
A BILL FOR AN ACT

RELATING TO EVICTION MEDIATION.

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

1 PART I

2 SECTION 1. The legislature finds that many Hawaii
3 residents continue to face challenges in paying their rent and
4 face eviction. Act 57, Session Laws of Hawaii 2021 (Act 57),
5 encouraged communication and facilitated mediation between
6 landlords and tenants to help reduce summary possession cases.
7 Research indicates that the mediation procedures created by Act
8 57 were widely successful in substantially increasing the number
9 of disputes that were settled in mediation without any summary
10 possession case being filed and the number of settlements in
11 which the parties agreed that the tenant could continue to
12 reside in the dwelling unit. However, the amendments made to
13 the landlord-tenant code by Act 57 have been repealed.

14 The legislature further finds that the availability of
15 rental relief is a key factor to ensuring housing stability and
16 that combining rent relief with a robust pre-litigation
17 mediation process is likely to lead to significantly better



1 outcomes than mediation that starts only after litigation is
2 filed or rent relief alone.

3 Accordingly, the purpose of this Act is to:

4 (1) Create a pilot program that adopts the most effective
5 provisions of Act 57 that:

6 (A) Extend the period for a notice of termination of
7 the rental agreement from five business days to
8 ten calendar days;

9 (B) Require landlords to engage in mediation and
10 delay filing an action for summary possession if
11 a tenant schedules or attempts to schedule a
12 mediation; and

13 (C) Require landlords to provide specific information
14 in the ten-calendar day notice to tenants, which
15 shall also be provided to a mediation center that
16 offers free mediation for residential landlord-
17 tenant disputes; and

18 (2) Create an emergency rent relief program available to
19 participants in pre-litigation mediation to provide
20 resources that will help avoid eviction and maintain
21 stable tenancies.



1 SECTION 2. Section 521-68, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§521-68 Landlord's remedies for failure by tenant to pay**
4 **rent[-]; pre-litigation mediation.** (a) A landlord or the
5 landlord's agent may, any time after rent is due, demand payment
6 thereof and notify the tenant in writing that unless payment is
7 made within a time mentioned in the notice[~~7-not~~] as provided in
8 subsection (b), no less than [five-business] ten calendar days
9 after receipt thereof, the rental agreement [~~will~~] shall be
10 terminated. [~~If the tenant cannot be served with notice as~~
11 ~~required, notice~~] Notice may be given to the tenant by posting
12 the same in a conspicuous place on the dwelling unit[-], and the
13 notice shall be deemed received on the date of the posting. If
14 the notice is mailed to the tenant via the United States Postal
15 Service, properly addressed, and with appropriate postage, the
16 notice shall be deemed to have been received two business days
17 after mailing, unless the letter is returned to the landlord as
18 undeliverable. If the tenant remains in default[~~7~~] after the
19 expiration of the time stated in the notice, the landlord may
20 thereafter bring a summary proceeding for possession of the
21 dwelling unit or any other proper proceeding, action, or suit



1 for possession[-], subject to subsections (b) through (i). The
2 notice required by this section need not be given if the action
3 is based on the breach of a mediated agreement or other
4 settlement agreement or for a summary possession proceeding
5 based on matters other than non-payment of rent. If the summary
6 possession action is based on the breach of a settlement
7 agreement or mediated agreement, the court shall not require any
8 further mediation prior to trial.

9 (b) The ten-calendar-day notice shall provide the
10 following:

11 (1) The name of the landlord or the landlord's agent and
12 the landlord's or landlord's agent's contact
13 information, including, if possible, phone number,
14 electronic mail address, and mailing address;

15 (2) The address of the dwelling unit subject to the rental
16 agreement;

17 (3) The name and contact information of all tenants listed
18 on the rental agreement, including phone number and,
19 if possible, electronic mail address, and mailing
20 address;



- 1 (4) The current amount of the rent due as of the date of
2 the notice, after applying all rent paid from all
3 sources;
- 4 (5) That a copy of the ten-calendar-day notice being
5 provided to the tenant is also being provided to the
6 mediation center on the island where the dwelling unit
7 of the tenant is located and, in accordance with
8 subsection (c), in order for the mediation center to
9 contact the landlord and tenant to attempt to schedule
10 a mediation regarding the nonpayment of rent;
- 11 (6) That the landlord or landlord's agent may file an
12 action for summary possession if the rent due is not
13 paid and if mediation is not scheduled within ten
14 calendar days after the tenant's receipt of the ten-
15 calendar-day notice, regardless of whether the
16 scheduled mediation session occurs within the ten
17 calendar days;
- 18 (7) A warning in bold typeface print that says: "If
19 mediation is not scheduled within ten calendar days
20 after receipt of this notice, regardless of whether
21 the scheduled mediation session occurs within the ten-



1 calendar-day period, then the landlord may file an
2 action for summary possession after the expiration of
3 the ten-calendar-day period. If mediation is
4 scheduled before the expiration of the ten-calendar-
5 day period, regardless of whether the scheduled
6 mediation session occurs within the ten calendar days,
7 then the landlord shall only file an action for
8 summary possession after the expiration of twenty
9 calendar days following the tenant's receipt of the
10 ten-calendar-day notice unless you (tenant) fail to
11 attend or cancel mediation. If the ten-calendar-day
12 notice was mailed, receipt of notice shall be deemed
13 to be two days after the date of the postmark. If the
14 ten-calendar-day notice was posted on the premises,
15 receipt of notice shall be deemed to be the date of
16 posting. If an agreement is reached before the filing
17 of an action for summary possession, whether through
18 mediation or otherwise, then the landlord shall not
19 bring an action for summary possession against the
20 tenant for nonpayment of rent, except as provided in
21 any agreement that may be reached or if any such



1 agreement is breached. The landlord shall be required
2 to note the status of the mediation or settlement
3 effort and proof of sending or posting the ten-
4 calendar-day notice to the mediation center in the
5 action for summary possession in the summary
6 possession complaint.";

7 (8) Notice that the eviction may be subject to additional
8 requirements and protections under state or federal
9 law and that the tenant is encouraged to seek the
10 tenant's own legal advice regarding their rights and
11 responsibilities; and

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

14 The judiciary shall prepare a notice form that may be used
15 by landlords and landlords' agents to provide the information
16 required by this subsection and make the form available on its
17 website.

18 (c) Landlords or their agents shall provide the ten-
19 calendar-day notice to a mediation center on the island on which
20 the dwelling unit of the tenant is located that offers free
21 mediation for residential landlord-tenant matters. The



1 mediation center shall contact the landlord or landlord's agent
2 and the tenant to schedule the mediation. If a tenant schedules
3 mediation within the ten-calendar-day period and participates in
4 the mediation, regardless of whether the scheduled mediation
5 session occurs within the ten-calendar-day period, the landlord
6 shall only file a summary proceeding for possession after the
7 expiration of twenty calendar days from the date of receipt of
8 the ten-calendar-day notice. If the tenant schedules mediation,
9 the landlord shall participate.

10 (d) The summary possession complaint for nonpayment of
11 rent shall include:

12 (1) A document or documents from the mediation center
13 verifying that the landlord provided a copy of the
14 required ten-calendar-day notice to the mediation
15 center or an affirmation from the landlord or the
16 landlord's agent that the notice was provided to the
17 applicable mediation center and by what means the
18 notice was provided to the applicable mediation
19 center; and

20 (2) If mediation is pending, the date on which the
21 mediation is scheduled.



1 (e) If the mediation has not occurred as of, or been
2 scheduled for a future date after, the return hearing date on
3 the summary possession complaint, the court, in its discretion
4 and based on a finding of good cause, may order a separate
5 mediation.

6 (f) If there is any defect in the ten-calendar-day notice
7 described in subsection (b) provided by the landlord and the
8 court determines the defect was unintentional or immaterial, the
9 court may allow the landlord to cure the defect without
10 dismissing the action for summary possession.

11 (g) Nothing in this section shall impact a landlord or
12 tenant's other rights and responsibilities under the residential
13 landlord-tenant code.

14 (h) The mediation may take place by means of remote
15 communication or in person, or both.

16 (i) If the mediation does not result in an agreement, the
17 landlord or landlord's agent may file an action for summary
18 possession without participating in mediation again.

19 ~~(b)~~ (j) A landlord or the landlord's agent may bring an
20 action for rent alone at any time after the landlord has



1 demanded payment of past due rent and notified the tenant of the
2 landlord's intention to bring such an action."

3 SECTION 3. 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 2023-2024 and
6 the same sum or so much thereof as may be necessary for fiscal
7 year 2024-2025 for the judiciary to contract for mediation
8 services pursuant to section 2 of this Act.

9 The sums appropriated shall be expended by the judiciary
10 for the purposes of this part.

11 PART II

12 SECTION 4. (a) There shall be established an emergency
13 rent relief program available to participants in pre-litigation
14 mediation pursuant to section 521-68, Hawaii Revised Statutes,
15 as amended by this Act, to provide resources that will help
16 avoid eviction and maintain stable tenancies.

17 (b) Participants in the emergency rent relief program
18 shall be eligible to receive rent relief payments after
19 mediation. Participants shall be limited to a maximum of \$5,000
20 under the program and may elect to receive payment in one of the
21 following methods:



1 (1) A one-time payment of \$3,000 to be used for back rent,
2 plus an additional four monthly payments of \$500; or

3 (2) Ten monthly payments of \$500;

4 (c) The total amount of payments each year under the
5 emergency rent relief program shall not exceed \$11,250,000.

6 (d) The Hawaii public housing authority may enter into
7 memoranda of agreement with the counties or qualified non-profit
8 organizations as necessary to implement this section.

9 (e) The Hawaii public housing authority shall be exempt
10 from chapter 103D, Hawaii Revised Statutes, in selecting a
11 qualified non-profit organization to administer the emergency
12 rent relief program and shall, without regard to chapter 91,
13 Hawaii Revised Statutes, establish rules and qualification
14 standards for the emergency rent relief program; provided that
15 the rules, at a minimum, shall prohibit a person from
16 participating in the emergency rent relief program more than
17 once.

18 SECTION 5. There is appropriated out of the general
19 revenues of the State of Hawaii the sum of \$ or so
20 much thereof as may be necessary for fiscal year 2023-2024 and



1 the same sum or so much thereof as may be necessary for fiscal
2 year 2024-2025:

3 (1) For an emergency rent relief program to be made
4 available only to participants in the pre-litigation
5 mediation pilot program, pursuant to section 521-68,
6 Hawaii Revised Statutes, as amended by section 4 of
7 this Act, for the purposes of avoiding eviction and
8 maintaining stable tenancies; and

9 (2) To fund the cost of administering the program,
10 including administrative and monitoring expenses
11 incurred by the Hawaii Public Housing Authority and
12 the nonprofit intermediary recipient.

13 The sums appropriated shall be expended by the Hawaii
14 public housing authority for the purposes of this Act.

15 PART III

16 SECTION 6. This Act does not affect rights and duties that
17 matured, penalties that were incurred, and proceedings that were
18 begun before its effective date.

19 SECTION 7. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



1 SECTION 8. This Act shall take effect on June 30, 3000;

2 provided that:

3 (1) Section 2 shall take effect on September 1, 2023; and

4 (2) Sections 3 and 5 shall take effect on July 1, 2023;

5 provided further that this Act shall be repealed on June 30,

6 2025, and section 521-68, Hawaii Revised Statutes, shall be

7 reenacted in the form in which it read on the day prior to the

8 effective date of section 2 of this Act.

9



H.B. NO. 1439 H.D. 1

Report Title:

Pre-litigation Mediation Pilot Program; Landlord; Tenant; Hawaii Public Housing Authority; Emergency Rent Relief Program; Appropriation

Description:

Establishes and appropriates funds for a pre-litigation mediation pilot program. Requires landlords to participate in mediation before filing an action for summary possession. Creates and appropriates funds for an emergency rent relief program. Effective 6/30/3000. (HD1)

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