

FAQs for Residential Landlords and Tenants on the Island of Maui

What you should know about your rights after the Eighteenth Wildfires Emergency Proclamation, issued on October 8, 2024

Q: When did the emergency restrictions relating to rent increases and terminating existing tenancies begin?

Restrictions on rent increases and terminating existing tenancies began on August 9, 2023, when the Second Proclamation Relating to Wildfires was issued.

Q: What are the restrictions on increasing rents on the Island of Maui during this emergency?

For the duration of this Emergency Proclamation, landlords are prohibited from increasing rents during a tenancy unless the rent increases are contained in a written agreement that was signed before this emergency period. These pre-written rent increases may be given effect as agreed upon in writing. Landlords may pass on additional operating expenses to tenants and must be able to provide documentation for these expenses.

Q: What are the restrictions on terminating existing residential tenancies on the Island of Maui?

For the duration of this Emergency Proclamation, landlords are prohibited from terminating existing tenancies on the Island of Maui unless there is a material breach of the lease other than the tenant's failure to pay all or any portion of the rent or lease, maintenance fees, utility charges, taxes or other fees required by the rental agreement. However, only tenants with month-to-month tenancies can be asked to move out if the property is sold to a bona fide third-party purchaser or if the landlord or an immediate family member of the landlord will occupy the residential unit.

Landlords are not prohibited from terminating a fixed-term lease when the lease term expires.

Upon forty-five days' written notice, a landlord is also permitted to require a tenant to relocate for repairs to render the property fit for occupancy, provided that reoccupancy is offered to the tenant upon completion of the repair and the lease term is extended for a period equal to the duration of the repair. The tenant is responsible for finding other accommodations during the repair period.

Q: What are the requirements for a landlord on the Island of Maui to terminate a tenancy due to their or an immediate family member's intention to occupy the property or when selling the property?

For the duration of this Emergency Proclamation, landlords must file an affidavit with the Maui County Department of Housing and Human Concerns that: (1) is signed by the landlord under penalty of perjury; (2) states the tenancy must be terminated because the unit is being sold to a bona fide purchaser for value, or the landlord's immediate family member or landlord will occupy the unit; (3) states the purchase price and the purchaser's name, and be accompanied by a copy of the sales contract when the unit is being sold; (4) state when the landlord or an immediate family member will occupy the unit; (5) provide the names of the family members, state their relation to the landlord; describe in detail the reason the landlord or family member will occupy the unit; and (6) affirmatively state the landlord or family member is not receiving funds from the State, federal government, or private entity to house wildfire survivors in other properties they own. The landlord must file the affidavit with the County of

Maui on the same day they notify the tenant of the termination. It must be on a form provided by the Housing Division of the Department of Housing and Human Concerns.

Q: What is an example of a material breach of a lease other than a breach for non-payment of rent?

Failing to perform an obligation under the rental agreement or lease, which constitutes the consideration for entering into the contract, such as failure to follow obligations, rules, and restrictions set by the landlord, willfully destroying, or damaging the dwelling unit, or allowing another to willfully destroy or damage the dwelling unit, may be material breaches of the lease.

If you have questions about whether the conduct constitutes a material breach of the lease, you may wish to consult an attorney.

Q: Do the emergency restrictions for rentals apply to commercial leases on the Island of Maui?

These emergency restrictions apply only to residential leases and only on the island of Maui.

Q: When do the restrictions end?

The restrictions will continue until December 7, 2024, unless terminated or superseded earlier. The Governor may increase the duration of these restrictions by issuing another proclamation.

Q: Where are these emergency restrictions in effect?

These restrictions apply to residential leases on the entire island of Maui and are not limited to any specific location on Maui.

Q: Is the Residential Landlord-Tenant Code in effect? Are courts hearing landlord-tenant cases during this emergency period?

The Residential Landlord-Tenant Code (chapter 521, HRS) remains in effect throughout the State for the duration of this Emergency Proclamation, with two exceptions. For the Island of Maui only, certain laws are suspended to the extent necessary to prohibit legal actions to terminate a tenancy for a tenant's failure to pay all or any portion of the rent or lease, maintenance fees, utility charges, taxes or other fees required by the rental agreement.

For the duration of this Emergency Proclamation, summary possession actions may not commence, continue, or be prosecuted on the Island of Maui if they involve terminating a tenancy for a tenant's failure to pay all or any portion of the rent or lease, maintenance fees, utility charges, taxes or other fees required by the rental agreement.

Other than certain legal actions for summary possession on the Island of Maui, landlords and tenants may continue to file lawsuits affecting landlord and tenant rights on the Island of Maui and throughout the State.

Q: Does a displaced Maui resident residing in a hotel, motel, or a condominium operated as a residence for persons displaced by the wildfire emergency have the same rights as a tenant under the Residential Landlord-Tenant Code (chapter 521, HRS)?

No. For the duration of this Emergency Proclamation, hotels, motels, and condominiums are not considered landlords even if they temporarily house non-congregate shelterees. Similarly, persons

displaced by the wildfire emergency who are temporarily housed in hotels, motels, and condos (i.e., non-congregate shelterees) are not considered tenants under state law for the duration of this Emergency Proclamation.

Q: Can a person displaced by the wildfire emergency who is currently and temporarily living in a Red Cross-arranged condominium unit continue to live in the unit beyond the time limit contained in the condominium by-laws, declarations, and house rules?

Yes. Condo owners are relieved from strict compliance with certain provisions of the governing documents that may limit the amount of time a unit can be rented.

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