

ACT 19

H.B. NO. 391

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. The purpose of this Act is to establish a process for the early termination of a rental agreement for certain active duty servicemembers who:

- (1) Receive military orders requiring the servicemember tenant to vacate civilian housing and move into on-post government quarters; provided that failure to move into on-post government quarters will result in a forfeiture of basic allowance for housing; or
- (2) Die while serving on active duty.

SECTION 2. Chapter 521, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§521- Early termination of tenancy; servicemember tenants. (a) A servicemember tenant may terminate a rental agreement of a term of one year or less without penalty or fees for early termination or liability for future rent if the servicemember tenant receives military orders requiring the servicemember tenant to vacate civilian housing and move into on-post government quarters; provided that:

- (1) Failure to move into on-post government quarters will result in a forfeiture of the servicemember tenant’s basic allowance for housing;
- (2) The servicemember tenant requests permission from their commanding officer to maintain their housing allowance and their request is denied; and
- (3) The servicemember tenant submits at least thirty days written notice to the landlord.

(b) When the tenancy is from month to month, a servicemember tenant may terminate a rental agreement without penalty or fees for early termination or liability for future rent if the servicemember tenant receives military orders requiring the servicemember tenant to vacate civilian housing and move into on-post government quarters; provided that failure to move into on-post government quarters will result in a forfeiture of the servicemember tenant's basic allowance for housing; provided further that the servicemember tenant submits at least fifteen days written notice to the landlord.

(c) The written notice required under subsection (a) or (b) shall be accompanied by the following documents:

- (1) Either:
 - (A) A copy of official military orders; or
 - (B) A written verification signed by the servicemember tenant's commanding officer; and
- (2) Written proof from the servicemember tenant's commanding officer that the servicemember tenant's request to maintain their housing allowance was denied.

(d) In the event a servicemember tenant dies during active duty, an adult member of the servicemember tenant's family may terminate a rental agreement of a term of one year or less, or a rental agreement with a month to month tenancy, without penalty or fees for early termination or liability for future rent if the family member provides at least fifteen days written notice to the landlord. The notice shall be accompanied by a copy of the servicemember tenant's death certificate and:

- (1) A copy of official military orders showing the servicemember tenant was on active duty; or
- (2) A written verification signed by the servicemember tenant's commanding officer.

(e) If the servicemember tenant is solely liable on the rental agreement, the rental agreement shall terminate on the early termination date described in subsection (a), (b), or (d), and the servicemember tenant or servicemember tenant's estate or family member, as applicable, shall be liable for rent owed through the early termination date plus any previous obligations outstanding as of that date. The amount due from the servicemember tenant shall be paid to the landlord on or before the early termination date.

(f) If there are multiple tenants who are parties to the rental agreement, the release of one or more servicemember tenants under this section shall not terminate the rental agreement with respect to the other non-terminating tenants; provided that the other non-terminating tenants demonstrate an ability to pay the rent under the rental agreement, as determined by the landlord. If the other non-terminating tenants fail to demonstrate an ability to pay the rent, the landlord may terminate the rental agreement by giving notice of early termination to the other non-terminating tenants at least thirty days before the early termination date specified in the notice; provided that the landlord shall not assess any penalty or fees for the early termination. The amount due from the other non-terminating tenants shall be paid to the landlord on or before the early termination date.

The landlord shall not be required to refund security deposits under section 521-44 or prepaid rent until:

- (1) The rental agreement terminates with respect to all tenants and the dwelling unit is surrendered to the landlord; or
- (2) Early termination is effected pursuant to this section, in which case each terminating tenant shall receive a prorated share of any security deposit or prepaid rent from the landlord upon termination of

the rental agreement; provided that the percentage of any security deposit to be returned shall be determined by the parties in writing; provided further that if there is no determination made by the parties regarding the percentage share of the security deposit, the landlord shall be permitted to refund the security deposit in equal shares to each tenant on the rental agreement.

(g) If a servicemember tenant or an adult member of the servicemember tenant's family submits notice of early termination in compliance with this section, the landlord shall:

- (1) Return a prorated share of all security deposits recoverable by the terminating servicemember tenant or the terminating servicemember tenant's family member under section 521-44 and prepaid rent recoverable by the terminating servicemember tenant or the terminating servicemember tenant's family member following the servicemember tenant's or family member's surrender of the dwelling unit, except as otherwise provided in subsection (f); provided that the landlord may withhold a prorated amount of the security deposit for payment of damages that the landlord has suffered by reason of the terminating servicemember tenant's noncompliance with section 521-51; and
- (2) Not assess any fee or penalty against the terminating servicemember tenant or the terminating servicemember tenant's family member for exercising any right granted under this section.

(h) This section shall not affect a servicemember tenant's liability for delinquent, unpaid rent, or other amounts owed to the landlord before the rental agreement was terminated by the servicemember tenant or servicemember tenant's family member under this section.

(i) Nothing in this section shall be construed to infringe upon or affect in any way the rights a servicemember tenant may have under the federal Servicemembers Civil Relief Act, P.L. 108-189, or chapter 657D.

(j) This section shall not apply if the military orders are a result of disciplinary action or court order.

(k) For the purposes of this section, "servicemember tenant" means an active duty member of the regular or reserve component of the United States armed forces, the United States Coast Guard, or the Hawaii national guard, who is on ordered federal duty for a period of ninety days or more and who is a party to a rental agreement under this chapter."

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. New statutory material is underscored.¹

SECTION 5. This Act shall take effect on November 1, 2021.

(Approved May 25, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.