

HB1009 HD3

Measure Title: RELATING TO THE LANDLORD TENANT CODE.

Report Title: Landlord Tenant Code; Hawaii Public Housing Authority; Exemption

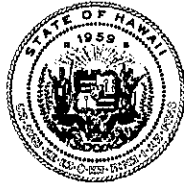
Description: Exempts residence in a structure or on a property directly controlled by the Hawaii Public Housing Authority from the requirements of the residential landlord-tenant code. (HB1009 HD3)

Companion:

Package: None

Current Referral: HOU, CPH

Introducer(s): HASHEM



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PRESENTATION OF THE
OFFICE OF CONSUMER PROTECTION
TO THE SENATE COMMITTEE ON HOUSING
THE TWENTY-NINTH LEGISLATURE
REGULAR SESSION OF 2017

MARCH 16, 2017
2:55 P.M.

TESTIMONY COMMENTING ON H.B. 1009, H.D. 3, RELATING TO THE LANDLORD
TENANT CODE.

TO THE HONORABLE WILL ESPERO, CHAIR,
AND TO THE BREENE HARIMOTO, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs, Office of Consumer
Protection ("OCP") offers comments on H.B. 1009, H.D. 3 Relating to the Landlord
Tenant Code. My name is Stephen Levins and I am the Executive Director of the OCP.

H.B. 1009, H.D. 3 expands the exemptions in Hawaii Revised Statutes ("HRS")
§521, the residential landlord-tenant code, to include **state** low-income public housing
properties directly controlled, owned, and managed by the Hawaii Public Housing
Authority ("Authority").

HRS §521-7 already exempts public housing projects and complexes managed by
the Authority pursuant to the **federal** low rent public housing program from the landlord-

tenant code, therefore, exempting properties controlled by the Authority pursuant to state programs is consistent with the purpose of the exemption.

Through discussions with the Director of the Authority, OCP learned that the Authority's requirement to adhere to provisions in the landlord-tenant code relating to removal of a tenant's personalty because he or she wrongfully quit the property or was given notice to quit, was causing a delay of much needed units to renters on the waiting list for public housing because the Authority also has to follow its extensive appeals process pursuant to HRS §356D-46. Because of the Authority's need to be relieved of compliance with the landlord-tenant code and given the Authority's own appeal process, tenant rights will continue to be protected if the Authority is exempt from the landlord-tenant code. Thank you for the opportunity to offer comments on H.B. 1009, H.D. 3. I would be happy to answer any questions members of the Committee may have.

DAVID Y. IGE
GOVERNOR



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Statement of
Hakim Ouansafi
Hawaii Public Housing Authority
Before the

SENATE COMMITTEE ON HOUSING

Thursday, March 16, 2017
2:55 PM
Room 225, Hawaii State Capitol

In consideration of
HB 1009, HD3
RELATING TO THE LANDLORD TENANT CODE

Honorable Chair Espero and Members of the Senate Committee on Housing, thank you for the opportunity to provide testimony regarding House Bill 1009, HD3, relating to landlord tenant code.


The Hawaii Public Housing Authority (HPHA) supports HB 1009, HD3, which exempts residents in a structure or on a property directly controlled by the Hawaii Public Housing Authority from the requirements of the residential landlord-tenant code.


Currently, 86% of HPHA properties are exempt from the land-lord tenant code, as the exemption applies to public housing projects or complexes controlled, owned, or managed by the Authority pursuant to the federal low rent public housing program. Allowing the HPHA a total exemption of state and federal properties from the landlord tenant code will apply the remaining 14% of HPHA properties to the exemption. Pursuant to federal rules, HPHA complies to strict requirements when handling tenant issues and evictions, including adherence to board hearings and peer review prior to decision making. This measure will enable HPHA better oversight and greater equality between those in federal and state public housing, and ensure all tenants receive the same due process regardless of the property I which they reside.

The HPHA appreciates the opportunity to provide the Senate Committee on Housing with the HPHA's comments regarding HB 1009, HD3. We thank you very much for your dedicated support.



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March 16, 2017

The Honorable Will Espero, Chair
Senate Committee on Housing
State Capitol, Room 225
Honolulu, Hawaii 96813

RE: H.B. 1009, H.D.3, Relating to the Landlord Tenant Code

HEARING: Thursday, March 16, 2017, at 2:55 p.m.

Aloha Chair McKelvey, Vice Chair Ichiyama and Members of the Committee:

I am Myoung Oh, Director of Government Affairs, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 9,200 members. HAR **offers comments** on H.B. 1009, H.D.3 which exempts residence in a structure or on a property directly controlled by the Hawaii Public Housing Authority from the requirements of the residential landlord-tenant code.

It is important to note that in its former version in H.B. 1009, H.D.2, it required a landlord to provide tenant access to a dwelling unit for a period of 24 hours solely for removal of the tenant's possessions when the tenant quits the premises or fails to pay rent and that the tenant's property shall be deemed abandoned and may be immediately disposed thereafter.

To put this into perspective, a tenant doesn't pay when rent due at the 1st of the month. The informed landlord must then serve a 5-day demand letter on tenant giving tenant 5 working days to pay or legal action will begin. After the 5 days have lapsed, the landlord assigns the case to an attorney and the attorney files suit which usually takes about 2 weeks. It can take longer if the tenant contests the suit.

The court and a hearing issues a writ of possession and if the tenant has not moved, it is assigned to a sheriff who serves the writ on the tenant. At that point the sheriff can remove the tenants possessions and put them in storage but typically the sheriff will give the tenant a day to move with personal belongings.


HAR believe that by the point at which the tenant is issued a writ of possession, tenants should inherently waive any rights to items that they intentionally leave behind. Incurred cost, time, and expense should be borne upon the property owner or their agents. HAR respectfully recommends amended language giving the landlord the right to dispose of any items left behind without qualification.


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§521-56 Disposition of tenant's abandoned possessions. (a) When the tenant, within the meaning of section 521-70(d) or section 521-44(d), has wrongfully quit the premises, or when the tenant has quit the premises pursuant to a notice to quit or upon the natural expiration of the term, and has abandoned personalty which the landlord, in good faith, determines to be of value, in or around the premises, the landlord may sell such personalty, in a commercially reasonable manner, store such personalty at the tenant's expense, or donate such personalty to a charitable organization. ~~Before selling or donating such personalty, the landlord shall make reasonable efforts to apprise the tenant of the identity and location of, and the landlord's intent to sell or donate such personalty by mailing notice to the tenant's forwarding address, or to an address designated by the tenant for the purpose of notification or if neither of these is available, to the tenant's previous known address. Following such notice, the landlord may sell the personalty after advertising the sale in a daily paper of general circulation within the circuit in which the premises is located for at least three consecutive days, or the landlord may donate the personalty to a charitable organization; provided that such sale or donation shall not take place until fifteen days after notice is mailed, after which the tenant is deemed to have received notice.~~

(b) The proceeds of the sale of personalty under subsection (a) shall, after deduction of accrued rent and costs of storage and sale, ~~including the cost of advertising,~~ be held in trust for the tenant for thirty days, after which time the proceeds shall be forfeited to the landlord.

(c) When the tenant has quit the premises any personalty in or around the premises left unsold after conformance to subsection (a) or otherwise left abandoned by the tenant and determined by the landlord to be of no value may be disposed of at the landlord's discretion without liability to the landlord. [L 1974, c 180, §6; am L 1981, c 154, §1]

Mahalo for the opportunity to testify.