KEEPING HAWAIʻI HOUSED

Reducing the high costs of eviction through a combination of rent relief, eviction mediation and tenant protections.

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HAWAIʻI BUDGET & POLICY CENTER

ALOHACARE

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The Hawaiʻi Budget & Policy Center (HBPC) is a program of the Hawaiʻi Appleseed Center for Law & Economic Justice. HBPC's mission is to ensure that our state and local economic policies increase opportunity for all residents. We do this by analyzing and understanding the implications of tax and budget decisions and making sure that the public and policy-makers are informed through strategic communications, coalitions, and key partners. Our work is guided by the belief that government at all levels should play an active role in helping people reach their full potential.

Founded in 1994 by Hawaiʻi's community health centers, AlohaCare is a community-rooted, nonprofit health plan serving over 80,000 Medicaid and dually eligible Medicare members on all islands. Our mission is to serve individuals and communities in the true spirit of aloha by providing and advocating for access to quality health care for all.

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EXECUTIVE SUMMARY

Safe, stable, affordable housing is a cornerstone of good health, economic prosperity and educational attainment. But a combination of limited housing supply and high demand has made finding a stable place to call home in Hawai'i an increasing challenge for many working families. Far too many Hawai'i renters are at risk of losing their housing through eviction because of the significant costs associated with housing. This widespread instability is fueling the state's homelessness crisis and increasing rates of outmigration to the continent.

Currently median rents in Hawai'i are hovering around $2,500 per month, a 12.6 percent increase since 2019.[1] For urban Honolulu, rents have increased by 11.1 percent over the same period, while the metro area Kahului, Maui, has increased by 15.1 percent.[2] In 2021, 58 percent of the state's occupied rental units were spending over 30 percent of their household income on rent.[3] This burden makes it more difficult for working families to afford the high costs of food, transportation, healthcare and education.

As detailed in our three-part 2022 report "Good Health Depends on Decent Housing," lack of stable housing is often associated with poor health outcomes, including higher levels of chronic stress, increased incidence of chronic conditions like obesity and heart disease, and higher incidences of Adverse Childhood Experiences for families with children. These outcomes have significant financial and social costs that are borne by us all.

This is a major problem for Hawai'i, and it was only made worse by the COVID-19 pandemic, which led to widespread unemployment, particularly for service-industry workers connected to Hawai'i's dominant tourism industry. These workers are often some of the lowest paid and least covered by paid sick days and other policies that keep workers healthy.

To prevent a wave of evictions that could have occurred as a result of financial hardship from the pandemic, federal, state and local authorities across the country enacted eviction moratoriums that kept millions of renters housed during the heights of the pandemic, and billions of dollars have been invested in Emergency Rental Assistance through congressional appropriation.[4] But nearly all those protections have either expired, or have had their funds significantly spent down. The City & County of Honolulu closed applications for rental assistance on June 30, 2022.[5]

As the COVID-19 renter protections and assistance programs evaporate, renters in Hawai'i are once again facing increased challenges in maintaining stable housing. For working families with low incomes, this pressure is particularly acute, as a higher percentage of monthly income is required for these families to remain stably housed. This instability increases the likelihood of experiencing a sudden loss of housing, or exposure to the many negative health outcomes associated with a lack of good housing.

This report explores the major public and social costs of evictions on low-income families, key interventions made to reduce the incidence of eviction during the COVID-19 pandemic, and potential policy interventions at the state level that can reduce the incidence of eviction for Hawai'i renters going forward.

Building on the success of Hawai'i's COVID-19 eviction protections, the Hawai'i Budget & Policy Center (HBPC) recommends the state:

- Create a permanent rent relief program coupled with mediation services that can resolve rent disputes before they enter the courts.
- Replicate the pre-trial eviction mediation requirements implemented by Hawai'i's Act 57 pilot program.
- Implement stronger renter protections in the form of a just cause eviction law that will provide additional security for renters in Hawai'i's high-cost rental market.

THE COST OF EVICTION

INDIVIDUAL & HOUSEHOLD COSTS

Evictions take a devastating toll on the health and wellbeing of families that experience them. A growing body of research by Mathew Desmond, a leading scholar on evictions in the United States, shows that evictions tend to fall more heavily on women with children—in particular women of color.[6]

Among tenants who appear in eviction court, mothers with children are the most likely to receive an eviction judgment.[7] One driver behind this disparity is likely the presence of children in a housing unit. Landlords often have a perception that children will cause damage to a unit or lead to frequent noise complaints.

This disparity could also be a function of the high cost of raising a family, especially in markets where rents are rapidly rising. Families with children often have higher monthly expenses for food, childcare, and healthcare, which put additional strain on household finances and increase the likelihood of housing insecurity.

Researchers have also shown that mothers experiencing eviction or housing loss are more likely to

Individual & Household Costs

Interrupted employment & school
Evictions can result in interrupted work schedules and loss of wages. Children often miss school and in some cases must switch schools.

Negative health impacts
The stress of evictions can cause anxiety and depression and can force households into unsafe living conditions.

Impaired legal records
Evictions result in court records, which make it harder to find future housing, because many landlords screen for recent evictions.

report being in poor health, experiencing depression, and enduring financial hardship.[8] These effects can often persist for years after an eviction occurs. Two years after experiencing an eviction, some mothers have been found to demonstrate higher rates of depression and financial hardship, relative to their peers who have not experienced an eviction.[9] The experience of losing stable housing through eviction can compound stress and may limit a person's ability to fully recover financially and emotionally.

Our report, "Good Health Depends on Decent Housing," demonstrates that housing instability adversely affects child health and family well-being. Being behind on rent in the last 12 months is associated with higher incidences of poorer health among caregivers of young children, as well as poorer health among children.[10]

Chronic stress associated with being housing insecure can lead to children experiencing higher rates of Adverse Childhood Experiences or ACEs. Research has shown that children who experience ACEs can be at higher risk for cancer, obesity, diabetes or anxiety and depression. Additionally, children who experience one or more ACEs are more likely to experience homelessness in adulthood, as well as lower levels of financial well-being throughout their lifetime.[11]

When families suddenly lose access to stable housing, children often experience significant disruption in daily life, including school performance. Some children from families facing eviction may need to switch schools altogether as their families secure new housing, sometimes in completely different communities.

Research demonstrates that switching schools can lead to up to a half-year loss of educational attainment for some students, while moving three or more times during childhood can lower future work earnings by as much as 52 percent.[12]

Given the strong association between housing insecurity and poor family well-being, Hawai'i's high cost of housing poses a significant threat to low-income families with children. Not only does the stress of housing insecurity negatively impact health, it poses significant threats to a child's educational outcomes and potential future earnings. Viewed through this lens, it becomes imperative that lawmakers prioritize keeping families stably housed.

THE EVICTION TOLL: A CASE STUDY

The stress of going through an eviction proceeding or being forced to secure new housing with little advance notice can negatively impact the mental health and well-being of tenants. For tenants living on restricted incomes, the impact of this stress can be especially devastating.

For Celeste M. Gonsalves, a renter from Kailua, the stress of undergoing eviction induced panic attacks and many sleepless nights. Having been involved in a serious car accident in 2006, her injuries began to flare up when she took a job as a nanny in 2017. Her doctor declared her permanently disabled in 2018 and recommended she move to a ground floor apartment to reduce the stress on her body.

Celeste was excited when she found a legally-permitted accessory dwelling unit (ADU) in Kailua that not only allowed her ground floor access, but also accepted her Section 8 Housing Choice Voucher. Celeste wanted to find a long-term rental where she could start her home-based business and eventually transition off the Section 8 program, so this situation seemed ideal.

Celeste signed a one-year lease with a verbal agreement that she would stay for at least 3 to 4 years. Soon after she moved in, however, a series of disagreements between Celeste and her landlords made it clear that this was not the ideal living arrangement she had hoped for.

Celeste became concerned that her neighbor's landscaper was smoking cigarettes while operating gas powered yard equipment four feet from her unit, which she deemed a significant danger to her health and safety. Despite reaching an agreement with her neighbor and landlord about the health and safety issue, the behavior persisted. Since her landlords refused to take action, Celeste filed an official complaint with her Section 8 caseworker, who also deemed the situation a legitimate health and safety risk. Celeste then stopped paying her portion of the rent until her landlord took action to resolve the issue.

Her landlord began a series of retaliatory actions aimed at either compelling her to pay her portion of the rent, or removing her from the unit entirely, all while failing to resolve her original complaint.

"They tried to get me booted from the Section 8 program," Celeste says. "They went to my Section 8 caseworker and lodged an official complaint against me and demanded that I be immediately evicted."

Fortunately for Celeste, this occurred during the COVID-19 eviction moratorium, and due to Section 8 regulations, Celeste could not be immediately evicted. But this only escalated her landlord's retaliatory behavior.

Celeste's landlords began subjecting her to verbal abuse and harassment, which created a hostile living environment. Celeste eventually filed for a Temporary Restraining Order against one of her landlords, and the issue eventually went to court where it was resolved. But that same day, when Celeste came home from court, her landlord had blocked access to her assigned parking stall and cut off her access to the garbage cans and other common areas.

In an effort to circumvent the eviction moratorium,

which prevented eviction for non-payment of rent, Celeste's landlord filed an eviction suit, claiming that Celeste was not disposing of her garbage properly and had caused electrical and plumbing damage and refused to allow inspection.

Due to the eviction moratorium, the case was continued, forcing Celeste to appear over 10 times in eviction court, where she represented herself without the assistance of an attorney. As the court proceedings went on, Celeste says she was constantly worried about having to find a new residence that would accept her Section 8 voucher and that met her physical needs.

"How was I going to find another place that accepts Section 8?" she said. "It was hard enough finding this place. I don't know how I'm going to find another that I can afford."

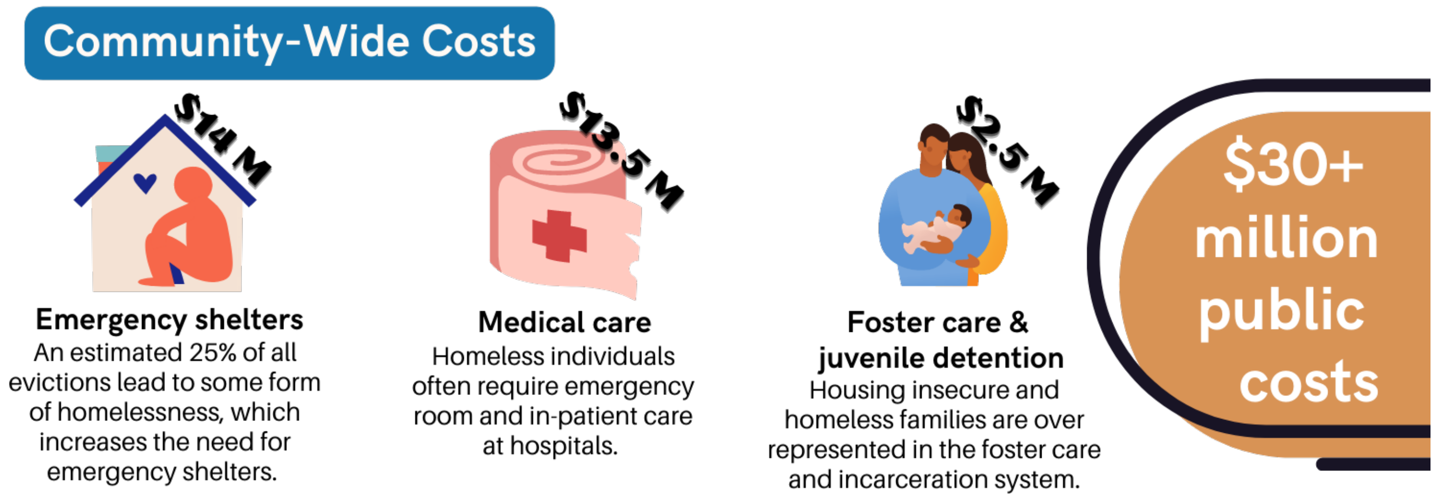
Celeste's anxiety was compounded by the stress of having to appear in court on multiple occasions without legal representation. Celeste couldn't afford a lawyer, but her landlord had hired an experienced eviction attorney. At times, Celeste said she felt bewildered in court, and found it difficult to counter the arguments leveled against her.

"As a disabled person, who wasn't an attorney, I was disadvantaged at every step of the process," Celeste said. "It seemed like the whole system failed me at every turn."

The stress of living next door to hostile landlords while preparing for various court appearances all took its toll on Celeste's mental and physical health. During this time, Celeste regularly experienced panic attacks, as well as sleepless nights wondering how she would be able to resolve her court case, and whether or not she would need to find a new, suitable rental.

Despite these challenges, Celeste quickly became an expert in Hawai‘i's landlord-tenant code and continued to fight her eviction in court. She eventually received an eviction judgment, but continues to appeal the ruling, claiming her landlord acted in bad faith by engaging in illegal tenant retaliation, which is explicitly prohibited by Hawai‘i's landlord-tenant code.

Fortunately, Celeste was able to secure new housing that accepted her voucher and met her physical needs. But her ordeal has taken a significant toll on her well-being.



COMMUNITY-WIDE COSTS

While evictions take an enormous toll on the people that suffer through them, state and local governments also incur significant costs when evictions take place. In the most extreme cases, evictions can lead to homelessness, which in turn greatly increase costs for state and local governments as the need for social safety net services and interventions increase.

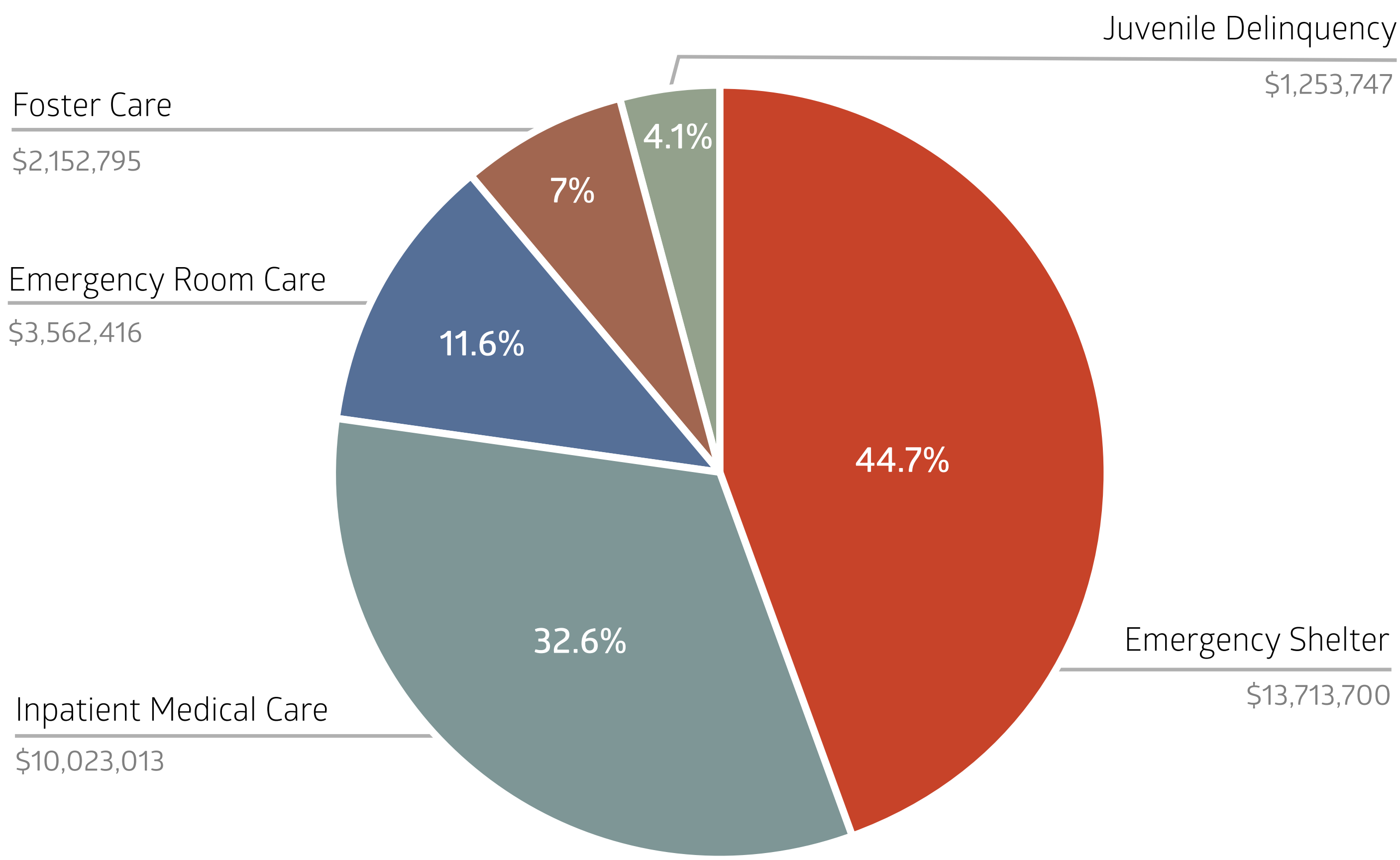
Evaluating the various costs associated with eviction in Hawai‘i can provide policymakers with a clearer picture of how evictions not only negatively impact the households that experience them, but our community at-large as well.

Using the University of Arizona’s James E. Rogers College of Law’s “Cost of Eviction Calculator,” HBPC conducted an analysis of the various costs to the State of Hawai‘i that are associated with eviction and the increased need for homeless services. This analysis estimates costs for various downstream effects associated with homelessness. Using a baseline of 2,500 evictions annually, and assuming that up to 25 percent of those evictions result in application for homeless services, the total cost of eviction to the state of Hawai‘i is $30,705,671 per year.

The major public costs of eviction for the state of Hawai‘i are:[13]

- Emergency shelter: $13.7 million
- Inpatient medical care: $10 million. This is likely due to our state’s relatively high cost of inpatient care, which is $2,945 per night, putting Hawai‘i in the top-20 most expensive states for inpatient care in the nation.[14]
- Emergency room care: $3.5 million. At an average cost of $2,076 per visit, Hawai‘i has the ninth-most expensive emergency room care in the nation.[15] Since most homeless individuals lack health insurance coverage, many of them do not seek out medical care until their condition has significantly worsened.[16] As a result, they often report to hospitals with illnesses that can be extremely costly to treat.
- Foster care: $2.15 million
- Juvenile delinquency: $1.25 million

Figure 1. Community cost of eviction by category, Hawai'i (2023)



OTHER COSTS

Beyond increased spending on safety net services, the state and counties incur additional costs when police enforce laws that criminalize homelessness. These enforcement measures—primarily sweeps of homeless encampments—are not only costly, but highly disruptive to unhoused individuals, many of whom may already be in a state of crisis due to their loss of housing. The City & County of Honolulu spends approximately $5 million annually to engage in formal sweeps of homeless encampments.[17]

While Honolulu spends about $10 million per year on homeless services, this represents less than 1 percent of the county's $3 billion operating budget.[18] The annual allocation for homeless services is also 1/30th of what the county is spending on its entire policing budget.

When police enforcement of homelessness results in incarceration, costs increase even further. According to a recent study, it costs $198 per day, or $72,000 annually, to incarcerate an individual at the O'ahu Community Correctional Center.[19] By contrast, it would cost between $20,000–30,000 per person to participate in the city's Housing First initiative, which quickly provides housing with supportive services to people experiencing homelessness.[20]

PREVENTING EVICTION CAN RESULT IN SIGNIFICANT SAVINGS

The high costs associated with eviction are not only a burden on Hawai'i's state and local governments, the strategies currently being used often do little to address the root causes of eviction or to reduce the rate of homelessness. Investing in programs that keep people housed would create significant savings, while also ensuring low-income renters stay housed and avoid sliding into homelessness.

Approximately 2,500 individuals experienced eviction in Hawai'i in 2018.[21] If the state were to invest in a permanent rent relief program that provided each of these households with $3,000 per year in support, the program would cost the state $7,500,000, annually. This would result in over $23 million in savings each year.

While it is unclear that a permanent rent relief program would be able to reach all 2,500 individuals at risk of eviction, if the state were to reach even half of them, a $3.7 million investment in rent assistance could keep over 1,200 people stably housed and still deliver significant savings to the state. Additionally, by reducing costs from police sweeps and incarceration of the unsheltered, the state and counties would see additional savings that could be reinvested in eviction prevention or services for those experiencing homelessness.

HAWAI‘I'S COVID-19 EVICTION PROTECTIONS

Since the beginning of the COVID-19 pandemic in early 2020, Hawai‘i established a number of policies and programs to prevent evictions and help renters stay housed. These policies were partly about minimizing the economic disruption caused by the pandemic, but also were designed to slow the spread of the COVID-19 virus. Evictions contribute to the spread of highly contagious diseases like COVID-19 by preventing infected households from being able to quarantine themselves.

Key policy interventions and programs included:

1. Emergency eviction moratorium
2. Rental assistance program
3. Landlord-tenant mediation program

This discussion provides an overview of these interventions and best practices to consider for structuring programs in the future. National best practices summarized in this report are based on literature developed by the National Low Income Housing Coalition (NLIHC).

EVICTION MORATORIUM

In 2020, the Centers for Disease Control and Prevention issued a temporary national moratorium on most evictions for the nonpayment of rent. Generally, the moratorium was in force in jurisdictions that were experiencing high-levels of COVID-19 infections (including, at times, counties in Hawai‘i). The U.S. Supreme Court ruled to end the federal eviction moratorium on August 26, 2021. Supplementally, then-Governor David Ige issued an emergency order on April 17, 2020, that suspended all evictions in Hawai‘i for the nonpayment of rent. The state moratorium was extended several times before ending on August 6, 2021.

Both the federal and state eviction moratoriums were critical to keeping families housed during the pandemic. In 2021 alone, the moratoriums (in addition to other government interventions) prevented an estimated 1.36 million formal evictions nationwide (approximately 5,700 evictions in Hawai‘i).[22]

While moratoriums are among the most powerful tools to prevent evictions, they should ideally be used as last resorts. In a housing ecosystem with sufficient safety net supports already in place, emergency moratoriums would be perhaps unneeded.

RENTAL ASSISTANCE PROGRAM

In December 2020, Congress provided $25 billion in Emergency Rental Assistance for struggling renters (known as "ERA1"). In March 2021, Congress appropriated an additional $21.6 billion for ERA (known as "ERA2"), which allowed tenants to receive assistance for up to 18 months.

ERA was distributed by the U.S. Treasury Department to State and Local governments, who administered the funds to eligible renters. To qualify for rent assistance, households generally had to meet one of the following criteria:

1. Have incomes below 80 percent of the area median

income (AMI);
2. Include individuals who qualified for government unemployment benefits or could demonstrate financial hardship due to the COVID-19 pandemic; or
3. Include individuals who could demonstrate a risk of experiencing homelessness or housing instability.

Building on the criteria established by the federal government, Hawai'i developed its own additional priorities for distribution of rent assistance. Jurisdictions in Hawai'i prioritized distributing ERA to households with incomes below 50 percent of the area median income (AMI), so that assistance would be targeted to the state's lowest-income renters.

ERA Distribution by County

ERA in Hawai'i was administered through its four counties, who contracted organizations to provide tenant outreach, manage ERA applications, and distribute funds. The responsible county agencies and contracted organizations are listed below. The amount of distributed ERA funds, by county, is provided in **Table 1.**

County Agencies Administering Contracts for Rent Assistance:
- Kaua'i County Housing Agency
- Honolulu County Office of Economic Revitalization
- Maui County Department of Housing and Human Concerns
- Hawai'i County Office of Housing and Community Development

Contracted Organizations to Provide Rent Assistance:
- Kaua'i: Kaua'i Federal Credit Union
- O'ahu: Catholic Charities, Council for Native Hawaiian Advancement
- Maui: Catholic Charities
- Hawai'i Island: Hawaiian Community Assets

Table 1. ERA Funds Distributed, by County

County	Kaua'i	O'ahu	Maui	Hawai'i	State Total
Total Funds Disbursed	$19 million	$190 million	$32 million	$24 million	$265 million
Total Applications Completed and Funds Disbursed	1,701	15,000	9,700	2,731	29,132
Total Denied Applications	708	Not Available	684	2,131	Not Available
Average Distribution Per Approved Applicant	$11,377	$12,666	$7,724	$3,143	Not Available

Table 1. Figures based on data provided on County Rental Assistance online dashboards. Data is current as of January 25th, 2023.

LANDLORD-TENANT MEDIATION PROGRAM (ACT 57)

Following the end of the state's eviction moratorium on August 6, 2021, Act 57 (2021) required that all landlords offer tenants the opportunity to mediate prior to eviction proceedings.

The mediation program was facilitated by five different mediation centers across the state, with a center located on the island of Kaua'i, O'ahu, Maui, and two centers located on Hawai'i Island:

- Kauaʻi Economic Opportunity Mediation Center
- Mediation Center of the Pacific (Oʻahu)
- Maui Mediation Service
- Kuʻikahi Mediation Center (East Hawaiʻi) and the West Hawaiʻi Mediation Center

Through this program, landlords and tenants were provided with a free 1.5- to 2-hour mediation session facilitated by a trained and seasoned mediator. While there was tenant-landlord mediation available prior to COVID, this program differed in that:

- It was facilitated by volunteer mediators;
- Mediation occurred directly prior to the eviction case being heard within court;
- Mediation sessions lasted only 20–30 minutes; and
- Landlords were not required to provide the opportunity to mediate disputes.

In comparison to the pre-COVID landlord-tenant mediation, the Act 57 requirements are considered part of the "enhanced" mediation program (EMP).

In 2022, Hawaiʻi Appleseed and the Mediation Center of the Pacific published "Eviction Prevention Through Hawaiʻi's Tenant-Landlord Mediation Program" which analyzed the impacts, as well as the successes and shortcomings of EMP, as compared to pre-COVID mediation programs.[23] As part of this study, Hawaiʻi Appleseed and the Mediation Center of the Pacific conducted interviews with tenants, landlords, and attorneys who participated in EMP. Findings of this study indicate that EMP provides various benefits for tenants, such as:

- **Increased housing stability:** Pre-COVID mediation programs only resulted in 23 percent of tenants remaining housed. In comparison, EMP resulted in nearly 85 percent of tenants remaining housed. This translated to 1,500 residents staying housed, who may have otherwise been evicted.

- **Decreased need for litigation and legal representation:** Since EMP occurs pre-litigation, this mediation has reduced the number of eviction proceedings within the courts. This decreases the judiciary's case load and allows for better use of public resources. It is also beneficial for renters to keep housing disputes out of the courts, given the large disparity between landlords and tenants, with regard to legal representation.

  Based on this study, our findings show that less than 1 percent of tenants have legal representation in eviction court, while over 60 percent of landlords do. Generally speaking, neither landlords or tenants have legal representation in mediation sessions.

Results of the Act 57 program, in regards to the number of cases mediated and the number of agreements reached, are further summarized below in **Table 2.**

Table 2. Act 57 EMP Results (August 2021–August 2022 Data, City & County of Honolulu Only)

County	Kauaʻi	Oʻahu	Maui	Hawaiʻi	State Total
Total Number of Cases Opened	44	3,047	702	285	4,078
Total Number of Cases Mediated	13	1,379	118	150	1,660
Number of Agreements Reached	13 (100%)	1,201 (87%)	82 (69%)	119 (79%)	1,415 (85%)

Table 2. Figures based on data provided by the state's five mediation centers who administered the Act 57 program.

RENTAL RELIEF BEST PRACTICES

Given the success of Hawai‘i's Emergency Rental Assistance program in helping to keep vulnerable renters housed during the pandemic, Hawai‘i now has an opportunity to build on this success by creating a permanent rental assistance program.

Looking at other rent relief models around the country, the National Low Income Housing Coalition(NLIHC) published a brief, "Emergency Rental Assistance: A Blueprint For A Permanent Program," which provided general strategies and policy recommendations to achieve successful implementation of ERA programs.

Key findings from this report are summarized below. The summary below makes note of when differences arise between the input collected by local ERA distributors in Hawai‘i and national best practices provided by the NLIHC.

Additionally, in December 2022 Hawai‘i Appleseed held an all-day convening of rent relief and mediation providers from across the state. The primary purpose of the convening was to gather input on best practices to include in a future permanent rental assistance and mediation program.

ELIGIBILITY CRITERIA AND TIMELINE

- **Prioritizing Low-Income or Marginalized Households:** In an attempt to distribute funding as quickly as possible, most ERA programs across the country selected applications on a "first-come, first-served" basis.

  However, NLIHC makes note that first come, first served systems may inadvertently prioritize applicants who face the least application barriers. For example, some ERA programs utilized publicly available data and resources to prioritize census tracts with higher rates of unemployment or COVID-19 infections.

  NLIHC notes that prioritization of low-income renters or other marginalized populations requires intentional planning to not slow down implementation. NLIHC also urges programs to clarify and clearly state the target population on the program's website and other program materials. This should also include data to justify why certain populations have been prioritized.

STREAMLINING APPLICATIONS

- **Avoid Burdensome Paperwork:** Documentation, such as requiring proof of COVID-19-related hardship, a lease agreement, employer income verification, tax forms, or identification documents like a birth certificate or social security card, can impede a tenant's ability to apply for rental assistance and also slows down distribution of rent relief funds. Wherever possible, the NLIHC recommends three approaches to reduce burdensome paperwork:

  Self Attestation allows an applicant to attest to their income, COVID-19-related hardship, housing instability, or amount of rental arrears they owe. A December 2021 study found that the adoption of different forms of self-attestation improved spending outcomes.

  Categorical Eligibility allows a household to be deemed eligible if it has been verified as low-income by another local, state, or federal program, such as the Supplemental Nutrition Assistance Program and the Temporary Assistance for Needy Families program.

  Fact-Specific Proxy allows programs to use other facts to infer a household's income eligibility, such as the median income of the household's census tract.

- **Ensuring Adequate Staff Capacity and Infrastructure:** Funding is needed to ensure programs are efficiently staffed to process applications and distribute funds equitably and efficiently.

- **Engage Housing Navigators:** Programs should engage housing navigators to provide additional support to renters, particularly during the application process. Housing navigators can also help mediate issues between renters and landlords. This eases the process for tenants and can also reduce the workload of rent providers.

- **Improving Online Application Systems and Addressing Technological Barriers:** Online ERA applications were used by ERA programs across the country to increase access to benefits. However, online-only applications can create challenges for many people, especially in rural communities that lack access to stable internet.

  Some of these issues can be addressed by making applications available in multiple formats, e.g., online, via mobile phone, by calling a phone number (like 211), and in-person. Some localities in the U.S. addressed these challenges by partnering with public libraries, schools, and other institutions with built-in access to computers and tablets.

- **Language and Translation Services:** Non-English speaking communities make up a disproportionate amount of rental assistance recipients. For this reason, an estimated 81 percent of ERA programs in the U.S. conducted outreach in multiple languages. This includes making websites, applications, and other materials available in multiple languages, as well as having in-person translation support for filling out applications.

  Attendees at the Hawai‘i Stakeholder Convening further emphasized the need for door-to-door outreach for immigrant communities who may lack cultural understanding of local housing and government assistance systems.

- **Increasing Access by Reducing Stigma:** To further enhance language access, the NLIHC encourages ERA programs to remove stigmatizing language from outreach materials and applications. De-stigmatizing language highlights that it is not the fault of the renter if they need extra financial support.

  A study conducted by the People Lab at the University of California, Berkeley found that when tenants received an ERA mailer with "de-stigmatizing" language, they were 89 percent more likely to request an ERA application and 40 percent more likely to complete an ERA application.

- **Access for People with Disabilities:** More than 4 million people with disabilities in the U.S. live in low income households that pay more 50 percent of their income on rent. The NLIHC encourages ERA programs to regularly re-examine the extent to which they provide equitable access to people with disabilities.

  ERA programs should also prioritize partnerships with organizations serving the disability community to better address their needs. Attendees at the Hawai‘i Stakeholder Convening further emphasized the need to partner with kupuna-serving organizations, given the additional mobility challenges this community faces.

- **Access in Native and Rural Communities:** Renters in rural and predominantly-native communities have faced unique challenges in learning about and accessing rental assistance, in part due to limited broadband access.

  In addition to the strategies outlined in the "Online Application Systems" section above, the NLIHC also encourages rent assistance programs to prioritize physical outreach materials and placing them in visible public locations (barber shops, nail salons, churches, health centers, etc.) in addition to digital outreach.

  Attendees at the Hawai‘i Stakeholder Convening further emphasized the need to partner with the Office of Hawaiian Affairs, the Department of Hawaiian Home Lands, and other agencies and organizations serving Native Hawaiian communities.

- **Streamlining Applications by Making Bulk Payments to Large Landlords and Utilities:** Several ERA programs in the U.S. identified bulk payments to large landlords and utility companies as an innovative approach to increase program accessibility and prevent multiple evictions at once. This approach can also reduce administrative burden.

- **Direct-to-Tenant Assistance:** The NLIHC believes that providing funding directly to tenants helps decrease these barriers and speeds up the delivery of assistance to the lowest-income households. The NLIHC often characterizes this approach as an 'innovative' way of delivering assistance not typically seen in other housing assistance programs.

  The NLIHC discusses other federal initiatives, such as a renters' tax credit, which would provide direct-to-tenant subsidies for cost-burdened households. However, as a caveat, many attendees at the Hawai‘i Stakeholder Convening supported direct-to-landlord payments, as it encouraged landlords and tenants to work together.

RENTAL ASSISTANCE USES

- **Using Rent Assistance for Future Rent Payments:** In addition to rental arrears, U.S. Treasury guidance states that ERA funds can be used to cover prospective rent, with recertification for future rent taking place every three months. Notably, there is no national guidance on the amount of rent assistance that can be provided to households, however, current ERA2 funding allows households to receive assistance for up to 18 months.

  Some attendees at the Hawai‘i Stakeholder Convening felt that the time period should be shortened to encourage tenants to “wean” themselves off of rental assistance or find more permanent assistance.

- **Tenant Relocation, Utilities and Security Deposit:** ERA can be used for relocation assistance, security deposits and application fees, and hotel and motel stays to assist those who are at risk of or have already experienced eviction or displacement.

- **Housing Counseling and Mediation:** ERA funds can be used to provide housing stability services for renters. These services include landlord and tenant mediation, housing counseling and case management, services for survivors of domestic abuse or human trafficking, legal services or attorneys’ fees related to eviction, and specialized services for individuals with disabilities or seniors. Given this flexibility, the NLIHC encourages ERA programs to integrate with landlord-tenant mediation programs, as Hawai‘i did in 2021

  Attendees at the Hawai‘i Stakeholder Convening also emphasized the need for financial literacy counseling and employment services to improve renters’ long-term financial well-being.

MARKETING, OUTREACH AND TENANT SUPPORT

To increase low-income tenants’ access to rent assistance, the NLIHC recommends the following outreach and media strategies:

- Engage with trusted community-based organizations;
- Conduct strategic outreach to landlords;
- Use data to target populations most-in need of rent assistance;
- Embed data collection in program design;
- Distribute program information at critical points of intervention and directly to renters; and
- Provide outreach at eviction court and landlord-tenant.

STRONGER RENTER PROTECTIONS THROUGH JUST CAUSE EVICTION

LOOPHOLES IN HAWAIʻI'S LANDLORD-TENANT CODE

Hawaiʻi's landlord-tenant code clearly defines the reasons a landlord can pursue eviction of a tenant, and provides guidance for both landlords and tenants about their respective rights, as well as guidelines for landlords who are pursuing eviction.
When pursuing eviction of a tenant before the end of a lease term, landlords can only do so under the following conditions:[24]

- The tenant has not paid rent;
- The tenant has violated the terms of the lease agreement; or
- The tenant has caused irreparable damage to the unit or endangerment of other tenants on the property.

In some ways, these requirements provide tenants with a degree of protection from arbitrary or retaliatory evictions, provided they are in good standing with rent and in compliance with the terms of their lease. Hawaiʻi's code even contains a provision outlawing retaliatory evictions in cases where tenants have either lodged official complaints with a government agency for health and safety violations, or are demanding necessary repairs to their unit.[25]

Landlords are required by law to provide written notices to tenants to remedy either non-payment of rent or violation of the lease terms before pursuing eviction proceedings. For non-payment of rent, landlords must provide tenants with a five-day notice to pay, while violations of lease terms require a 10-day notice to correct the violation.

Despite clearly outlining lawful reasons for eviction, Hawaiʻi's code still allows landlords wide leeway in terminating a lease agreement without cause—even when tenants are in good standing. For tenants who are in month-to-month rental agreements, a landlord can remove the tenant from the property without cause by issuing a 45-day notice to vacate.[26]

Landlords who invoke the 45-day notice are not required to provide a reason for the termination and may issue the notice at any time during the month-to-month tenancy. While landlords cannot issue a notice to vacate while a lease is in effect, landlords can simply wait for the lease to expire at which point the tenancy automatically converts to month-to-month, provided the rental agreement has not been renewed.

While the termination of a month-to-month tenancy through the 45-day notice does not constitute a legal eviction, it effectively has much of the same impact, displacing the tenant and forcing them to find new housing in roughly a month and a half.

In this way, month-to-month tenants are extremely vulnerable to sudden housing loss, as they can be removed from their homes with no justification or explanation required. In the absence of stronger renter protections, Hawaiʻi's landlord-tenant code puts renters at a significant disadvantage in keeping stable and long-term rental housing.

JUST CAUSE EVICTION

Hawai'i's COVID-19 renter protections and supports were largely successful in keeping vulnerable renters housed during the height of the pandemic, but those supports did not deliver long-term protection to renters. The high demand for housing, coupled with a limited supply of affordable units, continues to put upward pressure on rents, leaving many of Hawai'i's renters with low incomes at continued risk of displacement.

Often, the displacement of these renters does not register as an official eviction. These "extrajudicial" evictions are therefore not reflected in official eviction data, and often go undocumented.

To counter the impact of extrajudicial evictions and extend protections to vulnerable renters, many cities, states and localities have enacted "just cause" or "good cause" eviction policies. These kinds of protections create additional stability for renters and encourage long-term housing security. This can be especially beneficial to those seeking stable housing in high-cost rental markets, where landlords are often incentivized to seek new tenants to whom they can charge a premium for their units.[27]

Just cause eviction (JCE) policies protect tenants from arbitrary, retaliatory or discriminatory evictions by housing providers. Under a well-designed JCE policy, landlords can only evict tenants for specific causes stipulated by law, such as refusal or inability to pay rent, intentional damage to the property, or a property owner's intent to occupy the unit or sell the property.[28] In some jurisdictions, these reasons for terminating tenancy also apply after the end of the lease term.

In most cases, landlords are required to clearly document and present evidence for eviction and provide adequate notification of intent to evict. The most common reasons included in JCE policies are:

- Non-payment of rent;
- Use of premises for illegal activity;
- Creating a nuisance, disturbing the peace of neighbors;
- Violation of lease terms or established rules for the property; and
- Landlord's intent to remove the unit from the rental market.

In some jurisdictions, when a tenant is evicted through no fault of their own—such as when an owner intends to occupy the unit themself—some JCE laws require the evicting landlord to pay a portion of the tenants moving expenses. Policies like this improve housing stability by helping tenants handle the added costs of relocating to new property.

JCE STATE-BY-STATE COMPARISON

Just cause eviction (JCE) laws have been enacted at both the state and city level in multiple communities across the country. While JCE laws have most commonly been implemented at the municipal level, five states have implemented laws designed to protect all tenants, regardless of the city they reside in: California, Oregon, New Hampshire, New Jersey, and Washington. These policies can provide useful models for other jurisdictions looking to implement similar tenant protections.

New Jersey

New Jersey was the first state in the country to enact a JCE law, having done so in 1974. Bolstered by strong local level organizing for rent stabilization policies through the New Jersey Tenants Organization, the state successfully passed an “eviction for cause” law, which outlined seven “good causes” for eviction.[29] This bill laid the groundwork for what would become common features of JCE laws across the country, including failure to pay rent, disorderly conduct that creates a nuisance, destruction of property and permanent retirement of the unit from the rental market.

The bill applies to all types of housing across the state, including multi-family buildings, houses, and mobile home parks. However, owner-occupied units with no more than two dwelling units are exempt from the good cause eviction rules established by the law. These landlords maintain the right to evict tenants without cause and can do so at will.[30]

California

Multiple cities in California have passed local JCE laws, including San Francisco, Oakland, San Jose, Los Angeles and San Diego.[31] Recently, the state took action by passing AB 1428, the Tenant Protection Act of 2019. This law applies to tenants who have occupied a unit for 12 months and enumerates 15 just causes for which a tenant can be evicted, while also placing caps on rent increases from year to year.

California separates causes for eviction into “at-fault” causes and “no-fault” categories. At-fault causes include non-payment of rent, engaging in criminal activity, and violation of lease terms. No-fault causes include intent by the owner or owner’s family member to occupy the unit, withdrawal of the unit from the rental market, and intent to demolish or substantially remodel the property in a way that makes habitation of the unit unsafe.[32]

In cases where tenants are subject to a no-fault eviction, California’s law requires landlords to compensate tenants for their moving expenses. Landlords engaging in a no-fault eviction must either pay one month’s rent to the tenant or waive the last month of rent. Exemptions from the law include single-family owner-occupied housing, duplexes, units built within the last 15 years and deed restricted housing reserved for low and moderate-income households.

New Hampshire

New Hampshire’s JCE law includes some of the more standard just causes for eviction, while also including relatively broad exemptions from the law. Like many jurisdictions, New Hampshire’s law includes exemptions for single family homes and owner-occupied properties with less than four units.[33]

However, one exemption in particular may give landlords extremely broad discretion to terminate a lease for “other good causes.” The law defines other good causes as any legitimate economic or business reason, which does not need to be related to the behavior of the tenant. While landlords are required to provide written notice to the tenant that any future action or inaction could be used as grounds for eviction, New Hampshire’s “other good causes” is one of the broadest just cause eviction clauses in the nation.

Oregon

Oregon’s tenant law allows a landlord to terminate a lease for cause if the tenant commits a material violation of the lease terms, causes material damage or fails to reasonably maintain the property, or fails to pay rent. Tenants are given 14 days to correct a violation after receiving written notice from the landlord. Other protections include prohibitions against retaliatory actions, as well as protections against discrimination.[34]

However, several exemptions were included that allow landlords to evict tenants for no-cause. No-cause evictions are allowed if tenants have lived in the unit for less than one year, reside in owner-occupied housing, or live in a duplex or single-family home with an accessory dwelling unit.

For tenants who have lived in their units for more than one year, landlords may still evict for no-cause if the landlord intends to demolish or convert the unit, the landlord's immediate family member chooses to move in, or the landlord has sold the unit to a buyer who intends to move in. If tenants are evicted under these guidelines, landlords are required to compensate tenants with the equivalent of one month's rent to cover moving expenses.

Washington

Washington state's just cause eviction law applies to tenants who are in month-to-month rental agreements. Landlords may only evict or discontinue tenancy for failure to pay rent, engaging in illegal activity, because the landlord or a member of landlord's immediate family intends to occupy the unit, or when the owner of a single-family home signals their intent to sell the property.[35]

Washington's law largely echoes the just causes outlined in other states, but provides additional protections for renters who are displaced when a landlord moves into the unit, or when the owner of a single-family home sells the property. For example, landlords who evict their tenants in order to occupy the unit can only do so when an equivalent unit is unavailable in the same building and if the unit is continually occupied for 60 days by the landlord or a member of their immediate family after the unit is vacated.

For owners evicting tenants when selling a single-family home, owners are required to list the home at a reasonable price within 30 days of the property being vacated. These stipulations ensure that landlords are not acting in bad faith and using the move-in clause as false pretext to evict a tenant on arbitrary or retaliatory grounds.

MODELING A JUST CAUSE EVICTION LAW

Based on this state-by-state analysis, just cause eviction laws share many similarities in their allowable causes for eviction. All include non-payment of rent, damage to the property, and violation of the lease terms. However, the five laws often differ on the exemptions from the law and reasons for removal without just cause, with some providing stronger and broader protections for renters than others.

When designing an effective just cause eviction law, policymakers should work to maximize the number of tenants covered by the law. This can be accomplished by limiting the kinds of properties that are exempted and carefully considering which removals to allow without just cause.

A strong just cause eviction proposal should apply to all renters, regardless whether they rent a single-family home or apartment, and should allow tenants to continue their tenancy at the end of a lease term, provided they are in good standing.

Removal of tenants without just cause should only be allowed in a narrow set of circumstances, such as when a landlord sells or retires a unit from the rental market or intends to move in. To further improve housing security for vulnerable renters, policymakers should also consider requiring landlords to compensate renters for a portion of their moving expenses, when removing tenants under these special circumstances.

RECOMMENDATIONS TO LIMIT HARM CAUSED BY EVICTIONS

To increase housing stability for Hawai‘i's renters, policymakers should pursue policy interventions that expand tenant's rights and protections, while making it easier for both landlords and renters to settle disputes and stay housed. The Hawai‘i Budget and Policy Center recommends implementing the following:

1. **Create a permanent rent relief program that can provide relief when renters are in financial crisis.**

   Building off of the success of the COVID-19 Emergency Rental Assistance program, Hawai‘i should invest in permanent rent relief. By dedicating funds to a permanent program, both Hawai‘i's renters and landlords will have a safety net that can provide assistance when renters fall behind on rent due to the loss of a job or unforeseen financial expense. A permanent rent relief program would also benefit landlords, who would be assured of covering their expenses when renters experience financial hardship.

2. **Replicate the pre-trial mediation requirements implemented by Act 57.**

   The temporary Enhanced Mediation Program implemented by Act 57 was largely successful in helping landlords and tenants reach settlement agreements. With 85 percent of mediations through the program resulting in a settlement, up from just 23 percent prior to COVID-19, this high success rate is likely due to the fact that rental assistance was also available during this time, indicating that mediation would have a higher success rate when coupled with financial assistance.

   Requiring pre-trial mediation can divert disputes from the courts, where tenants are often at a disadvantage, being significantly less likely to have legal counsel or familiarity with the law. Diverting cases away from the courts also saves the judiciary resources that can be dedicated to other needs.

3. **Implement a state-wide just cause eviction law that guarantees renters in good standing the ability to continue tenancy at the end of a lease term.**

   Hawai‘i's current landlord-tenant code allows landlords to remove a tenant at the end of a lease term simply by issuing a 45-day notice. Reforming this provision would provide a greater degree of certainty that tenants can remain stably-housed, especially for long-time tenants who have been on month-to-month rental agreements for multiple years.

   Furthermore, policymakers should craft a law that compensates renters for their moving expenses when they are removed for reasons that are no fault of their own, such as the sale of the unit or intent by the landlord to move in.

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