

ACT 307

H.B. NO. 479

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

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

SECTION 1. Section 521-7, Hawaii Revised Statutes, is amended to read as follows:

“§521-7 Exclusions from application of chapter. Unless created solely to avoid the application of this chapter, this chapter shall not apply to:

- (1) Residence at an institution, whether public or private, where residence is merely incidental to detention or the provision of medical, geriatric, educational, religious, or similar services.
- (2) Residence in a structure directly controlled and managed by the University of Hawaii for housing students or faculty of the University of Hawaii or residence in a structure erected on land leased from the University of Hawaii by a nonprofit corporation for the exclusive purpose of housing students or faculty of the University of Hawaii.
- (3) Occupancy under a bona fide contract of sale of the dwelling unit or the property of which it is a part where the tenant is, or succeeds to the interest of, the purchaser.
- (4) Residence by a member of a fraternal organization in a structure operated without profit for the benefit of the organization.
- (5) Transient occupancy on a day to day basis in a hotel or motel.
- (6) Occupancy by an employee of the owner or landlord whose right to occupancy is conditional upon such employment or by a pensioner of the owner or landlord.
- (7) A lease of improved residential land for a term of fifteen years or more, measured from the date of the commencement of the lease.

- (8) Occupancy by the prospective purchaser after an accepted offer to purchase and prior to the actual transfer of the owner's rights.
- (9) Except as provided in section 521- , occupancy in a project for temporary or transitional housing for homeless persons operated by a nonprofit corporation; provided that the non-profit corporation operating the project has filed a copy of its current rules and regulations governing tenancy at the project, and any changes thereto, with the director of commerce and consumer affairs, which rules and regulations shall be reasonable and a copy of which shall have been provided to each tenant."

SECTION 2. Section 521-8, Hawaii Revised Statutes, is amended by adding four new definitions to be appropriately inserted and to read as follows:

" "Homeless person" means a person who does not reside within a dwelling unit.

"Temporary housing for the homeless" means a shelter which provides short-term housing for homeless persons.

"Transitional housing for the homeless" means a shelter which provides housing and social programs for homeless persons with the goal of assisting such persons to move into dwelling units.

"Non-profit corporations" means organizations incorporated under chapter 415B."

SECTION 3. Section 521-43, Hawaii Revised Statutes, is amended to read as follows:

"§521-43 Rental agreement, disclosure. (a) A landlord or any person authorized to enter into a rental agreement on the landlord's behalf shall disclose to the tenant in writing at or before the commencement of the tenancy the name and address of:

- (1) Each person authorized to manage the premises; and
- (2) Each person who is an owner of the premises or who is authorized to act for or on behalf of the owner for the purpose of service of process and receiving and receipting for rents, notices, and demands.

The information required to be furnished shall be kept current and shall be enforceable against any successor landlord, owner, or manager.

(b) A person who fails to comply with subsection (a) becomes an agent of each person who is a landlord for:

- (1) Service of process and receiving and receipting for rents, notices, and demands; and
- (2) Performing the obligations of the landlord under this chapter and under the rental agreement and expending or making available for the purpose all rent collected from the premises.

(c) Any owner or landlord not dealing directly with the tenant shall be responsible for compliance with this section by an owner or landlord dealing directly with the tenant and shall be stopped¹ from any objection to a failure to serve process upon an owner or landlord in any proceeding arising under this chapter when such failure is due to failure to comply with this section. The owner or landlord who deals directly with the tenant and fails to comply with this section shall be deemed an agent of every other landlord under the rental agreement for performing the obligations of the landlord under this chapter and under the rental agreement.

(d) In the case of a written rental agreement, the landlord shall furnish a copy of the lease or rental agreement to the tenant.

(e) The landlord shall furnish to the tenant a written receipt for rents paid at the time of [said] payment. Cancelled checks shall also constitute and fulfill the requirement of a written receipt. If rent is paid by check, the landlord shall furnish a receipt therefor, provided [such] a receipt is requested by the tenant.

(f) Any owner or landlord who resides without the State or on another island from where the rental unit is located [must] shall designate on the written rental agreement an agent residing on the same island where the unit is located to act in the owner's or landlord's behalf. In the case of an oral rental agreement, [such] the information shall be supplied to the tenant, on demand, in a written statement.

(g) Subsections (a) and (b) to the contrary notwithstanding, the information required to be disclosed to a tenant [may], instead of being disclosed in the manner described in subsections (a) and (b), may be disclosed as follows:

- (1) In each multi-unit single-owner dwelling structure containing an elevator, a printed or typewritten notice containing the information required by subsections (a) and (b) shall be placed and continuously maintained in every elevator and in one other conspicuous place;
- (2) In each multi-unit single-owner dwelling structure not containing an elevator, a printed or typewritten notice containing the information required by subsections (a) and (b) shall be placed and continuously maintained in at least two conspicuous places;
- (3) In each multi-unit dwelling structure, a printed or typewritten notice containing the information required by subsections (a) and (b) shall be posted within the unit in a conspicuous place.

(h) Landlords shall provide their general excise tax number to all tenants for the purpose of filing for a low-income tax credit."

SECTION 4. Section 521-71, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) When the tenancy is month to month, the landlord or the tenant may terminate the rental agreement upon the landlord's or the tenant's notifying the other, in writing, at least twenty-eight days in advance of the anticipated termination. Before a landlord terminates a month-to-month tenancy where the landlord contemplates voluntary demolition of the dwelling units, or conversion to horizontal property regime under chapter 514A, the landlord shall provide notice to the tenant at least one hundred twenty days in advance of the anticipated demolition or anticipated termination, and shall comply with the provisions relating to conversions provided in section 514A-105. If notice is revoked or amended and reissued, the one hundred twenty-day period shall begin from the date it was reissued or amended. Any notice provided, revoked, or amended and reissued shall be in writing."

SECTION 5. Chapter 521, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

§_____.¹ Any person who enters or remains unlawfully in or upon the premises or living quarters of any project for temporary or transitional housing for the homeless, as defined in section 521-8, after reasonable warning or request to leave by project authorities or a police officer, shall be guilty of a misdemeanor. A warning or request shall only be issued if the person has engaged in unlawful conduct or has violated house rules and regulations as described in section 521-7(9). The warning or request shall supercede any invitation by a tenant of the project to that person to visit the premises or living quarters."

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.²

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SECTION 7. This Act shall take effect upon its approval.

(Approved June 13, 1988.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.