

JAN 20 2023

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 one of the most
2 instrumental actions taken during the coronavirus disease 2019
3 (COVID-19) pandemic was the creation of the mandatory
4 landlord-tenant mediation program. The legislature further
5 finds that this program helped to ensure that tenants were not
6 quickly and arbitrarily displaced by creating a venue for
7 landlords and tenants to resolve financial shortfalls and other
8 disputes and negotiate the time needed for tenants to find
9 replacement housing and address other hardships. Additionally,
10 this program provided a more efficient avenue for landlords to
11 obtain resolutions for these types of disputes.

12 The legislature also finds that the rental market on Maui
13 has become both exorbitant and scarce. Many tenants are given
14 minimum legal notice to vacate, are unable to secure housing,
15 and often do not have the time to submit the necessary paperwork
16 to obtain rental assistance.



1 The legislature believes that the landlord-tenant mediation
2 program should be continued. Many groups have found that the
3 continuation of this program will provide stability and
4 continuity to tenants throughout the State during this
5 economically volatile time and in this overpriced rental market.
6 The legislature also believes that continuation of this program
7 will help to alleviate the cost borne by landlords and tenants
8 by allowing both parties to avoid court costs.

9 Accordingly, the purpose of this Act is to reenact the
10 COVID-19 era landlord-tenant mediation program by:

- 11 (1) Extending from five business days to fifteen calendar
12 days the period for a notice of termination of a
13 rental agreement;
- 14 (2) Requiring landlords to engage in mediation and delay
15 the filing of an action for summary possession if a
16 tenant schedules or attempts to schedule a mediation;
17 and
- 18 (3) Requiring landlords to provide specific information in
19 the fifteen-calendar day notice to tenants and certain
20 mediation centers.



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



1 (b) The fifteen-calendar day notice shall state, at a
2 minimum, the following:

3 (1) The name and contact information of the landlord or
4 the landlord's agent, including, if possible, phone
5 number, electronic mail address, and mailing address;

6 (2) The address of the dwelling unit subject to the rental
7 agreement;

8 (3) The name and contact information of each tenant,
9 including, if possible, phone number, electronic mail
10 address, and mailing address;

11 (4) The monthly rental rate of the dwelling unit;

12 (5) The current amount of the rent due as of the date of
13 the notice, after applying all rent paid from all
14 sources;

15 (6) Whether the landlord or landlord's agent has applied
16 for rental assistance or been contacted on behalf of
17 the tenant by any agency providing rental assistance;

18 (7) That any rental assistance received by the landlord or
19 landlord's agent has been credited to the tenant's
20 amount due;



- 1 (8) That a copy of the fifteen-calendar day notice being
2 provided to the tenant is also being provided to the
3 mediation center to be identified by the landlord and,
4 in accordance with subsection (c), in order for the
5 mediation center to contact the landlord and tenant to
6 attempt to schedule a mediation regarding the
7 nonpayment of rent;

- 8 (9) That the mediation center will provide proof to the
9 landlord that the notice was received and provide
10 confirmation of the scheduled date and time of
11 mediation;

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

- 19 (11) A warning in bold typeface print that says: "If
20 mediation is not scheduled within fifteen calendar
21 days after receipt of the notice, regardless of



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



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

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

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

13 (c) Landlords or their agents shall provide the fifteen-
14 calendar day notice to a mediation center that offers free
15 mediation for residential landlord-tenant matters. The
16 mediation center shall contact the landlord or landlord's agent
17 and the tenant to schedule the mediation. If a tenant schedules
18 mediation within the fifteen-calendar day period, regardless of
19 whether the scheduled mediation session occurs within the
20 fifteen-day period, the landlord shall only file a summary
21 proceeding for possession after the expiration of thirty



1 calendar days from the date of receipt of the notice. If the
2 tenant schedules mediation, the landlord shall participate.

3 (d) The summary possession complaint for nonpayment of
4 rent shall include:

5 (1) A document or documents from the mediation center
6 verifying that the landlord provided a copy of the
7 required fifteen-calendar day notice to the mediation
8 center;

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

12 (3) If mediation is pending, the date on which the
13 mediation is scheduled.

14 (e) If the mediation has not occurred as of, or been
15 scheduled for a future date after, the return hearing date on
16 the summary possession complaint, the court, in its discretion
17 and based on a finding of good cause, may order a separate
18 mediation.

19 (f) If there is any defect in the fifteen-calendar day
20 notice described in subsection (b) provided by the landlord and
21 the court determines the defect was unintentional and



1 immaterial, the court may allow the landlord to cure the defect
2 without dismissing the action for summary possession.

3 (g) No landlord may bring a summary proceeding for
4 possession for a tenant's failure to pay rent except pursuant to
5 this section.

6 (h) A landlord or the landlord's agent may bring an action
7 for rent alone at any time after the landlord has demanded
8 payment of past due rent and notified the tenant of the
9 landlord's intention to bring such an action."

10 SECTION 3. There is appropriated out of the general
11 revenues of the State of Hawaii the sum of \$ or so much
12 thereof as may be necessary for fiscal year 2023-2024 and the
13 same sum or so much thereof as may be necessary for fiscal year
14 2024-2025 for the provision of rental assistance and to contract
15 for services permitted by this Act and the guidance published by
16 the United States Treasury to assist households that do not
17 qualify under American Rescue Plan Act of 2021, section 3201,
18 Emergency Rental Assistance, Housing Stability Services funds.

19 The sums appropriated shall be expended by the counties for
20 the purposes of this Act, in the following amounts:

21 City and county of Honolulu \$



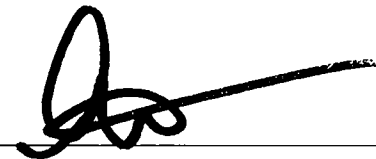
1 County of Hawaii §
 2 County of Kauai §
 3 County of Maui § .

4 SECTION 4. This Act does not affect rights and duties that
 5 matured, penalties that were incurred, and proceedings that were
 6 begun before its effective date.

7 SECTION 5. Statutory material to be repealed is bracketed
 8 and stricken. New statutory material is underscored.

9 SECTION 6. This Act shall take effect on July 1, 2023.

10

INTRODUCED BY:  _____



S.B. NO. 1133

Report Title:

Housing; Landlord-tenant Code; Remedies; Notice; Failure to Pay Rent; Mediation; Appropriations

Description:

Extends from 5 business days to 15 calendar days the period for a notice of termination of a rental agreement. Requires landlords to engage in mediation and delay the filing of an action for summary possession if a tenant schedules or attempts to schedule a mediation. Requires landlords to provide specific information in the 15-calendar day notice to tenants and certain mediation centers. Appropriates moneys.

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

