
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 cases that are expected to follow the expiration of certain
13 wildfire proclamations.

14 Accordingly, the purpose of this Act is to:

15 (1) Establish a procedure that requires those landlords to
16 engage in mediation and delay filing an action for
17 summary possession if a tenant schedules or attempts



1 to schedule a mediation, and restricts when those
2 landlords may exercise certain remedies; and
3 (2) Require tenants and landlords to be responsible for
4 their own attorney's fees and costs related to
5 pre-litigation mediation; provided that, if the tenant
6 defaults on a mediated agreement or fails to attend a
7 scheduled mediation, the landlord may file for
8 eviction and request payment of all attorney's fees
9 and costs incurred during the pre-litigation mediation
10 process.

11 SECTION 2. The suspension of sections 521-68 and 521-71,
12 Hawaii Revised Statutes, and chapter 666, Hawaii Revised
13 Statutes, under the various proclamations issued by the governor
14 and relating to wildfires shall continue until termination of
15 the proclamation by the governor or expiration of the
16 proclamation.

17 SECTION 3. **Alternative process of landlord's remedies for**
18 **failure by tenant to pay rent.** (a) This section shall apply to
19 any tenancy subject to section 2 of this Act when it becomes
20 legally permissible to terminate a residential tenancy for
21 nonpayment of rent.



1 (b) A landlord or the landlord's agent, any time after
2 rent is due, may demand payment thereof and notify the tenant in
3 writing that unless payment is made within a time period
4 mentioned in the notice as provided in subsection (c), not less
5 than fifteen calendar days after receipt thereof, the rental
6 agreement shall be terminated. If the tenant cannot be served
7 with notice as required, notice may be given to the tenant by
8 posting the same in a conspicuous place on the dwelling unit,
9 and the notice shall be deemed received on the date of posting.
10 If the tenant remains in default, the landlord may thereafter
11 bring a summary proceeding for possession of the dwelling unit
12 or any other proper proceeding, action, or suit for possession,
13 subject to subsections (c) through (j). The notice required in
14 this section need not be given if the action is based on the
15 breach of a mediated agreement or other settlement agreement.

16 (c) The fifteen calendar day notice shall provide, at a
17 minimum, the following:

18 (1) The name of the landlord or the landlord's agent and
19 the landlord's or landlord's agent's contact
20 information, including, if possible, phone number,
21 electronic mail address, and mailing address;



- 1 (2) The address of the dwelling unit subject to the rental
2 agreement;
- 3 (3) The name and contact information of each tenant,
4 including, if possible, phone number, electronic mail
5 address, and mailing address;
- 6 (4) The monthly rental rate of the dwelling unit;
- 7 (5) The current amount of the rent due as of the date of
8 the notice, after applying all rent paid from all
9 sources;
- 10 (6) Whether the landlord or landlord's agent has applied
11 for rental assistance or been contacted on behalf of
12 the tenant by any agency providing rental assistance;
- 13 (7) That any rental assistance received by the landlord or
14 landlord's agent has been credited to the tenant's
15 amount due;
- 16 (8) That a copy of the fifteen calendar day notice being
17 provided to the tenant is also being provided to the
18 mediation center to be identified by the landlord and,
19 in accordance with subsection (c), in order for the
20 mediation center to contact the landlord and tenant to



1 attempt to schedule a mediation regarding the
2 nonpayment of rent;

3 (9) That the mediation center will provide proof to the
4 landlord that the notice was received and provide
5 confirmation of the scheduled date and time of
6 mediation;

7 (10) That the landlord or landlord's agent may file an
8 action for summary possession if the rent due is not
9 paid and if mediation is not scheduled within fifteen
10 calendar days after the tenant's receipt of the
11 fifteen calendar day notice, regardless of whether the
12 scheduled mediation session occurs within the fifteen
13 calendar days;

14 (11) A warning in bold typeface print that says: "**If**
15 **mediation is not scheduled within fifteen calendar**
16 **days after receipt of the notice, regardless of**
17 **whether the scheduled mediation session occurs within**
18 **the fifteen calendar day period, then the landlord may**
19 **file an action for summary possession after the**
20 **expiration of the fifteen calendar day period. If**
21 **mediation is scheduled before the expiration of the**



1 fifteen calendar day period, regardless of whether the
2 scheduled mediation session occurs within the
3 fifteen calendar days, then the landlord shall only
4 file an action for summary possession after the
5 expiration of thirty calendar days following the
6 tenant's receipt of the fifteen calendar day notice.
7 If the tenant cancels the scheduled mediation or does
8 not appear at the scheduled mediation, the landlord
9 may file the summary possession action immediately and
10 shall not be required to wait for the expiration of
11 the thirty calendar days. If the fifteen 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 fifteen calendar day notice was posted on the
15 premises, receipt of notice shall be deemed to be the
16 date of posting. If an agreement is reached before
17 the filing of an action for summary possession,
18 whether through mediation or otherwise, then the
19 landlord shall not bring an action for summary
20 possession against the tenant, except as provided in
21 any agreement that may be reached. The landlord shall



1 be required to note the status of the mediation or
2 settlement effort and proof of sending or posting the
3 fifteen calendar day notice to the mediation center in
4 the action for summary possession.";

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

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

12 (d) Landlords or their agents shall provide the fifteen
13 calendar day notice to any mediation center funded by the State
14 that offers free mediation for residential landlord-tenant
15 matters. The mediation center shall contact the landlord or
16 landlord's agent and the tenant to schedule the mediation. The
17 mediation center shall offer to facilitate the mediation using
18 remote means, such as video conferencing, telephone, or other
19 similar means, and shall not require in-person mediation. If a
20 tenant schedules mediation within the fifteen calendar day
21 period, regardless of whether the scheduled mediation session



1 occurs within the fifteen day period, the landlord shall only
2 file a summary proceeding for possession after the expiration of
3 thirty calendar days from the date of receipt of the notice. If
4 the tenant schedules mediation, the landlord shall participate.
5 If the tenant schedules, but then cancels, a mediation, or if
6 the tenant does not appear at the scheduled mediation, the
7 landlord may file the summary proceeding for possession
8 immediately and shall not be required to wait for the expiration
9 of the thirty calendar days.

10 (e) 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 fifteen calendar day notice to the mediation
15 center;

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

19 (3) If mediation is pending, the date on which the
20 mediation is scheduled.



1 (f) 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 (g) If the mediation has occurred as of the return hearing
7 date on the summary possession complaint, the court, in its
8 discretion and based on a finding of good cause, may order a
9 separate mediation.

10 (h) If there is any defect in the fifteen calendar day
11 notice described in subsection (c) provided by the landlord and
12 the court determines the defect was unintentional and
13 immaterial, the court may allow the landlord to cure the defect
14 without dismissing the action for summary possession.

15 (i) No landlord may bring a summary proceeding for
16 possession for a tenant's failure to pay rent except pursuant to
17 this section and as follows:

18 (1) Beginning on the first day after the expiration date
19 of the final eviction moratorium through the
20 thirtieth day after the expiration date of the final



1 eviction moratorium, the rent due shall be equal to or
2 greater than four months of rent;

3 (2) Beginning on the thirty-first day after the expiration
4 date of the final eviction moratorium through the
5 ninety-first day after the expiration date of the
6 final eviction moratorium, the rent due shall be equal
7 to or greater than three months of rent;

8 (3) Beginning on the ninety-second day after the
9 expiration date of the final eviction moratorium
10 through the one hundred fifty-second day after the
11 expiration date of the final eviction moratorium, the
12 rent due shall be equal to or greater than two months
13 of rent; and

14 (4) Beginning on the one hundred fifty-third day after the
15 expiration date of the final eviction moratorium
16 through the three hundred sixty-fifth day after the
17 expiration day of the final eviction moratorium, the
18 rent due shall be equal to or greater than one month
19 rent.

20 For purposes of this section, "final eviction moratorium"
21 means an emergency proclamation or supplementary proclamation,



1 or any extension thereof, issued by the governor and relating to
2 wildfires, that prohibits any eviction from a residential
3 dwelling for a failure to pay rent.

4 (j) Each tenant and landlord shall be responsible for
5 bearing the party's own costs, including attorney's fees,
6 relating to the mediation; provided that, if the tenant defaults
7 on a mediated agreement or fails to attend a scheduled
8 mediation, the landlord may request payment of all costs,
9 including reasonable attorney's fees, incurred during the pre-
10 litigation mediation process.

11 (k) A landlord or the landlord's agent may bring an action
12 for rent alone at any time after the landlord has demanded
13 payment of past due rent and notified the tenant of the
14 landlord's intention to bring such an action.

15 SECTION 4. In accordance with section 9 of article VII, of
16 the Constitution of the State of Hawaii and sections 37-91 and
17 37-93, Hawaii Revised Statutes, the legislature has determined
18 that the appropriation contained in this Act will cause the
19 state general fund expenditure ceiling for fiscal year 2024-2025
20 to be exceeded by \$, or per cent. The reasons
21 for exceeding the general fund expenditure ceiling are that the



1 appropriation made in this Act is necessary to serve the public
2 interest and to meet the needs provided for by this Act.

3 SECTION 5. 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 2024-2025 for
6 the judiciary to contract for mediation services required by
7 this Act.

8 The sum appropriated shall be expended by the judiciary for
9 the purposes of this Act.

10 SECTION 6. This Act does not affect rights and duties that
11 matured, penalties that were incurred, and proceedings that were
12 begun before its effective date; provided that any contract in
13 effect prior to the effective date of this Act that is
14 subsequently renewed or extended on or after the effective date
15 of this Act shall comply with the requirements of this Act.

16 SECTION 7. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 8. This Act shall take effect upon approval;
19 provided that the governor shall notify the chief justice,
20 legislature, and revisor of statutes no later than twenty days
21 prior to the expiration of the final eviction moratorium



1 identified in section 2 of this Act, that the governor will not
2 issue any further eviction moratoria in response to the
3 wildfires; provided further that sections 2 and 3 of this Act
4 shall take effect on the date of the expiration of the final
5 eviction moratorium identified in section 2 of this Act.

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INTRODUCED BY: *Nadine K. Pugh*
JAN 24 2024



H.B. NO. 2742

Report Title:

Housing; Landlord-tenant Code; Remedies; Notice; Failure to Pay Rent; Mediation; Wildfires; Governor Notice; Appropriation; General Fund Expenditure Ceiling Exceeded

Description:

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.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

