

ACT 235

H.B. NO. 1292

A Bill for an Act Relating to the Landlord-Tenant Code.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 521-42, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The landlord shall at all times during the tenancy:

- (1) Comply with all applicable provisions of any state or county law, code, ordinance, or regulation, noncompliance with which would have the effect of endangering health or safety, governing maintenance, construction, use, or appearance of the dwelling unit and the premises of which it is a part;
- (2) Keep common areas of a multi-dwelling unit premises in a clean and safe condition;
- (3) Make all repairs and arrangements necessary to put and keep the premises in a habitable condition;
- (4) Maintain all electrical, plumbing, and other facilities and appliances supplied by him in good working order and condition, subject to reasonable wear and tear;
- (5) Except in the case of a single family residence, provide and maintain appropriate receptacles and conveniences for the removal of normal amounts of rubbish and garbage, and arrange for the frequent removal of such waste materials; and
- (6) Except in the case of a single family residence, or where the building is not

required by law to be equipped for the purpose, provide for the supplying of running water as reasonably required by the tenant.

Prior to the initial date of initial occupancy, the landlord shall inventory the premises and make a written record detailing the condition of the premises and any furnishings or appliances provided. Duplicate copies of this inventory shall be signed by the landlord and by the tenant and a copy given to each tenant. In an action arising under this section, the executed copy of the inventory shall be presumed to be correct. If the landlord fails to make such an inventory and written record, the condition of the premises and any furnishings or appliances provided, upon the termination of the tenancy shall be rebuttably presumed to be the same as when the tenant first occupied the premises.”

SECTION 2. Section 521-63, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) If the landlord removes or excludes the tenant from the premises overnight without cause or without court order so authorizing, the tenant may recover possession or terminate the rental agreement and, in either case, recover an amount equal to two months rent or free occupancy for two months, and the cost of suit, including reasonable attorney’s fees. If the rental agreement is terminated, the landlord shall comply with section 521-44(c). The court may also order any injunctive or other equitable relief it deems proper. If the court determines that the removal or exclusion by the landlord was with cause or was authorized by court order, the court may award the landlord the cost of suit, including reasonable attorney’s fees if the attorney is not a salaried employee of the landlord or his assignee.”

SECTION 3. Section 521-64, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) If the landlord fails to perform in the manner specified in subsection (a), the tenant may:

- (1) Immediately do or have done the necessary repairs in a workmanlike manner, and upon submission to the landlord of receipts amounting to at least the sum deducted, deduct from his rent not more than \$300 for his actual expenditures for work done to correct the health or safety violation; or
- (2) Submit to the landlord, at least five business days before having the work done, written signed estimates from each of two qualified workmen and proceed to have done the necessary work by the workman who provides the lower estimate; provided that the landlord may require in writing a reasonable substitute workman or substitute materials, and upon submission to the landlord of receipts amounting to at least the sum deducted, the tenant may deduct \$300 or one month’s rent, whichever is greater, for his actual expenditures for work done to correct the health or safety violation.

(c) The landlord, upon written notification by the tenant of any defective condition on the premises which is in material noncompliance with section 521-42(a) or with the rental agreement, shall commence repairs of the condition within twelve business days of the notification with a good faith requirement that the repairs be completed as soon as possible; provided that if the landlord is unable to commence

repairs within twelve business days for reasons beyond his control he shall inform the tenant of the reason for the delay and set a reasonable tentative date on which repairs will commence; provided further that in any case involving repairs, except those required due to misuse by the tenant, to electrical, plumbing, or other facilities, including major appliances provided by the landlord pursuant to the rental agreement, necessary to provide sanitary and habitable living conditions, the landlord shall commence affirmative good faith efforts to make repairs within three business days of receiving oral or written notification.”

SECTION 4. Section 521-74, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Notwithstanding subsection (a), the landlord may recover possession of the dwelling unit if:

- (1) The tenant is committing waste, or a nuisance, or is using the dwelling unit for an illegal purpose or for other than living or dwelling purposes in violation of his rental agreement;
- (2) The landlord seeks in good faith to recover possession of the dwelling unit for immediate use as his own abode or that of his immediate family;
- (3) The landlord seeks in good faith to recover possession of the dwelling unit for the purpose of substantially altering, remodeling, or demolishing the premises;
- (4) The complaint or request of subsection (a) relates only to a condition or conditions caused by the lack of ordinary care by the tenant or another person in his household or on the premises with his consent;
- (5) The landlord has received from the department of health certification that the dwelling unit and other property and facilities used by or affecting the use and enjoyment of the tenant were on the date of filing of the complaint or request in compliance with health laws and regulations;
- (6) The landlord has in good faith contracted to sell the property, and the contract of sale contains a representation by the purchaser corresponding to paragraph (2) or (3); or
- (7) The landlord is seeking to recover possession on the basis of a notice to terminate a periodic tenancy, which notice was given to the tenant previous to the complaint or request of subsection (a).”

SECTION 5. Section 521-78, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) At the request of either the tenant or the landlord in any court proceeding in which the payment or nonpayment of rent is in dispute, the court shall order the tenant to deposit any disputed rent as it becomes due into the court as provided under subsection (c), and in the case of a proceeding in which a rent increase is in issue, the amount of the rent prior to the increase; provided that the tenant shall not be required to deposit any rent where the tenant can show to the court’s satisfaction that the rent has already been paid to the landlord; provided further that if the parties had executed a signed, written instrument agreeing that the rent could be withheld or deducted, the court shall not require the tenant to deposit rent into the fund. No deposit of rent into the fund ordered under this section shall affect the tenant’s rights to assert either that payment of rent was made or that any grounds for nonpayment

of rent exist under this chapter.

(b) If the tenant is unable to comply with the court's order under subsection (a) in paying the required amount of rent into the court, the landlord shall have judgment for possession and execution shall issue accordingly. The writ of possession shall issue to the sheriff or to a police officer of the circuit where the premises are situated, commanding him to remove all persons from the premises, and to put the landlord, or his agent, into the full possession thereof."

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored.*

SECTION 7. This Act shall take effect upon its approval but shall not affect any proceedings which were begun, rights which accrued, or penalties or liabilities which were incurred prior to the effective date.

(Approved June 23, 1981.)

*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.