

1 assignee, or successor in interest of a dwelling unit or
2 building who is excluded under section 521-7 or the agent of the
3 excluded person.

4 "Prospective tenant report" means any written, oral, or
5 other communication of information concerning the credit
6 worthiness, credit standing, rent payment delinquency, eviction
7 history, or criminal history background of, or other information
8 on a prospective tenant that is used or intended to be used by a
9 landlord to evaluate whether the landlord's dwelling unit should
10 be rented to the prospective tenant.

11 "Tenant" means the same as defined under section 521-8;
12 except that the term does not mean a person who is excluded
13 under section 521-7.

14 "Tenant screening agency" means any person, who for
15 compensation, collects information on a prospective tenant to
16 compile and submit a prospective tenant report to a landlord.

17 **§ -4 Tenant screening agency; registration.** (a) Each
18 person operating as a tenant screening agency shall register
19 with the department of commerce and consumer affairs.

20 (b) The department may require a tenant screening agency
21 to renew the agency's registration after an initial period of
22 registration and may require a tenant screening agency to pay



1 registration and renewal fees and establish others terms and
2 conditions for registration or renewal.

3 **§ -5 Permissible distribution of prospective tenant**
4 **report.** A tenant screening agency may furnish a prospective
5 tenant report to:

- 6 (1) A landlord who has ordered or requested the report
7 when the tenant screening agency reasonably believes
8 that the landlord will use the report only to evaluate
9 whether to rent the landlord's dwelling unit to the
10 prospective tenant;
- 11 (2) Any person upon the written direction of the
12 prospective tenant; or
- 13 (3) A government agency pursuant to a court order or
14 subpoena.

15 **§ -6 Prohibition on reporting of obsolete information.**

16 A tenant screening agency shall not include in a prospective
17 tenant report any of the following:

- 18 (1) Any bankruptcy case in which the prospective tenant
19 was a named debtor if the date of entry of the order
20 for relief antedates the report by more than ten
21 years;



- 1 (2) Any suit or judgment in which the prospective tenant
2 was a named party if the date of entry of the final
3 order antedates the report by more than seven years;
- 4 (3) Any tax lien paid by the prospective tenant if the
5 date of payment antedates the report by more than
6 seven years;
- 7 (4) Any delinquent account payable, other than rent, by
8 the prospective tenant that was placed for collection
9 or charged to loss by the payee if the date of
10 placement or charge antedates the report by more than
11 seven years;
- 12 (5) Any delinquency of rent for a dwelling unit by the
13 prospective tenant if the due date of the rent
14 antedates the report by more than seven years;
- 15 (6) Any record of criminal arrest, indictment, or
16 conviction of the prospective tenant if the date of
17 arrest, indictment, or conviction antedates the report
18 by more than seven years;
- 19 (7) Any eviction of the prospective tenant from a rented
20 dwelling unit if the date of eviction antedates the
21 report by more than seven years; or



1 (8) Any abandonment by the prospective tenant of a rented
2 dwelling unit without the consent of the landlord if
3 the date of abandonment, as reasonably determined by
4 the tenant screening agency, antedates the report by
5 more than seven years.

6 **§ -7 Disclosure of information to prospective tenant.**

7 (a) Except as otherwise provided under subsection (b), a tenant
8 screening agency, upon a prospective tenant's request and
9 showing of proper identification, shall disclose to the
10 prospective tenant:

11 (1) Any information on the prospective tenant that is held
12 by the tenant screening agency at the time of the
13 request;

14 (2) The sources of all information collected by the tenant
15 screening agency under paragraph (1); or

16 (3) Every landlord who has received from the tenant
17 screening agency information on the prospective
18 tenant.

19 The tenant screening agency shall disclose the requested
20 information to the prospective tenant within ten days of receipt
21 of the request.



1 (b) The requirements of subsection (a) shall not apply to
2 the disclosure of sources of information who provided the
3 information before January 1, 2009, or landlords who received
4 information before January 1, 2009.

5 **§ -8 Procedure in case of disputed information.** (a) If
6 a prospective tenant disputes the completeness or accuracy of
7 any information disclosed to the prospective tenant by a tenant
8 screening agency under section -7 and directly conveys that
9 dispute to the tenant screening agency, the agency, within a
10 reasonable time, shall complete a reinvestigation of the
11 information.

12 If after the reinvestigation, the tenant screening agency
13 finds that the information is inaccurate or no longer
14 verifiable, the agency shall promptly correct or delete the
15 information.

16 If after the reinvestigation, the tenant screening agency
17 finds that the information is accurate and verifiable or that
18 the dispute is frivolous or irrelevant, the agency shall
19 promptly notify the prospective tenant.

20 (b) If a reinvestigation does not resolve the dispute, the
21 prospective tenant may submit a brief statement with the tenant
22 screening agency setting forth the nature of the dispute. The



1 tenant screening agency may limit the statement to not more than
2 one hundred words if the agency provides the prospective tenant
3 with assistance to write a clear summary of the dispute.

4 (c) If a statement of dispute is filed by a prospective
5 tenant with a tenant screening agency, the agency shall:

6 (1) Note clearly in any subsequent prospective tenant
7 report containing the disputed information that there
8 is a dispute by the prospective tenant; and

9 (2) Provide either the prospective tenant's statement or a
10 clear and accurate summary of the statement.

11 (d) Following any correction or deletion of information on
12 a prospective tenant which is found to be inaccurate or no
13 longer verifiable pursuant to subsection (a), the prospective
14 tenant may request the tenant screening agency to notify each
15 landlord who received the inaccurate or non-verifiable
16 information within the past two years of the inaccuracy or non-
17 verifiability. Within ten days of receipt of a request, the
18 tenant screening agency shall notify the landlord in writing of
19 the correction or deletion. The tenant screening agency shall
20 not charge the prospective tenant a fee for notifying the
21 landlord.



1 **§ -9 Adverse action report.** (a) If a landlord decides
2 not to rent a dwelling unit to a prospective tenant because of
3 information in a prospective tenant report, the landlord shall:

4 (1) Advise the prospective tenant of the adverse action;
5 and

6 (2) Notify the prospective tenant of the tenant screening
7 agency which prepared the report.

8 The landlord shall notify the prospective tenant within ten days
9 of making the decision.

10 (b) A landlord shall not be held in violation of
11 subsection (a) if the landlord shows by a preponderance of the
12 evidence that the landlord used reasonable procedures to comply.

13 **§ -10 Suspension or revocation of registration.** The
14 department, after a hearing, may suspend or revoke the
15 registration of a tenant screening agency for violating this
16 chapter.

17 **§ -11 Penalty.** Any tenant screening agency that
18 violates this chapter shall be subject to a fine of not more
19 than \$500 for each violation.

20 **§ -12 Rules.** The department may adopt rules in
21 accordance with chapter 91 to implement this chapter.



1 **§ -13 Compliance with state consumer reporting agency**
2 **laws if applicable.** When a tenant screening agency also acts as
3 a "consumer reporting agency" or "consumer credit reporting
4 agency" as defined under another state law, the agency also
5 shall comply with the other state law. If a provision of this
6 chapter and a provision of the other state law conflict, the
7 stricter shall prevail.

8 **§ -14 Conflict with federal law.** If any provision of
9 this chapter conflicts with a provision of federal law, the
10 latter shall prevail, except when the federal law declares that:

- 11 (1) A conflicting state law is superior. In such case,
12 the provision of this chapter shall prevail; or
13 (2) The stricter provision between the federal law and
14 state law shall prevail. In such case, the provision
15 of this chapter shall prevail if stricter."

16 SECTION 3. Section 489P-2, Hawaii Revised Statutes, is
17 amended by amending the definition of "consumer credit reporting
18 agency" or "consumer reporting agency" to read as follows:

19 "Consumer credit reporting agency" or "consumer reporting
20 agency" means any person who, for monetary fees or dues or on a
21 cooperative nonprofit basis, regularly engages in whole or in
22 part in the practice of assembling or evaluating consumer credit



1 information or other information on consumers for the purpose of
 2 furnishing credit reports to third parties, but does not include
 3 any governmental agency whose records are maintained primarily
 4 for law enforcement or licensing purposes. The term includes a
 5 "tenant screening agency" as defined under section ____-3."

6 SECTION 4. This Act shall be exempt from the provisions of
 7 section 26H, Hawaii Revised Statutes.

8 SECTION 5. Pursuant to section 7 of this Act, the
 9 department of commerce and consumer affairs may begin the
 10 process for the adoption of rules to implement section 2 of this
 11 Act.

12 SECTION 6. In codifying the new sections added by section
 13 2 of this Act, the revisor of statutes shall substitute
 14 appropriate section numbers for the letters used in designating
 15 the new sections in this Act.

16 SECTION 7. New statutory material is underscored.

17 SECTION 8. This Act shall take effect on January 1, 2009;
 18 except that section 5 shall take effect upon approval.

19

INTRODUCED BY: Calvin K. Ho

BY REQUEST
 JAN 18 2008



Report Title:

Tenant Screening Agencies; Regulation.

Description:

Regulates tenant screening agencies.

