
A BILL FOR AN ACT

RELATING TO THE DISCLOSURE OF ENERGY CONSUMPTION TO RENTERS AND LESSEES.

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

1 SECTION 1. The legislature finds that attaining
2 independence from our detrimental reliance on fossil fuels has
3 been a long-standing objective for the State. Accelerating the
4 use and development of energy efficiency in homes and businesses
5 is consistent with that objective and with the mandates of the
6 Hawaii clean energy initiative. The legislature finds that one
7 method of accelerating the use and development of energy
8 efficiency is to make energy consumption more transparent to
9 energy consumers.

10 In 2009, the legislature enacted section 508D-10.5, Hawaii
11 Revised Statutes, requiring the disclosure of energy costs
12 during real property transactions.

13 The title of section 508D-10.5, Hawaii Revised Statutes, is
14 "Energy-efficiency consumer information in sale or lease of real
15 property". Although its title references the "lease" of real
16 property, the content of section 508D-10.5, Hawaii Revised
17 Statutes, applies only to the "sale" of real property.



1 The purpose of this Act is to promote energy efficiency and
2 transparency by requiring the disclosure of energy costs prior
3 to renting or leasing residential or commercial property.

4 SECTION 2. Chapter 666, Hawaii Revised Statutes, is
5 amended by adding a new part to be appropriately designated and
6 to read as follows:

7 "PART . ENERGY CONSUMPTION DISCLOSURE

8 **§666-A Energy consumption consumer information in rental**
9 **or lease of commercial real property.** (a) A landlord, or any
10 person authorized to enter into a rental agreement on the
11 landlord's behalf, shall make a good faith declaration to a
12 prospective commercial tenant, in writing, at or before
13 execution of the rental agreement, of monthly energy costs,
14 including electricity costs and gas costs, as applicable for the
15 premise.

16 (b) In the event of an oral rental agreement, this
17 disclosure shall be made at or before commencement of the
18 tenancy.

19 (c) This disclosure requirement shall apply irrespective
20 of whether energy costs are passed on to the tenant, or paid by
21 the landlord.



1 (d) This disclosure of monthly energy costs shall be based
2 on the most recent three-month period in which the premises were
3 occupied prior to the date of the disclosure, and shall be based
4 on amounts determined from actual energy bills. However, in the
5 event that applicable energy costs are not billed monthly, this
6 disclosure may be based on average monthly energy costs
7 determined from annual energy costs for the most recent year in
8 which the premises were generally occupied prior to the
9 disclosure.

10 (e) In the event that the electricity or gas account is
11 not held in the name of the landlord or the landlord's agent,
12 this disclosure of monthly energy costs may be based on
13 information obtained from the electric or gas utility under
14 subsection (f).

15 (f) A gas or electric public utility shall provide, upon
16 the request of a person who states in writing that the person is
17 a landlord or agent of a landlord of a property which is or has
18 been receiving electric or gas service from the public utility,
19 the monthly electricity or gas cost over a three-month period
20 designated by the landlord or agent of the landlord. Upon
21 receipt of such a request, the gas or electric public utility



1 shall provide the requested information to the landlord or
2 landlord's agent within ten business days.

3 (g) If a landlord does not provide the energy efficiency
4 disclosures required under this section, the tenant may
5 terminate the rental agreement."

6 SECTION 3. Section 521-43, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§521-43 Rental agreement, disclosure.** (a) A landlord or
9 any person authorized to enter into a rental agreement on the
10 landlord's behalf shall disclose to the tenant in writing at or
11 before the commencement of the tenancy the name and address of:

12 (1) Each person authorized to manage the premises; and

13 (2) Each person who is an owner of the premises or who is
14 authorized to act for or on behalf of the owner for
15 the purpose of service of process and receiving and
16 receipting for rents, notices, and demands.

17 The information required to be furnished shall be kept
18 current and shall be enforceable against any successor landlord,
19 owner, or manager.

20 (b) A person who fails to comply with subsection (a)
21 becomes an agent of each person who is a landlord for:



1 (1) Service of process and receiving and receipting for
2 rents, notices, and demands; and

3 (2) Performing the obligations of the landlord under this
4 chapter and under the rental agreement and expending
5 or making available for the purpose all rent collected
6 from the premises.

7 (c) Any owner or landlord not dealing directly with the
8 tenant shall be responsible for compliance with this section by
9 an owner or landlord dealing directly with the tenant and shall
10 be stopped from any objection to a failure to serve process upon
11 an owner or landlord in any proceeding arising under this
12 chapter when such failure is due to failure to comply with this
13 section. The owner or landlord who deals directly with the
14 tenant and fails to comply with this section shall be deemed an
15 agent of every other landlord under the rental agreement for
16 performing the obligations of the landlord under this chapter
17 and under the rental agreement.

18 (d) In the case of a written rental agreement, the
19 landlord shall furnish a copy of the lease or rental agreement
20 to the tenant.

21 (e) The landlord shall furnish to the tenant a written
22 receipt for rents paid at the time of payment. Canceled checks



1 shall also constitute and fulfill the requirement of a written
2 receipt. If rent is paid by check, the landlord shall furnish a
3 receipt therefor, provided a receipt is requested by the tenant.

4 (f) Any owner or landlord who resides without the State or
5 on another island from where the rental unit is located shall
6 designate on the written rental agreement an agent residing on
7 the same island where the unit is located to act in the owner's
8 or landlord's behalf. In the case of an oral rental agreement,
9 the information shall be supplied to the tenant, on demand, in a
10 written statement.

11 (g) Subsections (a) and (b) to the contrary
12 notwithstanding, the information required to be disclosed to a
13 tenant, instead of being disclosed in the manner described in
14 subsections (a) and (b), may be disclosed as follows:

15 (1) In each multi-unit single-owner dwelling structure
16 containing an elevator, a printed or typewritten
17 notice containing the information required by
18 subsections (a) and (b) shall be placed and
19 continuously maintained in every elevator and in one
20 other conspicuous place;

21 (2) In each multi-unit single-owner dwelling structure not
22 containing an elevator, a printed or typewritten



1 notice containing the information required by
2 subsections (a) and (b) shall be placed and
3 continuously maintained in at least two conspicuous
4 places;

5 (3) In each multi-unit dwelling structure, a printed or
6 typewritten notice containing the information required
7 by subsections (a) and (b) shall be posted within the
8 unit in a conspicuous place.

9 (h) Landlords shall provide their general excise tax
10 number to all tenants for the purpose of filing for a low-income
11 tax credit.

12 (i) A landlord or any person authorized to enter into a
13 rental agreement on the landlord's behalf shall make a good
14 faith declaration to a prospective tenant, in writing, at or
15 before execution of the rental agreement, of monthly energy
16 costs, including electricity costs and gas costs, as applicable
17 for the premises; provided that:

18 (1) In the event of an oral rental agreement, this
19 disclosure shall be made at or before commencement of
20 the tenancy;



- 1 (2) This disclosure requirement shall apply irrespective
2 of whether energy costs are passed on to the tenant,
3 or paid by the landlord;
- 4 (3) This disclosure of monthly energy costs shall be based
5 on the most recent three-month period in which the
6 premises were occupied prior to the date of the
7 disclosure, and shall be based on amounts determined
8 from actual energy bills. However, in the event that
9 applicable energy costs are not billed monthly, this
10 disclosure may be based on average monthly energy
11 costs determined from annual energy costs for the most
12 recent year in which the premises were generally
13 occupied prior to the disclosure;
- 14 (4) In the event that the electricity or gas account is
15 not held in the name of the landlord or the landlord's
16 agent, this disclosure of monthly energy costs may be
17 based on information obtained from the electric or gas
18 utility pursuant to paragraph (6);
- 19 (5) If a landlord fails to provide the disclosure required
20 by this subsection, the remedy prescribed in section
21 521-63(d) shall apply; and



1 (6) A gas or electric public utility shall provide, upon
2 the request of a person who states in writing that the
3 person is a landlord or agent of a landlord of
4 premises which were or have been receiving electric or
5 gas service from the public utility, the monthly
6 electricity or gas cost over a three-month period
7 designated by the landlord or agent of the landlord.
8 Upon receipt of such a request, the gas or electric
9 public utility shall provide the requested information
10 to the landlord or landlord's agent within ten
11 business days."

12 SECTION 4. Section 521-63, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§521-63 Tenant's remedy of termination at any time;**
15 **unlawful removal or exclusion.** (a) If any condition within the
16 premises deprives the tenant of a substantial part of the
17 benefit and enjoyment of the tenant's bargain under the rental
18 agreement, the tenant may notify the landlord in writing of the
19 situation and, if the landlord does not remedy the situation
20 within one week, terminate the rental agreement. The notice
21 need not be given when the condition renders the dwelling unit
22 uninhabitable or poses an imminent threat to the health or



1 safety of any occupant. The tenant may not terminate for a
2 condition caused by the want of due care by the tenant, a member
3 of the tenant's family, or other person on the premises with the
4 tenant's consent.

5 (b) If the condition referred to in subsection (a) was
6 caused wilfully or negligently by the landlord, the tenant may
7 recover any damages sustained as a result of the condition.

8 (c) If the landlord removes or excludes the tenant from
9 the premises overnight without cause or without court order so
10 authorizing, the tenant may recover possession or terminate the
11 rental agreement and, in either case, recover an amount equal to
12 two months rent or free occupancy for two months, and the cost
13 of suit, including reasonable attorney's fees. If the rental
14 agreement is terminated, the landlord shall comply with section
15 521-44(c). The court may also order any injunctive or other
16 equitable relief it deems proper. If the court determines that
17 the removal or exclusion by the landlord was with cause or was
18 authorized by court order, the court may award the landlord the
19 cost of suit, including reasonable attorney's fees if the
20 attorney is not a salaried employee of the landlord or the
21 landlord's assignee.



1 (d) If a landlord does not provide the energy consumption
2 disclosure as required under section 521-43(i), the tenant may
3 terminate the rental agreement."

4 SECTION 5. New statutory material is underscored.

5 SECTION 6. This Act shall take effect upon its approval.

6

INTRODUCED BY: 

JAN 24 2013



H.B. NO. 1407

Report Title:

Energy Consumption Consumer Information; Rent; Lease;
Residential or Commercial Real Property

Description:

Requires disclosure of energy cost information to prospective tenants in rental or lease transactions.

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HB HMS 2013-1481

