
A BILL FOR AN ACT

RELATING TO THE LANDLORD TENANT CODE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that in the typical
2 residential real estate transaction, buyers take occupancy and
3 control of the property upon closing of escrow and the transfer
4 of title from the seller to the buyer. In some instances, the
5 buyer takes early occupancy of the property through mutually
6 agreeable early occupancy terms. These occupancies are excluded
7 from the landlord tenant code.

8 Occasionally, however, a seller may improperly maintain
9 occupancy after closing of escrow, or refuse to vacate the
10 property. In such situations, the buyer can suffer significant
11 inconvenience and even monetary damages. In the event a seller
12 remains in possession of the property without a legal right,
13 such as a written lease between the seller and the new owner,
14 the law should be clear that no landlord-tenant relationship has
15 been created by the seller's wrongful occupancy.

16 The purpose of this Act is to provide a specific exemption
17 to the landlord-tenant code for instances in which a seller of



1 residential real property continues to occupy that property
2 after the transfer of the seller's ownership rights.

3 SECTION 2. Section 521-7, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§521-7 Exclusions from application of chapter. Unless
6 created solely to avoid the application of this chapter, this
7 chapter shall not apply to:

8 (1) Residence at an institution, whether public or
9 private, where residence is merely incidental to
10 detention or the provision of medical, geriatric,
11 educational, religious, or similar services;

12 (2) Residence in a structure directly controlled and
13 managed by:

14 (A) The University of Hawaii or any other university
15 or college in the State for housing its own
16 students or faculty or residence in a structure
17 erected on land leased from the university or
18 college by a nonprofit corporation for the
19 exclusive purpose of housing students or faculty
20 of the college or university; or



- 1 (B) A private dorm management company that offers a
- 2 minimum of fifty beds to students of any college,
- 3 university, or other institution of higher
- 4 education in the State;
- 5 (3) Occupancy under a bona fide contract of sale of the
- 6 dwelling unit or the property of which it is a part
- 7 where the tenant is, or succeeds to the interest of,
- 8 the purchaser;
- 9 (4) Residence by a member of a fraternal organization in a
- 10 structure operated without profit for the benefit of
- 11 the organization;
- 12 (5) Transient occupancy on a day-to-day basis in a hotel
- 13 or motel;
- 14 (6) Occupancy by an employee of the owner or landlord
- 15 whose right to occupancy is conditional upon that
- 16 employment or by a pensioner of the owner or landlord
- 17 or occupancy for a period of up to four years
- 18 subsequent thereto, pursuant to a plan for the
- 19 transfer of the dwelling unit or the property of which
- 20 it is a part to the occupant;



- 1 (7) A lease of improved residential land for a term of
- 2 fifteen years or more, measured from the date of the
- 3 commencement of the lease;
- 4 (8) Occupancy by the prospective purchaser after an
- 5 accepted offer to purchase and prior to the actual
- 6 transfer of the owner's rights;
- 7 (9) Occupancy by the seller of residential real property
- 8 after the transfer of the seller's ownership rights;
- 9 ~~[(9)]~~ (10) Occupancy in a homeless facility or any other
- 10 program for the homeless authorized under part XVII of
- 11 chapter 346;
- 12 ~~[(10)]~~ (11) Residence or occupancy in a public housing
- 13 project or complex directly controlled, owned, or
- 14 managed by the Hawaii public housing authority
- 15 pursuant to the federal low rent public housing
- 16 program;
- 17 ~~[(11)]~~ (12) Residence or occupancy in a transitional
- 18 facility for abused family or household members; or
- 19 ~~[(12)]~~ (13) Residence or occupancy in a structure or on a
- 20 property directly controlled, owned, or managed by the
- 21 Hawaii public housing authority."



H.B. NO. 1869

1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect on November 1, 2018.

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INTRODUCED BY:

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JAN 18 2018



H.B. NO. 1869

Report Title:

Landlord Tenant Code; Holdover Seller; Exemption

Description:

Provides a specific exemption to the landlord tenant code for sellers who occupy the residential real property after the transfer of the seller's ownership rights.

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