



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2025**

ON THE FOLLOWING MEASURE:

H.B. NO. 1324, RELATING TO LANDLORD-TENANT DISPUTES.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

DATE: Wednesday, February 5, 2025 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Alyssa-Marie Y.H. Kau, Deputy Attorney General

Chair Tarnas and Members of the Committee:

The Department of the Attorney General provides the following comments.

This bill requires the Judiciary to contract for legal services for eligible residential tenants in legal proceedings brought by a landlord to evict a residential tenant, whether by summary possession or ejectment, pursuant to chapter 666, Hawaii Revised Statutes (HRS). Additionally, the bill authorizes attorneys, paralegals, and law students to provide legal services to residential tenants.

The bill's current definition of "eligible residential tenants" includes tenants of the Hawaii Public Housing Authority (HPHA). However, HPHA tenants are not covered by the Residential Landlord-Tenant Code, as provided in section 521-7(13). Under the Residential Landlord-Tenant Code, if a landlord wants to order a tenant to leave a rental property, the landlord must initiate a summary possession or ejectment action. See HRS §§ 521-68, 521-71. These summary possession actions are legal proceedings and brought in the District Court of the Circuit in which the property is situated. See HRS § 666-6.

However, HPHA tenants are not subject to these summary possession or ejectment proceedings. Rather, if HPHA seeks to evict a tenant, licensee, or occupant from its properties, HPHA conducts a hearing before its Eviction Board, which makes the final determination on whether a tenant is evicted. See HRS §§ 356D-63(b), 356D-93. The Eviction Board is an administrative body appointed by HPHA, not a judicial

entity. Therefore, the inclusion of HPHA tenants in the definition of "eligible residential tenants" may not be appropriate.

To address this issue, we recommend removing the provision ", including tenants of the Hawaii public housing authority," from the definition of "eligible residential tenant," so the definition on page 5, lines 15-19, would read as follows:

"Eligible residential tenant" means any individual who occupies a dwelling in the State under a claim-of-right other than the owner whose household earns at or below eighty per cent of the area median income.

Thank you for the opportunity to provide comments.



The Judiciary, State of Hawaii

Testimony to the Thirty-Third Legislature, 2025 Regular Session

House Committee on Judiciary & Hawaiian Affairs

Representative David A. Tarnas, Chair
Representative Mahina Poepoe, Vice Chair

Wednesday, February 5, 2025, 2:00 p.m.
State Capitol, Conference Room 325 & Via Videoconference

By:
Rodney A. Maile
Administrative Director of the Courts

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 1324, Relating to Landlord-Tenant Disputes

Purpose: Requires the Judiciary to contract for legal services for residential tenants in actions or proceedings with their landlord under certain circumstances. Authorizes attorneys, paralegals, and law students to provide legal services to residential tenants.

Judiciary's Position:

The Judiciary offers the following comments on House Bill No. 1324:

We support the intent of this measure, which (1) requires the Judiciary to contract for legal services for residential tenants in actions or proceedings with their landlord under certain circumstances; and (2) authorizes attorneys, paralegals, and law students to provide said legal services.

First, we are equipped to administer funds for certain legal services, as envisioned in this measure. This role would be similar to the Judiciary's administration of legislative funding for general civil legal services or mediation services under Act 202 (2024), which we currently administer through a Request-for-Proposal process.



Second, we note that many legal service providers currently use the federal poverty level to determine income eligibility for services. The below amendments are offered to comport with client income limits that legal services providers commonly apply in contracts administered by the Judiciary:

"Eligible residential tenant" means any individual who occupies a dwelling in the State under a claim-of-right other than the owner, including tenants of the Hawaii public housing authority, whose household earns at or below **two-hundred fifty percent (250%) of the applicable federal poverty level for Hawaii.**

"Eligible residential tenant" does not include any individual who owns property in the circuit in which the action or proceeding for possession was filed, or any individual whose annual gross household income is more than **two-hundred fifty percent (250%) of the applicable federal poverty level for Hawaii.**

Lastly, we acknowledge the intent of this measure to increase access to legal assistance for tenants in certain landlord-tenant disputes. Should the Legislature decide to move forward with this aspect of the measure, we suggest that consideration be given to establishing clear guidelines and safeguards to ensure the quality and appropriateness of the legal services provided by non-lawyers. The Judiciary is available for further discussions on how best to implement this proposal, drawing from experiences like the Rural Paternity Advocate Pilot Project in the Third Circuit. This pilot demonstrates the potential for non-lawyers to assist in legal matters when proper training, supervision, and limitations are in place.

We respectfully request that any appropriation provided not supplant the Judiciary's existing funding or budget requests.

Thank you for the opportunity to testify on this measure.



HAWAII APPLESEED

CENTER FOR LAW & ECONOMIC JUSTICE

Testimony of the Hawai'i Appleseed Center for Law and Economic Justice

Support for HB 1324 – Relating to Landlord-Tenant Disputes

House Committee on Housing

Wednesday, February 5, 2025 at 2:00 PM | Conf. Rm. 430 and via Videoconference

Aloha Chair Evslin, Vice Chair Miyake, and members of the committee;

Mahalo for the opportunity to testify in **strong support of HB1324** - establishing a right to counsel program for tenants facing eviction in Hawai'i. This legislation would help prevent unnecessary evictions and ensure fair legal proceedings by ensuring legal representation to eligible tenants.

The right to counsel serves as a powerful tool for tenants to navigate the legal system effectively, and is typically the only enforcement mechanism to ensure existing legal protections are upheld. This bill seeks to increase access to legal representation for tenants facing eviction in Hawaii by establishing a state-funded program to provide legal assistance. The program will:

- Provide brief legal counseling to all tenants facing eviction actions or proceedings for possession before their first scheduled court appearance
- Phase in full legal representation for income eligible tenants by July 2026
- Qualify legal service providers to include attorneys, paralegals, and law students under attorney supervision

Twenty-four jurisdictions across the US have already enacted similar right to counsel laws with demonstrated success in preventing displacement and reducing homelessness.¹ Hawaii has an opportunity to join these jurisdictions in ensuring that both landlords and tenants have equitable access to defending their rights under the law.

Data indicates that legal representation makes a profound difference in eviction outcomes. In an analysis of jurisdictions with right to counsel, studies across different jurisdictions such as Kansas City, Cleveland, and New York City, demonstrated that between 84%- 93% of represented tenants who sought to avoid eviction were successful.² These results were significantly higher than prior to the availability of a right to counsel program in the jurisdiction. In these cases, legal counsel prevented both arbitrary evictions and unlawful evictions, including those associated with retaliatory or discriminatory actions, or cases of improper notice and procedures. Case studies also demonstrated that in cases where eviction was granted, displacement was not carried out due to counsel being able to negotiate terms or payment plans for addressing late rent or lease violations in order to retain residency.

¹ <https://nlihc.org/resource/more-states-and-localities-pass-right-counsel-legislation>

² https://civilrighttocounsel.org/uploaded_files/283/RTC_Enacted_Legislation_in_Eviction_Proceedings_FINAL.pdf



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In cases where removal of the tenant was granted by the courts and carried out by the landlord, legal counsel was able to mitigate the consequences to eviction including securing extended time for move-out, expunging eviction records that could have impeded future housing opportunities, and securing monetary assistance in cases of No-Fault Evictions. In one study, 70% of represented tenants in San Francisco that needed to vacate their homes received both additional time and financial support for their transition.³

Currently across the U.S, while over 83% of landlords had attorney representation in eviction proceedings, only about 4% of tenants had access to legal counsel.⁴ Based on a sample study conducted by Hawaii Appleseed in 2020 “Keeping Hawaii Housed”, findings show that less than 1 percent of tenants had legal representation in eviction court, compared to over 60 percent of landlords.⁵ This severe imbalance undermines due process and often leads to preventable evictions, particularly over small amounts of unpaid rent.

Additionally, a right to counsel program could be cost-effective for Hawaii. Stout, a financial analysis company, has completed numerous studies on the cost benefits of right to counsel programs across various jurisdictions. In nearly every report, significant cost savings were achieved.⁶

The total cost of various downstream effects associated with homelessness due to eviction is estimated to cost the state of Hawai'i nearly \$31 million per year.⁷ Legal representation could prevent eviction and help avoid these subsequent costs. The national average cost to provide representation in an eviction case is estimated to be around \$2,000-\$2,500⁸, significantly less than the estimated \$5,000+ in public costs associated with each displaced household entering the shelter system.

We urge this committee to support HB1324, which will help stabilize Hawaii's families and communities by preventing unnecessary evictions through access to legal representation.

Mahalo for the opportunity to testify.

³https://civilrighttocounsel.org/major_developments/all-about-the-right-to-counsel-for-tenants-in-san-francisco/

⁴https://civilrighttocounsel.org/uploaded_files/283/RTC_Enacted_Legislation_in_Eviction_Proceedings_FI_NAL.pdf

⁵<https://hiappleseed.org/publications/keeping-hawaii-housed>

⁶ <https://www.stout.com/en/services/transformative-change-consulting/eviction-right-to-counsel-resources>

⁷ Ibid.

⁸<https://www.lsc.gov/press-release/lsc-estimates-33-41-billion-provide-legal-representation-all-eviction-cases>

HB-1324

Submitted on: 2/2/2025 8:37:11 PM

Testimony for JHA on 2/5/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
cori	Individual	Support	Written Testimony Only

Comments:

Housing is a human right, because someone doesn't have the same amount of money as someone who they rely on for housing, should not mean that they lose their housing.