



HAWAII PEST CONTROL ASSOCIATION

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February 10, 2023

Testimony To: Senate Committee on Commerce and Consumer Protection
Senator Jarrett Keohokalole, Chair

Senate Committee on Housing
Senator Stanley Chang, Chair

Presented By: Tim Lyons, CAE
Executive Director

Subject: S.B. 22 – Relating to Bed Bugs.

Mr. Chairmen and Members of the Joint Committees:

I am Tim Lyons, Executive Director of the Hawaii Pest Control Association and we are providing comments on this bill.

There is no doubt that bed bugs are still a severe problem. Probably, based on COVID and the lack of travel, the problem has calmed down but only slightly.

Bed bugs are bloodsuckers and they live only if they have a blood borne host. The bill rightly acknowledges that if you are going to do treatment or an inspection of an apartment dwelling, you need to look/treat at the unit above, the unit below and the unit to the left and right.

This bill provides that the landlord pays under certain circumstances and the tenant pays under others. We have no official position on that although we would note that we think a pest control operator would have collection and performance problems by depending on payment from a tenant who perhaps did not want or could not afford the treatment. Remedial treatment for bedbugs can be very expensive. It is virtually impossible to do one (1) treatment and solve the problem and as a result, multiple treatments are typically necessary and time and labor charges will come into play. There are also some people in society who believe that they are "chemically sensitive" and this bill does not take that into consideration. Therefore, it should have some sort of a waiver of liability clause or a waiver of treatment clause. Additionally, we would also like to point out that there are some rather tight time frames in this bill such as providing inspection or investigation services from a pest control operator within five (5) days. This may not be possible. It also calls for the landlord acting within seven (7) days with a pest control operator. Again, that may not be possible. We believe the time frames for both should be extended.

Surveys have indicated that the most common place for bed bugs to be a problem in 91% of the cases are single family dwellings and 89% are apartments or condos, but office buildings, public transportation and schools are also likely sites. It's no wonder they are difficult to control when you realize that a female may lay one (1) to five (5) eggs a day and five hundred forty-one (541) eggs in a lifetime. In about twenty (2) days, the nymph becomes an adult and needs blood. We have attached a few pictures just to illustrate some "local" infestations.

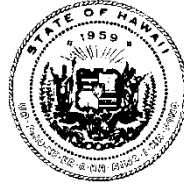
We provide this information merely as a source of information for you to consider in your deliberations.

Thank you.





JOSH GREEN, M.D.
GOVERNOR



HAKIM OUANSAFI
EXECUTIVE DIRECTOR

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IN REPLY, PLEASE REFER TO:

Statement of
Hakim Ouansafi, Executive Director
Hawaii Public Housing Authority

Before the
Senate Committee on Consumer Protection & Commerce
and
Senate Committee on Housing

9:30 a.m., February 10, 2023
Hawaii State Capitol
Room 229

In consideration of
SB 22
RELATING TO BED BUGS

Honorable Chair Keohokalole and Chair Chang, and members of the Senate Committee on Consumer Protection & Commerce and the Senate Committee on Housing, thank you for this opportunity to provide testimony on SB 22, relating to bed bugs.

The Hawaii Public Housing Authority (HPHA) **supports the intent** and offers **comments** on SB 22 which would prohibit landlords from the renting of dwelling units with bed bug infestations and establish procedures landlords must take upon discovery of a bed bug infestation.

The HPHA's mission is to provide Hawaii's residents with adequate and affordable housing, economic opportunity, and suitable living environments that are free from discrimination through both its public housing and rental assistance programs. The HPHA serves our state's most disadvantaged populations, including families earning less than thirty percent of the Area Median Income, the disabled, and the elderly.

The HPHA remains fully committed to ensuring that all public housing units are kept safe, decent, and sanitary. A vacant unit must be completely free of bed bugs, only has a refrigerator and stove, and must meet federal physical condition standards, as described in 24 CFR 5.703, before a new family moves in. The HPHA applies similar standards and processes to the State public housing program. Unfortunately, we have known some public housing tenants who bring in mattresses from dumpsters that may have bed bugs in them, and thus bring them into their units.

As you may know, the U.S. Department of Housing and Urban Development's (HUD) Real Estate Assessment Center (REAC) conducts a physical inspection of all federal public housing projects on an annual basis. REAC includes the presence of bed bugs as part of their physical inspection scoring criteria. These federal inspections are in addition to regular annual or semi-annual unit inspections the HPHA already performs which also screen for the presence of bed bugs.

Upon being notified of or discovering the presence of bed bugs, the HPHA follows HUD-recommended procedures, as outlined in PIH Notice 2012-17 (attached), to notify all households that may be affected while also protecting tenant privacy rights. The HPHA's management offices typically contract with a pest control service provider for multiple treatments. Follow-up inspections by trained staff or licensed professionals are performed until the infestation is fully addressed, and adjacent units are also inspected for bed bugs. Public housing tenants do not pay for the cost of treatment.

We appreciate this opportunity to provide the committees with our comments on SB 22, and humbly request the HPHA be removed from this measure. Thank you very much for your continued and dedicated support.



**U.S. Department of Housing and Urban Development
Office of Public and Indian Housing**

SPECIAL ATTENTION OF:

NOTICE: PIH-2012-17

Regional Directors; State and Area Coordinators; Public Housing Hub Directors; Program Center Coordinators; Troubled Agency Recovery Center Directors; Special Applications Center Director; Administrators; Offices of Native American Programs; Public Housing Agencies;

Issued: February 28, 2012

Expired: This Notice remains in effect until amended, superseded, or rescinded

Housing; Housing Choice Voucher/Section 8; Tribally Designated Housing Entities; Indian Tribes; Resident Management Corporations

Cross References:

SUBJECT: Guidelines on Bedbug Control and Prevention in Public Housing

I. Purpose

Bedbug infestations have become a serious problem in housing throughout the country. Public Housing properties are not immune to infestations. This Notice provides information and references to best practices regarding the prevention and control of bedbug infestations. It also provides guidance on the rights and responsibilities of HUD, Public Housing Agencies (PHAs) and tenants with regard to bedbug infestations.

II. Background

After a long absence, bedbug infestations are a growing problem in the United States today. According to the United States Environmental Protection Agency (EPA), bedbug populations have increased dramatically. Bedbugs are considered a pest of significant public health importance by the EPA and the Centers for Disease Control and Prevention (CDC). Although the insects are not known to transmit disease, bites may itch and cause an allergic reaction in some people, which may lead to secondary infections. The presence of bedbugs may also contribute to stress or anxiety.

Experts suspect the resurgence is associated with greater international and domestic travel, lack of knowledge regarding the complex measures needed to prevent and control bedbugs, changes in pesticide availability and technology, and increased resistance of bedbugs to available pesticides. Bedbugs are not an indicator of poor sanitation, but excess clutter can provide them more places to hide, making early detection and targeted control

difficult.

HUD has received numerous reports of bedbug infestations in Public Housing properties in various regions. HUD is working closely with other federal agencies to develop and share best practices for preventing and controlling bedbugs.

III. Applicability

This notice applies to PHAs administering the public housing and project based Section 8 program. It may also be of interest to Indian tribes/TDHEs as well as owners/agents providing assisted housing through the Housing Choice Voucher (HCV) Program.

IV. Prevention of Bedbug Infestations

The best approach to bedbug management is to prevent an infestation from occurring in the first place. Federal agencies, such as EPA and HUD, are working in tandem to develop and share recommendations to prevent bedbug infestations.

PHAs are strongly encouraged to develop an Integrated Pest Management (IPM) Plan. Such plans describe the ongoing efforts the property management will take to prevent and respond to pests. For more details on IPM, please see the online guide at <http://www.stoppests.org>. According to the EPA, principles of IPM for bedbugs include:

- Raising awareness through education on prevention of bedbugs;
- Inspecting infested areas, plus surrounding living spaces;
- Checking for bedbugs in luggage and clothes when returning home from a trip;
- Looking for bedbugs or signs of infestation on secondhand items before bringing the items home;
- Correctly identifying the pest;
- Keeping records – including dates and locations where pests are found;
- Cleaning all items within a bedbug infested living area;
- Reducing clutter where bedbugs can hide;
- Eliminating bedbug habitats;
- Physically removing bedbugs through cleaning;
- Using pesticides carefully according to the label directions; and,
- Following up on inspections and possible treatments.

In addition or as part of an IPM plan, PHAs are strongly encouraged to take the following preventive steps:

- Provide training for staff to identify bedbugs, and to perform ongoing prevention actions as outlined in the IPM. When a community is at high risk for bedbugs (for example, if the community has experienced prior infestations), periodic building inspections are recommended.

- Actively engage residents in efforts to prevent bedbugs. Education and involvement of tenants is a critical component of IPM for bedbugs. Bedbugs may often go undetected and unreported and because they are active at night tenants may not be aware of their presence. PHAs may wish to hold workshops for tenants to learn to identify bedbugs, to create unfriendly environments for pests, and to report suspicions of bedbugs as soon as possible.
- Provide orientation for new tenants and staff, and post signs and handouts regarding bedbug prevention.

More information on bedbug prevention may be found by accessing the following websites:¹

- **Healthy Homes Training:** *What's Working for Bedbug Control in Multifamily Housing?: Reconciling best practices with research and the realities of implementation.*
http://www.healthyhomestraining.org/ipm/NCHH_Bed_Bug_Control_2-12-10.pdf.
- **National Pest Management Association Bedbug Hub:**
<http://pestworld.org/pest-world-blog/the-bed-bug-hub-one-stop-shop-for-bed-bug-information>
- **National Pest Management Association Best Practices Website:**
<http://www.bedbugbmps.org>
- **Environmental Protection Agency:**
<http://www.epa.gov/pesticides/bedbugs/>
- **Public Housing Environmental Conservation Clearinghouse (PHECC)**
<http://www.hud.gov/offices/pih/programs/ph/phecc/pestmang.cfm>

V. Addressing Infestations

The PHA should respond with urgency to any tenant report of bedbugs. Within 24 hours of the tenant report, the PHA should make contact with the tenant, provide the tenant with information about control and prevention of bedbugs and discuss measures the tenant may be able to take in the unit before the inspection is performed. However, a bedbug inspection and, if necessary, treatment, may take time to schedule. The PHA should endeavor to take appropriate action within a reasonable time period using the guidelines provided below.

¹ An additional resource for interested parties is the *Bedbug Handbook*. L.J. Pinto, R. Cooper, and S.K. Kraft, *Bedbug Handbook: The Complete Guide to Bedbugs and Their Control* (Mechanicsville, MD: S.K. Pinto & Associates, 2007).

Following a report of bedbugs, the PHA or a qualified third party trained in bedbug detection should inspect the dwelling unit to determine if bedbugs are present. It is critical that inspections be conducted by trained staff or third party professionals. Low level inspections may escape visual detection. For this reason, multiple detection tools are recommended. Recent research indicates that “active” bedbug monitors containing attractants can be effective tools for detecting early infestations. Some licensed pest control applicators use canine detection to verify the presence of bedbugs. The inspection should cover the unit reporting the infestation and no less than surrounding apartments consisting of the units above, below, left and right, and should be completed within three business days of a tenant complaint if possible. If reputable, licensed pest control companies are unattainable within three calendar days, the PHA is required to retain documentation of the efforts to obtain qualified services. If an infestation is suspected but cannot be verified using the methods described above, the PHA should re-inspect the unit(s) periodically over the next several months.

When an infestation is identified, the unit and surrounding units should be treated for bedbugs according to the IPM Plan. Chemical treatments are necessary, but not reliable. Therefore, encasement, interception devices, vacuuming, steaming, freezing and commodity or building heat treatments may be utilized as part of the bedbug control effort. Infestations are rarely controlled in one visit. Effective treatment may require two to three visits, and possibly more. The length, method and extent of the treatment will depend on the severity and complexity of the infestation, and the level of cooperation of the residents.

VI. Additional Considerations

PHAs may offer protective tools to residents to help safeguard properties from infestation and recurrences. For example, the PHA may offer residents bed covers, climb-up interceptors, or other detection or protection devices that may become available. PHAs may voluntarily offer to inspect tenants’ furniture before move-in. PHAs may also offer tenants a service of non-chemical treatment of household items upon tenant move-in, non-chemical treatment or inspection of used furniture and/or non-chemical treatment of luggage before it is unpacked when a tenant returns from a trip. Tenants may voluntarily use such services, but PHAs may not require tenants to do so. These services or products are to be offered at the PHAs expense.

A PHA may not deny tenancy to a potential resident on the basis of the tenant having experienced a prior bedbug infestation, nor may give residential preference to any tenant based on a response to a question regarding prior exposure to bedbugs. A PHA may not charge a tenant to cover the cost of bedbug treatment; such costs should be covered by the PHA. HUD reserves the right to approve Lease Addenda. Lease Addenda may not conflict with this Notice.

VII. Tenant Rights and Responsibilities

Tenants are strongly encouraged to immediately report the suspicion of possible bedbugs in a housing unit or other areas of the property. Early reporting allows the pests to be identified and treated before the infestation spreads. Tenants are the first line of defense against bedbug infestations and should be encouraged to create living environments that deter bedbugs. This includes reducing unreasonable amounts of clutter that create hiding places for bedbugs, and regular checking of beds and laundering of linens.

Bedbug infestations can cause health concerns, including physical discomfort and may contribute to stress and anxiety on the part of the residents. Tenants should be advised of the following:

- A PHA may not deny tenancy to a potential resident on the basis of the tenant having experienced a prior bedbug infestation, nor may an owner give residential preference to any tenant based on a response to a question regarding prior exposure to bedbugs.
- A tenant reporting bedbugs may expect expeditious response and attention by the PHA, but should be advised that inspection and, if necessary, treatment of bedbugs may take time to schedule. The inspections should occur within three calendar days of the tenant report when possible.
- Following a report of bedbugs, the PHA or a qualified third party trained in bedbug detection should inspect the dwelling unit to determine if bedbugs are present. It is critical that inspections be conducted by trained staff or third party professionals. The PHA may enter the unit to perform these activities, in accordance with the lease.
- If bedbug infestation is found in the unit, the tenant may expect treatment to begin within five days of the inspection, though depending on the form of treatment, this may not be possible. Tenants should be advised that treatment may take several weeks.
- Tenants are expected to cooperate with the treatment efforts by allowing for heat treatment of clothing and furniture and refraining from placement of infested furniture or other items in common areas such as hallways. Tenant cooperation is shown to expedite the control of bedbugs and to prevent spreading of infestations.
- Management may make staff available to help with moving and cleaning of furniture to accomplish the treatment effort.
- The tenant will not be expected to contribute to the cost of the treatment effort.

- The tenant will not be reimbursed the cost of any additional expense to the household, such as purchase of new furniture, clothing or cleaning services.

VIII. REAC Inspections

Bedbugs should be addressed when reported by staff, tenants or the Real Estate Assessment Center (REAC), regardless of the score of the REAC physical inspection. Inspectors ask the PHA to identify any units and/or buildings that are infested before the inspection begins. When bedbugs are reported or observed, the inspector will record the units and/or buildings affected in the comment section of the Physical Inspection report, noting that bedbugs were reported. The inspector will then select an alternate unit to inspect to replace any unit with observed or reported bedbugs.

REAC sends a “Bedbugs Reported” email to the local PIH field office with a copy to the PIH Regional director when bedbugs are noted in the comments section of a Physical Inspection Report. The PHA will see the information about bedbugs in the comment section of the Physical Inspection Report which provides PHAs with the necessary information to address the situation.

/s/

Sandra B. Henriquez, Assistant Secretary for
Public and Indian Housing

Attachment

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February 9, 2023

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair

COMMITTEE ON HOUSING

Senator Stanley Chang, Chair
Senator Dru Mamo Kanuha, Vice Chair

LATE

RE: SB22- RELATING TO BED BUGS.

Dear Senators,

I am an attorney and have practiced landlord-tenant law for the last 30 years. I generally support the intent of SB22 relating to bed bugs and offer the following comments regarding the bill.

The presence of bed bugs in any rental unit is a serious issue and both tenants and housing providers should be invested in eradicating bed bugs and taking reasonable measures to ensure that any bed bug infestation does not spread. I have found that in some instances, that is difficult for a housing provider to do if a tenant will not allow the housing provider access to the premises or cooperate with any pre-treatment protocols requested by a pest control operator, such as the clearing of clutter or repositioning of furniture, which is intended to make treatments more effective. This is particularly true for tenants who are convinced that they can treat the problems themselves with "home remedies" or simply do not want anyone they do not know personally to enter their home.

My office has been involved in several lawsuits where my housing provider clients were required to bring an eviction lawsuit in order to gain access to a premises so they could conduct pest control treatment. Currently, eviction lawsuits can take several months to adjudicate. That means, during those several months, any existing bed bug infestation is not being treated and is being allowed to fester and spread.

So that housing providers may work quickly and effectively to combat a bed bug infestation, it would be beneficial for SB22 to make clear that tenants have an obligation to cooperate with a housing provider's efforts to treat bed bugs by both allowing reasonable access to the premises upon 48 hours' notice and taking any necessary steps to make the premises ready for treatment. If a tenant's delay in or failure to cooperate causes the infestation to spread to other dwelling units, the cost of remediation should also be borne by the tenant.

Additionally, the current draft of SB22 requires that if a tenant notifies a housing provider that they discovered or reasonably suspect a bed bug infestation within the dwelling unit within 60

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(RE: SB22)

days after commencement of the lease, the housing provider shall be responsible for the costs of investigating and remediating the infestation. Bed bug infestations do not occur spontaneously. They occur when a bed bug is introduced into the dwelling unit. If the bed bug infestation occurs within 60 days of the commencement of a lease, there is a distinct possibility that the bed bugs were introduced by the tenant at move in. In such case, it would be unfair for the housing provider to be required to cover the costs of remediation.

To address this concern, it would be beneficial for SB22 to include an exception stating that if a pest control operator makes a reasonable determination that any of the tenant's personal possessions show signs of infestation that predate the commencement of the lease, or if the housing provider can demonstrate that there were no bedbugs in the unit immediately prior to the unit being occupied by the tenant, the tenant shall be responsible for the costs of investigating and remediating the infestation.

Thank you for considering my testimony.

Please let me know if you have any questions.

Very truly yours,

/s/ David W. H. Chee

David W. H. Chee