
A BILL FOR AN ACT

RELATING TO TENANT SCREENING AGENCIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of this Act is to regulate tenant
2 screening agencies.

3 SECTION 2. The Hawaii Revised Statutes is amended by
4 adding a new chapter to be appropriately designated and to read
5 as follows:

6 "CHAPTER

7 TENANT SCREENING AGENCIES

8 § -1 **Purpose.** The purpose of this chapter is to
9 regulate tenant screening agencies. Nothing in this chapter
10 shall be construed to authorize inquiries or allow consideration
11 of information prohibited by chapter 515, or to diminish
12 protections under chapter 515.

13 § -2 **Administration and enforcement.** The department of
14 commerce and consumer affairs shall administer and enforce this
15 chapter.

16 § -3 **General definitions.** For the purposes of this
17 chapter:



1 "Department" means the department of commerce and consumer
2 affairs.

3 "Landlord" means the same as defined under section 521-8;
4 except that the term does not mean an owner, lessor, sublessor,
5 assignee, or successor in interest of a dwelling unit or
6 building who is excluded under section 521-7 or the agent of the
7 excluded person.

8 "Prospective tenant report" means any written, oral, or
9 other communication of information concerning the credit
10 worthiness, credit standing, rent payment delinquency, eviction
11 history, or criminal history background of, or other information
12 on a prospective tenant that can be lawfully considered by a
13 landlord to evaluate whether the landlord's dwelling unit should
14 be rented to the prospective tenant.

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

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



1 § -4 **Tenant screening agency; registration.** (a) Each
2 person operating as a tenant screening agency shall register
3 with the department of commerce and consumer affairs.

4 (b) The department may require a tenant screening agency
5 to renew the agency's registration after an initial period of
6 registration and may require a tenant screening agency to pay
7 registration and renewal fees and establish other terms and
8 conditions for registration or renewal.

9 § -5 **Permissible distribution of prospective tenant**
10 **report.** A tenant screening agency may furnish a prospective
11 tenant report to:

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



1 § -6 **Prohibition on reporting of obsolete information.**

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

4 (1) Any bankruptcy case in which the prospective tenant
5 was a named debtor if the date of entry of the order
6 for relief antedates the report by more than ten
7 years;

8 (2) Any suit or judgment in which the prospective tenant
9 was a named party if the date of entry of the final
10 order antedates the report by more than seven years;

11 (3) Any tax lien paid by the prospective tenant if the
12 date of payment antedates the report by more than
13 seven years;

14 (4) Any delinquent account payable, other than rent, by
15 the prospective tenant that was placed for collection
16 or charged to loss by the payee if the date of
17 placement or charge antedates the report by more than
18 seven years;

19 (5) Any delinquency of rent for a dwelling unit by the
20 prospective tenant if the due date of the rent
21 antedates the report by more than seven years;



1 (6) Any eviction of the prospective tenant from a rented
2 dwelling unit if the date of eviction antedates the
3 report by more than seven years; or

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

9 **§ -7 Disclosure of information to prospective tenant.**

10 (a) A tenant screening agency, upon a prospective tenant's
11 request and showing of proper identification, shall disclose to
12 the prospective tenant:

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

16 (2) The sources of all information collected by the tenant
17 screening agency under paragraph (1) after January 1,
18 2009; and

19 (3) Every landlord who has received from the tenant
20 screening agency information on the prospective tenant
21 after January 1, 2009.



1 (b) The tenant screening agency shall disclose the
2 requested information to the prospective tenant within ten days
3 of receipt of the request.

4 § -8 Procedure in case of disputed information. (a) If
5 a prospective tenant disputes the completeness or accuracy of
6 any information disclosed to the prospective tenant by a tenant
7 screening agency under section -7 and directly conveys that
8 dispute to the tenant screening agency, the agency, within a
9 reasonable time, shall complete a reinvestigation of the
10 information.

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

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

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



1 one hundred words if the agency provides the prospective tenant
2 with assistance to write a clear summary of the dispute.

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

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

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

10 (d) Following any correction or deletion of information on
11 a prospective tenant which is found to be inaccurate or no
12 longer verifiable pursuant to subsection (a), the prospective
13 tenant may request the tenant screening agency to notify each
14 landlord who received the inaccurate or non-verifiable
15 information within the past two years of the inaccuracy or non-
16 verifiability. Within ten days of receipt of a request, the
17 tenant screening agency shall notify the landlord in writing of
18 the correction or deletion. The tenant screening agency shall
19 not charge the prospective tenant a fee for notifying the
20 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. In codifying the new sections added by section
7 2 of this Act, the revisor of statutes shall substitute
8 appropriate section numbers for the letters used in designating
9 the new sections in this Act.

10 SECTION 5. New statutory material is underscored.

11 SECTION 6. This Act shall take effect on January 1, 2009.



Report Title:

Tenant Screening Agencies; Regulation

Description:

Establishes regulatory provisions for tenant screening agencies.
(HB2657 HD1)

