
A BILL FOR AN ACT

RELATING TO THE RESIDENTIAL LANDLORD-TENANT CODE.

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

1 SECTION 1. The legislature finds that some landlords have
2 been charging prospective tenants fees for the opportunity to
3 apply for housing units. These fees are frequently not returned
4 to unsuccessful housing applicants and are a serious detriment
5 to low-income housing applicants who must also contend with the
6 costs of security deposits and higher rental rates.

7 The legislature also finds that current state law does not
8 specifically regulate the nature and amount of application fees
9 that landlords may charge prospective tenants. According to the
10 office of consumer protection, the cost of an application fee
11 often does not correlate with the actual cost of a background
12 check. The legislature further finds that, in particularly
13 egregious examples, some landlords or their agents invite
14 numerous prospective tenants to submit applications for one
15 apartment, most of which are not seriously considered. Instead
16 of engaging in a valid tenant screening process, these landlords



1 or agents abuse their bargaining position to create a
2 supplemental source of income.

3 The purpose of this Act is to establish criteria and limits
4 for the assessment of application screening fees for residential
5 rental property, while still enabling landlords to be
6 compensated for the expense associated with credit checks.

7 SECTION 2. Chapter 521, Hawaii Revised Statutes, is
8 amended by adding a new section to be appropriately designated
9 and to read as follows:

10 "§521- Application screening fee. (a) A landlord or
11 the landlord's agent may charge an applicant an application
12 screening fee to recover costs incurred by the landlord or the
13 landlord's agent in obtaining information about the applicant,
14 including but not limited to personal reference checks and
15 consumer credit reports produced by consumer credit reporting
16 agencies, as defined in section 489P-2.

17 (b) The amount of the application screening fee shall not
18 exceed the lesser of:

19 (1) The actual costs incurred by the landlord or the
20 landlord's agent in obtaining the information,
21 including but not limited to the cost of using a



1 tenant screening service or consumer credit reporting
2 service and the reasonable value of time spent by the
3 landlord or the landlord's agent in obtaining the
4 information; or

5 (2) \$25 per applicant.

6 (c) Except as agreed to in writing by the applicant, the
7 landlord or the landlord's agent may not charge an application
8 screening fee if the landlord or the landlord's agent knows or
9 should have known that no rental unit is available or will be
10 available within the landlord's inventory of rental units within
11 a reasonable time.

12 (d) The landlord or the landlord's agent shall provide to
13 the applicant a receipt for the application screening fee paid
14 by the applicant, and the receipt shall itemize the actual
15 expenses and time spent by the landlord or the landlord's agent
16 to obtain and process the information about the applicant.

17 (e) The landlord or the landlord's agent shall return to
18 the applicant any amount of the application screening fee that
19 is not used for the purposes of this section.

20 (f) Upon payment of the application screening fee and at
21 the request of the applicant, the landlord or the landlord's



1 agent shall provide a copy of any obtained consumer credit
2 report to the applicant who is the subject of the report.

3 (g) The application screening fee shall not be considered
4 a security deposit under section 521-44.

5 (h) Nothing in this section shall be construed to preempt
6 any law that governs the collection of deposits and fees under
7 federal or state housing assistance programs.

8 (i) In complying with this section, a landlord or the
9 landlord's agent shall not pass on to or collect from an
10 applicant any taxes owed under chapter 237.

11 (j) For purposes of this section:

12 "Applicant" means any person who makes a request to a
13 landlord or the landlord's agent to rent a residential housing
14 unit or who agrees to act as a guarantor or cosigner on a rental
15 agreement.

16 "Application screening fee" means any nonrefundable payment
17 of money charged by a landlord or the landlord's agent to an
18 applicant, the purpose of which is to purchase a consumer credit
19 report and to validate, review, or otherwise process an
20 application for the rent or lease of residential rental
21 property."



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1 SECTION 3. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 4. New statutory material is underscored.

5 SECTION 5. This Act shall take effect on July 1, 2019.

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INTRODUCED BY:

Anthony Huelo
Tommy

JAN 22 2019



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Report Title:

Landlord-Tenant Code; Application Screening Fees

Description:

Establishes criteria and limits for the assessment of application screening fees for residential rental property.

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