:17 AM

Testimony for CPN on 2/7/2024 9:40:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Barbara Polk	Individual	Support	Written Testimony Only

Comments:

As a landlord, I strongly SUPPORT the requirement of holding mediation prior to eviction. A very successful program existed during the pandemic, and I urge that it be continued on a regular basis, not just a pilot program, since we've already had that.

This bill may need work, but I urge to make whatever clarifications are necessary and pass SB2221.

Committee on Consumer Protection & Commerce  
Hearing Date: Wednesday, February 7, 2024

**LATE**

Submitted by Charles J. Buckla  
SB 3331 – Relating to the Landlord – Tenant

Dear Senator Keohokalole, Senator Fukunaga, and Members of the Committee:

I am submitting testimony in STRONG SUPPORT OF SB 3331, which establishes and funds a pre-litigation mediation program.

Over 7,000 people on Maui need shelter as a result of the Lahaina wildfires. Combined with high rents, scarce inventory, and high demand, housing insecurity on Maui is at an all time high according to press reports. While the Governor's eviction moratorium offers temporary protection, once lifted, hundreds of evictions are envisioned, with suffering families potentially homeless. SB 3331, creating an early landlord-tenant mediation program, is an opportunity to negotiate agreements that keep tenants housed and paying landlords rent that is owed.

In 2021, Act 57 was implemented after the pandemic era eviction moratorium was lifted. During the one-year period it was in effect, over 1600 cases involving past due rent were mediated, resulting in over 1,140 tenants and their families being able to remain in their residence. SB 3331 is modeled after Act 57.

As a volunteer mediator on Oahu, I have personally witnessed the impact of eviction on both tenants and landlords. In my experience, the earlier tenants and landlords can mediate, the more likely the tenants will be able to remain in their homes and pay back rent that is owed.

I urge you to pass SB 3331 so we can help prevent a flood of evictions on Maui when the moratorium ends. Just like we did on Oahu with Act 57.

Respectfully,  
Charles J. Buckla  
Aiea, Hawaii  
February 6, 2024

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**Submitted by Alison Zecha, The Mediation Center of the Pacific, Inc., Board Member  
SB 3331 - Relating to the Landlord-Tenant Code**

Dear Senator Keohokalole, Senator Fukunaga, and Members of the Committee:

Alison Zecha is submitting testimony in STRONG SUPPORT OF SB3331, which establishes and funds a pre-litigation mediation program.

More than 2,200 structures were burned to the ground in the Maui wildfires and left more than 7,000 people in need of shelter. A January 17, 2024, article in the Civil Beat highlighted that there is currently a heightened wave of housing insecurity on Maui, particularly for renters. The article stated, "What was already a tight and expensive market before the August wildfires has contracted further as lucrative rent subsidies, scarce inventory and high demand entice landlords to replace existing tenants with those willing to pay much more, according to interviews with housing advocates, renters and property managers". To protect tenants impacted by the wildfires and are struggling to pay rent, the Governor placed a moratorium on evictions. However, when that moratorium is lifted, there could potentially be hundreds of evictions resulting in displaced families who have already suffered, and possible homelessness. The creation of an early landlord-tenant mediation program through SB 3331 would help landlords and tenants avoid the eviction process and provide them with the opportunity to negotiate payments plans that keep tenants housed and pay the landlords the rent that is owed.

The opportunity for early mediation following a moratorium on evictions has already proven successful in Hawaii. In 2021 following the lifting of the moratorium on evictions created during the pandemic, Act 57 was implemented. During the one-year period that the Act 57 early mediation program was in effect, 1,660 landlord-tenant cases involving past due rent were mediated statewide, with 1,415 or 85% reaching agreement and enabling more than 1,140 tenants and their families to remain in their residence. SB 3331 is modeled after Act 57 and will enable landlords and tenants on Maui to negotiate payment plans, keep tenants housed, and avoid the eviction process.

Thousands of tenants, as well as landlords living on Maui have already suffered tremendous loss due to the wildfires. Experiencing an eviction will compound that loss and suffering. Employment of tenants and schooling of their children will be disrupted, leading to a loss of wages, negative health impacts, such as anxiety and depression, and impaired legal records, which will make it harder to find future housing. These added strains and consequences can be avoided through the early mediation program created under SB 3331.

We urge you to pass SB 3331 to prevent a flood of evictions on Maui when the moratorium on evictions ends.

Alison Zecha  
The Mediation Center of the Pacific, Inc., Board Member

**LATE**

**LATE**

CPN Committee on Commerce and Consumer Protection  
Hearing Date: Wednesday, February 7, 2024

Submitted by Kay Lorraine, J.D., LMDR  
In support of SB 3331 - Relating to the Landlord-Tenant  
Code

Dear Senator Keohokalole, Senator Fukunaga, and other  
Members of the Senate Committee on Commerce and Consumer  
Protection:

Like many citizens of the state, I am concerned about the  
aftermath of the Maui wildfires. There is much to be  
worried about. **I am particularly anxious about the impact  
on children and their families who have been displaced by  
the fires and face uncertainty once the Governor lifts the  
moratorium on evictions.**

The creation of an early landlord-tenant mediation program  
through SB 3331 would help landlords and tenants avoid the  
eviction process and provide them with the opportunity to  
negotiate payments plans that keep tenants housed and pay  
the landlords the rent that is owed.

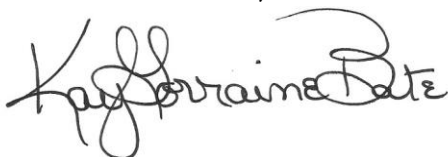
Please vote to support the families who are already  
experiencing the strain of losing their rental homes and  
their property.

Please vote to help the children who, if they are evicted,  
will be further traumatized, possibly forced to disturb  
their schooling, and additionally damaged beyond our  
understanding.

Please vote to create a mediation program that will help  
both property owners and their tenant families.

**Please vote for SB 2331.**

Warmest aloha,



Kay Lorraine-Bate

Juris Doctorate, Richardson School of Law

Legal Master of Dispute Resolution, Pepperdine School of  
Law

**LATE**

**LATE**

**SB-3331**

Submitted on: 2/7/2024 8:07:17 AM

Testimony for CPN on 2/7/2024 9:40:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Charlie Reppun	Individual	Support	Written Testimony Only

Comments:

As a volunteer mediator for The Mediation Center of the Pacific, I know that mediation works and is important to improve communication between parties that are going to continue to have a relationship, both financial and personal with each other. Thank you, Charles Reppun