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# A BILL FOR AN ACT

RELATING TO THE RESIDENTIAL LANDLORD-TENANT CODE.

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

1 SECTION 1. The purpose of this Act is to establish a  
2 process for the early termination of a rental agreement for  
3 certain active duty servicemembers who:

4 (1) Receive military orders requiring the servicemember  
5 tenant to vacate civilian housing and move into  
6 on-post government quarters; provided that failure to  
7 move into on-post government quarters will result in a  
8 forfeiture of basic allowance for housing; or

9 (2) Die while serving on active duty.

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

13 "§521- Early termination of tenancy; servicemember  
14 tenants. (a) A servicemember tenant may terminate a rental  
15 agreement of a term of one year or less without penalty or fees  
16 for early termination or liability for future rent if the  
17 servicemember tenant receives military orders requiring the



1 servicemember tenant to vacate civilian housing and move into  
2 on-post government quarters; provided that:

3 (1) Failure to move into on-post government quarters will  
4 result in a forfeiture of the servicemember tenant's  
5 basic allowance for housing;

6 (2) The servicemember tenant requests permission from  
7 their commanding officer to maintain their housing  
8 allowance and their request is denied; and

9 (3) The servicemember tenant submits at least thirty days  
10 written notice to the landlord.

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



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

3        (1) Either:

4            (A) A copy of official military orders; or

5            (B) A written verification signed by the  
6                servicemember tenant's commanding officer; and

7        (2) Written proof from the servicemember tenant's  
8            commanding officer that the servicemember tenant's  
9            request to maintain their housing allowance was  
10           denied.

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

19        (1) A copy of official military orders showing the  
20           servicemember tenant was on active duty; or



1       (2) A written verification signed by the servicemember  
2           tenant's commanding officer.

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

12       (f) If there are multiple tenants who are parties to the  
13       rental agreement, the release of one or more servicemember  
14       tenants under this section shall not terminate the rental  
15       agreement with respect to the other non-terminating tenants;  
16       provided that the other non-terminating tenants demonstrate an  
17       ability to pay the rent under the rental agreement, as  
18       determined by the landlord. If the other non-terminating  
19       tenants fail to demonstrate an ability to pay the rent, the  
20       landlord may terminate the rental agreement by giving notice of  
21       early termination to the other non-terminating tenants at least



1 thirty days before the early termination date specified in the  
2 notice; provided that the landlord shall not assess any penalty  
3 or fees for the early termination. The amount due from the  
4 other non-terminating tenants shall be paid to the landlord on  
5 or before the early termination date.

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

- 8 (1) The rental agreement terminates with respect to all  
9 tenants and the dwelling unit is surrendered to the  
10 landlord; or
- 11 (2) Early termination is effected pursuant to this  
12 section, in which case each terminating tenant shall  
13 receive a prorated share of any security deposit or  
14 prepaid rent from the landlord upon termination of the  
15 rental agreement; provided that the percentage of any  
16 security deposit to be returned shall be determined by  
17 the parties in writing; provided further that if there  
18 is no determination made by the parties regarding the  
19 percentage share of the security deposit, the landlord  
20 shall be permitted to refund the security deposit in  
21 equal shares to each tenant on the rental agreement.



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

4       (1) Return a prorated share of all security deposits  
5 recoverable by the terminating servicemember tenant or  
6 the terminating servicemember tenant's family member  
7 under section 521-44 and prepaid rent recoverable by  
8 the terminating servicemember tenant or the  
9 terminating servicemember tenant's family member  
10 following the servicemember tenant's or family  
11 member's surrender of the dwelling unit, except as  
12 otherwise provided in subsection (f); provided that  
13 the landlord may withhold a prorated amount of the  
14 security deposit for payment of damages that the  
15 landlord has suffered by reason of the terminating  
16 servicemember tenant's noncompliance with  
17 section 521-51; and

18       (2) Not assess any fee or penalty against the terminating  
19 servicemember tenant or the terminating servicemember  
20 tenant's family member for exercising any right  
21 granted under this section.



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

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

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

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

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

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- 1 SECTION 4. New statutory material is underscored.
- 2 SECTION 5. This Act shall take effect on November 1, 2021.





**Report Title:**

Residential Landlord-Tenant Code; Rental Agreements; Early Termination; Servicemembers

**Description:**

Establishes a process for the early termination of a rental agreement for certain active duty servicemembers who receive military orders to vacate civilian housing and move into on-post government quarters. Effective 11/1/2021. (SD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

