

STAND. COM. REP. NO. **615**

Honolulu, Hawaii

MAR 05 2015

RE: S.B. No. 14
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawaii

Madam:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 14 entitled:

"A BILL FOR AN ACT RELATING TO THE RESIDENTIAL LANDLORD-TENANT CODE,"

begs leave to report as follows:

The purpose and intent of this measure is to amend the residential landlord-tenant code to allow the security deposit to be used for unpaid charges, penalties, and fees that were agreed to by the landlord and tenant pursuant to the rental agreement.

Your Committee received testimony in support of this measure from the Hawai'i Association of REALTORS. Your Committee received testimony in opposition to this measure from the Office of Consumer Protection of the Department of Commerce and Consumer Affairs.

Your Committee finds that security deposits can help ensure tenants will timely pay their rent and maintain their rental property in an appropriate manner. This measure enables a landlord to use a security deposit for unpaid charges, penalties, and fees that were agreed to by the landlord and tenant pursuant to the rental agreement.

However, your Committee has heard the concerns that this measure as written is vague and could potentially lead to abuses of tenants' rights. According to testimony from the Office of Consumer Protection, the policy behind the security deposit

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provision in the State's landlord-tenant code is to provide all parties to a rental agreement clear guidance as to what the law requires, including the right for a landlord to receive compensation from a tenant for specific reasons. Your Committee understands that amending the security deposit provisions of the landlord-tenant code to include any charges, penalties, or fees owed could result in detrimental unequal bargaining positions between landlords and tenants during the execution of a rental agreement.

Your Committee has also heard the testimony that the intent behind this measure was to offer a solution to landlords who rent their property to tenants who then take on obligations, such as sewer, water, and electricity expenses, that, if unpaid, could affect the property.

In response to these concerns, your Committee notes that the Office of Consumer Protection and the Hawai'i Association of REALTORS worked together on compromise language to narrow the focus of this measure and allow a security deposit to be used for specific unpaid charges when a tenant moves out, including unpaid utilities that were the obligation of the tenant but were paid by the landlord. Amendments to this measure are therefore necessary to reflect this consensus language.

Accordingly, your Committee has amended this measure by:

- (1) Adding a definition for "utility service";
- (2) Deleting language that would have allowed the security deposit to be used for unpaid charges, penalties, and fees that were agreed to by the landlord and tenant pursuant to the rental agreement;
- (3) Permitting the security deposit to be used for replacing keys, including key fobs, parking cards, garage door openers, and mail box keys;
- (4) Permitting the security deposit to be used to pay for utility service provided by the landlord under the rental agreement but not included in the rent;
- (5) Updating the purpose section to reflect the amended purpose of this measure; and



- (6) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 14, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 14, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Commerce and
Consumer Protection,



ROSALYN H. BAKER, Chair



