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**PRESENTATION OF THE  
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION**

TO THE HOUSE COMMITTEE ON  
HUMAN SERVICES AND HOUSING

TWENTY-FOURTH STATE LEGISLATURE  
REGULAR SESSION of 2008

Thursday, January 31, 2008  
8:40 a.m.

**WRITTEN TESTIMONY ONLY**

**TESTIMONY ON HOUSE BILL NO. 2657, RELATING TO TENANT SCREENING  
AGENCIES.**

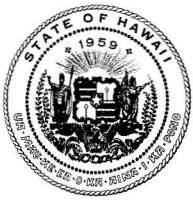
TO THE HONORABLE MAILE S. L. SHIMABUKURO, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

My name is Celia Suzuki, Program Specialist of the Professional and Vocational Licensing Division, Department of Commerce and Consumer Affairs ("Department"). The Department appreciates the opportunity to testify on House Bill No. 2657, Relating to Tenant Screening Agencies.

House Bill No. 2657 creates a new chapter to regulate tenant screening agencies. Section 26H-6, Hawaii Revised Statutes, requires that new regulatory measures being considered for enactment be referred to the Auditor for a sunrise

analysis. The statute further requires that the analysis shall set forth the probable effects of regulation, assess whether its enactment is consistent with the legislative policies of the Hawaii Regulatory Licensing Reform Act, and assess alternative forms of regulation.

The Department strongly supports a sunrise study on this measure, as mandated by law, before requiring licensure of tenant screening agencies. Thank you for the opportunity to testify on House Bill No. 2657.



# HAWAI'I CIVIL RIGHTS COMMISSION

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January 31, 2008

Rm. 329, 9:45 a.m.

To: The Honorable Maile Shimabukuro, Chair, and Members of the House Committee on Human Services and Housing

From: Sara Banks, Acting Chair, and Commissioners of the Hawai'i Civil Rights Commission

Re: H.B. No. 2657

The Hawai'i Civil Rights Commission (HCRC) has enforcement jurisdiction over state laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state-funded services. The HCRC carries out the Hawai'i constitutional mandate that "no person shall be discriminated against in the exercise of their civil rights because of race, religion, sex or ancestry". Art. I, Sec. 5.

The HCRC takes no position on H.B. No. 2657 which establishes a regulatory scheme for tenant screening agencies.

However, the HCRC urges this Committee to expressly state in the bill and committee report that it is not the intent of the legislation to diminish protections under state fair housing law, HRS chapter 515.

In addition, two provisions of the bill raise concern for the HCRC:

In Section 2 of the bill, § \_\_ - 3, the general definition of "Prospective tenant report" includes "...criminal history background of, or other information on a prospective tenant that is used or intended to be used by a landlord to evaluate whether the landlord's dwelling unit should be rented to the prospective tenant."

The broad language of the definition could be interpreted to authorize reporting of information that is "used or intended to be used" by the landlord, but which otherwise cannot be lawfully the subject of an inquiry or given consideration in selection or refusal of a rental, because it would be prohibited under our fair housing law. (e.g. inquiry into and consideration of race, ancestry, religion, familial status).

This concern could be addressed by changing the bill language to read: "...or other information on a prospective tenant that [is used or intended to be used] can be lawfully considered by a landlord to evaluate whether the landlord's dwelling unit should be rented to the prospective tenant."

In Section 2 of the bill, § \_\_\_ - 6, there is a prohibition against inclusion in a prospective tenant report of "[a]ny record of criminal arrest, indictment, or conviction of the prospective tenant, if the date of arrest, indictment, or conviction antedates the report by more than seven years."

This language implies that such information can lawfully be obtained, reported, and considered, as long as the arrest, indictment, or conviction is not more than seven years old. While there is no arrest and court record protection under our fair housing law, this language still raises issues which should be addressed. Currently, arrest information is not available to the public, and the proposed language could be used to argue that it should be. That raises the fundamental question of whether any record of arrest without conviction should be considered at all, given that arrest without conviction has no legal significance.

The HCRC understands that the purpose of H.B. No. 2657 is to regulate tenant screening agencies that have been heretofore unregulated. We ask that the bill and committee report include language expressly stating that it is not the intent of the legislature to authorize inquiries or allow consideration of information that are prohibited by HRS chapter 515, or to diminish existing protections under that chapter.



**HB 2657 Relating to Tenant Screening Agencies**  
Committee on Human Services & Housing

January 31, 2008  
329

8:40 am

Room

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The Office of Hawaiian Affairs supports the purpose and intent of HB 2657.

Consumer protection laws benefit all of Hawaii's residents which include the beneficiaries of the Office of Hawaiian Affairs.

The 2006 Housing Study confirms Native Hawaiians are more inclined to be tenants/renters until they are deemed eligible or qualified for a Hawaiian Home Lands lease, therefore, our beneficiaries will benefit from this bill that proposes to regulate tenant screening agencies.

We recognize that physical solutions by themselves will not solve social and economic problems, but neither can economic vitality, community stability, and environment health be sustained without a coherent and supportive physical framework like consumer protection laws.

Mahalo nui loa for the opportunity to provide this testimony.



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January 29, 2008

**The Honorable Maile Shimabukuro, Chair**  
House Committee on Human Services & Housing  
State Capitol, Room 406  
Honolulu, Hawaii 96813

**RE: H.B. 2657 - Relating to Tenant Screening Agencies**  
**Hearing Date: January 31, 2008 @ 9:45 a.m., Room 329**

On behalf of our 10,000 members in Hawaii, the Hawaii Association of REALTORS® (HAR) supports the intent of H.B. 2657; however, we do have concerns regarding the need to fully examine the impact of this legislation.

H.B. 2657 proposes to regulate tenant screening agencies. We are aware of problems occurring on the mainland resulting from the use of tenant screening agency results and as landlords, we are governed by the Fair Housing Act to only consider certain data in tenant screening decisions. This is certainly an area that needs to be addressed; however, it is our understanding that a new regulatory measure needs to be referred to the state auditor for analysis pursuant to HRS §26H-6. If this is indeed the case, we would certainly support a resolution to review the provisions of this bill and to offer our expertise and knowledge in the area of tenant screening.

Thank you for your consideration and for the opportunity to submit this testimony.