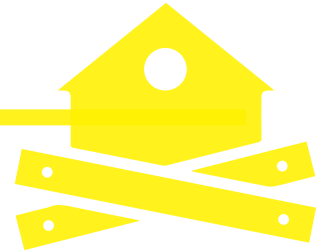


FAQ >> SOLUTION TO THE EVICTION MORATORIUM



ACT 57, Signed on 6/16/21



When does this bill take effect?

It is effective upon approval by the Governor. However, a tenant may not be removed until the eviction moratorium ends for failure to pay rent. Hawaii's moratorium is currently effective until August 6th, and the Governor noted it will be the last extension. The federal moratorium was decided in the Supreme Court, but it did not lift the ban immediately, which ends on July 31st. Additionally, this measure ends one year after Hawaii's moratorium ends or December 31, 2022, whichever ends sooner.

After the moratorium ends, how do I know if I can begin the process of removing a tenant for failure to pay rent?

TIMEFRAME	CAN I BEGIN THE EVICTION PROCESS?
1 st day moratorium ends – 30 th day	Yes, if the tenant owes 4 months' or more in rent
31 st day – 91 st day	Yes, if the tenant owes 3 months' or more
92 nd day – 152 nd day	Yes, if the tenant owes 2 months' or more
153 rd day – 365 th day	Yes, if the tenant owes 1 months' rent or more

The tenant owes the necessary rent to begin the process. What is the next step?

The landlord or landlords' agent must give a 15 calendar days' notice to the tenant to terminate the Rental Agreement, which was increased from 5 days.

What must the notice include?

At a minimum, the 15-calendar day notice must contain the following:

1. The name of the landlord or the landlord's agent and the landlord's or landlord's agent's contact information, including, if possible, phone number, electronic mail address, and mailing address;
2. The address of the dwelling unit subject to the rental agreement;
3. The name and contact information of each tenant, including, if possible, phone number, electronic mail address, and mailing address;
4. The monthly rental rate of the dwelling unit;
5. The current amount of the rent due as of the date of the notice, after applying all rent paid from all sources;
6. Whether the landlord or landlord's agent has applied for rental assistance or been contacted on behalf of the tenant by any agency providing rental assistance;
7. That any rental assistance received by the landlord or landlord's agent has been credited to the tenant's amount due;
8. That a copy of the fifteen-calendar day notice being provided to the tenant is also being provided to the mediation center to be identified by the landlord and, in accordance with subsection (c), in order for the mediation center to contact the landlord and tenant to attempt to schedule a mediation regarding the nonpayment of rent;
9. That the mediation center will provide proof to the landlord that the notice was received and provide confirmation of the scheduled date and time of mediation;
10. That the landlord or landlord's agent may file an action for summary possession if the rent due is not paid and if mediation is not scheduled within fifteen calendar days after the tenant's receipt of the fifteen-calendar day notice, regardless of whether the scheduled mediation session occurs within the fifteen calendar days;

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11. If mediation is not scheduled within fifteen calendar days after receipt of the notice, regardless of whether the scheduled mediation session occurs within the fifteen-calendar day period, then the landlord may file an action for summary possession after the expiration of the fifteen-calendar day period. If mediation is scheduled before the expiration of the fifteen-calendar day period, regardless of whether the scheduled mediation session occurs within the fifteen calendar days, then the landlord shall only file an action for summary possession after the expiration of thirty calendar days following the tenant's receipt of the fifteen-calendar day notice. If the fifteen-calendar day notice was mailed, receipt of notice shall be deemed to be two days after the date of the postmark. If the fifteen-calendar day notice was posted on the premises, receipt of notice shall be deemed to be the date of posting. If an agreement is reached before the filing of an action for summary possession, whether through mediation or otherwise, then the landlord shall not bring an action for summary possession against the tenant, except as provided in any agreement that may be reached. The landlord shall be required to note the status of the mediation or settlement effort and proof of sending or posting the fifteen-calendar day notice to the mediation center in the action for summary possession.
12. Notice that the eviction may be subject to additional requirements and protections under state or federal law and that the tenant is encouraged to seek the tenant's own legal advice regarding their rights and responsibilities; and
13. That the landlord or landlord's agent shall engage in mediation if mediation is scheduled.

How do I notify the tenant?

The notice must be in writing. If the fifteen-calendar day notice was mailed, receipt of notice shall be deemed to be two days after the date of the postmark.

If the tenant cannot be served with notice as required, notice may be given to the tenant by posting the same in a conspicuous place on the dwelling unit, and the notice shall be deemed received on the date of posting.

How do I notify the mediation center?

The landlord or landlord's agent must also provide the notice to a free mediation center.

Where can I find a list of mediation centers?

Visit the Judiciary website at: www.courts.state.hi.us/services/alternative_dispute/mediation/community_mediation_centers

How will the mediation center schedule mediation?

The mediation center will contact the landlord and tenant to schedule mediation. If a tenant schedules mediation within the 15-calendar day period, regardless of whether the scheduled mediation session occurs within the 15-day period, the landlord shall only file a summary proceeding for possession after the expiration of 30 calendar days from the date of receipt of the notice. If the tenant schedules mediation, the landlord shall participate.

What additional items must the summary possession complaint for nonpayment of rent include?

The summary possession complaint for nonpayment of rent shall include:

1. A document or documents from the mediation center verifying that the landlord provided a copy of the required 15-calendar day notice;
2. A statement as to whether the landlord or landlord's agent and tenant have participated in, or will participate in, any scheduled mediation;
3. If mediation is pending, the date of which the mediation is scheduled.

This FAQ is for informational purposes only. This should not be considered legal advice, and landlords or landlord's agents are encouraged to consult their own attorney to navigate the process. Principal Brokers or Brokers-in-Charge could consult our Legal Kokua line at (808) 733-7060.