

ACT 211

H.B. NO. 2181-84

A Bill for an Act Relating to Landlord and Tenant.

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

SECTION 1. Chapter 666, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§666- Rent trust fund. (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

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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 to 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, ordering the sheriff or police officer to remove all persons and possessions from the premises, and to put the landlord, or the landlord's agent, into full possession of the premises.

(c) The court in which the dispute is being heard shall accept and hold in trust any rent deposited under this section and shall make payments out of money collected as provided in this section. The court shall order payment of the money collected or portion thereof to the landlord if the court finds that the rent is due and has not been paid to the landlord and that the tenant did not have any basis to withhold, deduct, or otherwise set off the rent not paid. The court shall order payment of the money collected or portion thereof to the tenant if the court finds that the rent is not due or has been paid, or that the tenant had a basis to withhold, deduct, or otherwise set off the rent not paid.

(d) The court, upon finding that either the landlord or the tenant raised the issue of payment or nonpayment of rent in bad faith, shall order that person to pay the other party reasonable interest on the rent deposited into the trust."

SECTION 2. This Act does not affect rights and duties which matured, penalties which were incurred, or proceedings which were begun prior to its effective date.

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved May 30, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.