
A BILL FOR AN ACT

RELATING TO EVICTION RECORDS.

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

PART I

SECTION 1. The legislature finds that evictions are costly and disruptive for landlords and residential tenants and may also have severe and long-lasting impacts on residential tenants. Once evicted, tenants must find a new residence, pay moving expenses, suffer damage to their credit scores, and bear other costs, such as rental application fees and security deposits, and even costs borne by the landlord during the eviction process.

The legislature further finds that the simple filing of eviction proceedings against a residential tenant, even when those proceedings are meritless, can create a long-term barrier to access to housing because eviction records are created the moment a landlord files a complaint with the court. Thus, even if the court does not find for the landlord or the landlord withdraws the complaint, the eviction filing remains of record. Companies that screen residential tenants collect and sell this



1 information and the companies' data collection methods typically
2 include any person named as a defendant in an eviction
3 proceeding. Landlords screen against prospective residential
4 tenants who have had any eviction action initiated against them
5 without regard to outcome. This process disempowers residential
6 tenants who may have legitimate disputes with their landlords
7 because eviction filings can be used to pressure tenants to
8 vacate a residence.

9 The purpose of this Act is to:

- 10 (1) Require that the courts make a good faith and diligent
11 effort to seal all court records of any eviction
12 proceeding within a reasonable time if certain
13 conditions are met;
- 14 (2) Authorize the court to seal certain eviction records
15 upon motion by a tenant who is able to demonstrate
16 that certain conditions apply;
- 17 (3) Require the clerk of the court to provide access to
18 sealed eviction records to the tenant;
- 19 (4) Make it a discriminatory practice to discriminate
20 against a person based on the knowledge or belief that
21 the person has a sealed eviction record; and



(5) Prohibit discrimination in real property transactions against a person with a sealed eviction record.

PART II

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

"§666- Eviction records; sealing. (a) The court shall make a good faith and diligent effort to seal within a reasonable time all court records of any legal proceeding brought by a landlord to evict a residential tenant, whether by a summary possession proceeding or an action in the nature of an action of ejectment or otherwise if:

(1) The final resolution of an eviction proceeding does not result in a judgment for possession in favor of the landlord, including instances in which a case was dismissed for any reason; or

(2) All parties agree to the sealing of records, regardless of the final disposition of the claim.

(b) The court may seal court records of any legal proceeding brought by a landlord to evict a residential tenant, whether by a summary possession proceeding or an action in the



1 nature of an action of ejectment or otherwise, upon motion by a
2 residential tenant if the residential tenant demonstrates by a
3 preponderance of the evidence that:

4 (1) The judgment in favor of the landlord is for an amount
5 of \$500 or less;

6 (2) The residential tenant was evicted from a unit under
7 any low-income federal housing choice voucher program
8 or state low-income rent supplement program;

9 (3) The landlord brought an action for summary possession
10 in violation of federal law following an incident
11 pertaining to domestic violence, dating violence,
12 sexual assault, or stalking;

13 (4) The landlord committed a discriminatory practice under
14 chapter 515 against the residential tenant and sought
15 to recover possession of the rented premises in
16 response to the residential tenant filing a complaint
17 against unlawful discrimination with the civil rights
18 commission;

19 (5) The landlord violated section 521-39, 521-74(a), or
20 521-74.5;



(6) The parties entered into a settlement agreement that
did not result in the landlord recovering possession
of the rented premises; or

(7) The court determines that there are other grounds
justifying the requested relief.

(c) Upon written request, the clerk of the court shall provide access to a record sealed under this section to the residential tenant."

PART III

SECTION 3. Chapter 515, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§515- Sealed eviction records. It is a discriminatory practice for a person to engage in any act deemed unlawful under this chapter based on the actual knowledge or belief that a person has a sealed eviction record."

SECTION 4. Section 515-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Sealed eviction record" means an eviction record that has
been sealed pursuant to section 666- ."



SECTION 5. Section 515-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) It is a discriminatory practice for an owner or any other person engaging in a real estate transaction, or for a real estate broker or salesperson, because of race; sex, including gender identity or expression; sexual orientation; color; religion; marital status; familial status; ancestry; disability; age; [~~or~~] human immunodeficiency virus infection[~~or~~]; or sealed eviction record:

(1) To refuse to engage in a real estate transaction with a person;

(2) To discriminate against a person in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection with a real estate transaction;

(3) To refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction from a person;

(4) To refuse to negotiate for a real estate transaction with a person;



- 1 (5) To represent to a person that real property is not
2 available for inspection, sale, rental, or lease when
3 in fact it is available; fail to bring a property
4 listing to the person's attention; refuse to permit
5 the person to inspect real property; or steer a person
6 seeking to engage in a real estate transaction;
- 7 (6) To offer, solicit, accept, use, or retain a listing of
8 real property with the understanding that a person may
9 be discriminated against in a real estate transaction
10 or in the furnishing of facilities or services in
11 connection with a real estate transaction;
- 12 (7) To solicit or require as a condition of engaging in a
13 real estate transaction that the buyer, renter, or
14 lessee be tested for human immunodeficiency virus
15 infection, the causative agent of acquired
16 immunodeficiency syndrome;
- 17 (8) To refuse to permit, at the expense of a person with a
18 disability, reasonable modifications to existing
19 premises occupied or to be occupied by the person if
20 modifications may be necessary to afford the person
21 full enjoyment of the premises; provided that a real



1 estate broker or salesperson, where it is reasonable
2 to do so, may condition permission for a modification
3 on the person agreeing to restore the interior of the
4 premises to the condition that existed before the
5 modification, reasonable wear and tear excepted;

6 (9) To refuse to make reasonable accommodations in rules,
7 policies, practices, or services, when the
8 accommodations may be necessary to afford a person
9 with a disability equal opportunity to use and enjoy a
10 housing accommodation; provided that if reasonable
11 accommodations include the use of an assistance
12 animal, reasonable restrictions may be imposed;
13 provided further that if the disability is not readily
14 apparent, an owner or other person engaging in a real
15 estate transaction may request information that
16 verifies that the person has a disability, defined as
17 a physical or mental impairment that substantially
18 limits a major life activity. An owner or other
19 person engaging in a real estate transaction shall not
20 request medical records or access to health care
21 providers, and shall not inquire as to the diagnosis,



1 nature, or severity of the person's disability. If
2 the disability-related need for an assistance animal
3 is not readily apparent, an owner or other person
4 engaging in a real estate transaction may request
5 verification that the assistance animal is needed to
6 alleviate one or more symptoms of the person's
7 disability. Verification may be provided by a letter
8 or other communication from the person's treating
9 health care professional, mental health professional,
10 or social worker. Possession of a vest or other
11 distinguishing animal garment, tag, or registration
12 documents that are commonly purchased online and
13 purporting to identify an animal as a service animal
14 or assistance animal shall not constitute valid
15 verification;

16 (10) In connection with the design and construction of
17 covered multifamily housing accommodations for first
18 occupancy after March 13, 1991, to fail to design and
19 construct housing accommodations in such a manner
20 that:



1 (A) The housing accommodations have at least one
2 accessible entrance, unless it is impractical to
3 do so because of the terrain or unusual
4 characteristics of the site; and

5 (B) With respect to housing accommodations with an
6 accessible building entrance:

7 (i) The public use and common use portions of
8 the housing accommodations are accessible to
9 and usable by persons with disabilities;

10 (ii) Doors allow passage by persons in
11 wheelchairs; and

12 (iii) All premises within covered multifamily
13 housing accommodations contain an accessible
14 route into and through the housing
15 accommodations; light switches, electrical
16 outlets, thermostats, and other
17 environmental controls are in accessible
18 locations; reinforcements in the bathroom
19 walls allow installation of grab bars; and
20 kitchens and bathrooms are accessible by
21 wheelchair; or



(11) To discriminate against or deny a person access to or membership or participation in any multiple listing service, real estate broker's organization, or other service, organization, or facility involved either directly or indirectly in real estate transactions, or to discriminate against any person in the terms or conditions of access, membership, or participation."

SECTION 6. Section 515-5, Hawaii Revised Statutes, is amended to read as follows:

"§515-5 Discriminatory financial practices. It is a discriminatory practice for a person, a representative of such person, or a real estate broker or salesperson, to whom an inquiry or application is made for financial assistance in connection with a real estate transaction or for the construction, rehabilitation, repair, maintenance, or improvement of real property, because of race[~~τ~~]; sex, including gender identity or expression[~~τ~~]; sexual orientation[~~τ~~]; color[~~τ~~]; religion[~~τ~~]; marital status[~~τ~~]; familial status[~~τ~~]; ancestry[~~τ~~]; disability[~~τ~~]; age[~~τ-0#~~]; human immunodeficiency virus infection[~~÷~~]; or sealed eviction records:

(1) To discriminate against the applicant;



1 (2) To use a form of application for financial assistance
2 or to make or keep a record or inquiry in connection
3 with applications for financial assistance that
4 indicates, directly or indirectly, an intent to make a
5 limitation, specification, or discrimination unless
6 the records are required by federal law;

7 (3) To discriminate in the making or purchasing of loans
8 or the provision of other financial assistance for
9 purchasing, constructing, improving, repairing, or
10 maintaining a dwelling, or the making or purchasing of
11 loans or the provision of other financial assistance
12 secured by residential real estate; or

13 (4) To discriminate in the selling, brokering, or
14 appraising of residential real property."

15 SECTION 7. Section 515-6, Hawaii Revised Statutes, is
16 amended by amending subsections (a) and (b) to read as follows:

17 "(a) Every provision in an oral agreement or a written
18 instrument relating to real property that purports to forbid or
19 restrict the conveyance, encumbrance, occupancy, or lease
20 thereof to individuals because of race[]; sex, including gender
21 identity or expression[]; sexual orientation[]; color[];



1 religion[~~τ~~]; marital status[~~τ~~]; familial status[~~τ~~]; ancestry[~~τ~~];
2 disability[~~τ~~]; age[~~τ-0x~~]; human immunodeficiency virus
3 infection[~~τ~~]; or sealed eviction record, is void.

4 (b) Every condition, restriction, or prohibition,
5 including a right of entry or possibility of reverter, that
6 directly or indirectly limits the use or occupancy of real
7 property on the basis of race[~~τ~~]; sex, including gender identity
8 or expression[~~τ~~]; sexual orientation[~~τ~~]; color[~~τ~~]; religion[~~τ~~];
9 marital status[~~τ~~]; familial status[~~τ~~]; ancestry[~~τ~~];
10 disability[~~τ~~]; age[~~τ-0x~~]; human immunodeficiency virus
11 infection; or sealed eviction record is void, except a
12 limitation, on the basis of religion, on the use of real
13 property held by a religious institution or organization or by a
14 religious or charitable organization operated, supervised, or
15 controlled by a religious institution or organization, and used
16 for religious or charitable purposes."

17 SECTION 8. Section 515-7, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§515-7 Blockbusting.** It is a discriminatory practice for
20 a person, representative of a person, or a real estate broker or
21 salesperson, for the purpose of inducing a real estate



1 transaction from which the person, representative, or real
2 estate broker or salesperson may benefit financially, because of
3 race[~~r~~]; sex, including gender identity or expression[~~r~~]; sexual
4 orientation[~~r~~]; color[~~r~~]; religion[~~r~~]; marital status[~~r~~];
5 familial status[~~r~~]; ancestry[~~r~~]; disability[~~r~~]; age[~~r~~ or ~~r~~]; human
6 immunodeficiency virus infection[~~r~~]; or sealed eviction record:

7 (1) To represent that a change has occurred or will or may
8 occur in the composition of the owners or occupants in
9 the block, neighborhood, or area in which the real
10 property is located; or

11 (2) To represent that this change will or may result in
12 the lowering of property values, an increase in
13 criminal or antisocial behavior, or a decline in the
14 quality of schools in the block, neighborhood, or area
15 in which the real property is located."

16 SECTION 9. Section 515-16, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§515-16 Other discriminatory practices.** It is a
19 discriminatory practice for a person, or for two or more persons
20 to conspire:



- 1 (1) To retaliate, threaten, or discriminate against a
2 person because of the exercise or enjoyment of any
3 right granted or protected by this chapter, or because
4 the person has opposed a discriminatory practice, or
5 because the person has made a charge, filed a
6 complaint, testified, assisted, or participated in an
7 investigation, proceeding, or hearing under this
8 chapter;
- 9 (2) To aid, abet, incite, or coerce a person to engage in
10 a discriminatory practice;
- 11 (3) To interfere with any person in the exercise or
12 enjoyment of any right granted or protected by this
13 chapter or with the performance of a duty or the
14 exercise of a power by the commission;
- 15 (4) To obstruct or prevent a person from complying with
16 this chapter or an order issued pursuant to this
17 chapter;
- 18 (5) To intimidate or threaten any person engaging in
19 activities designed to make other persons aware of, or
20 encouraging such other persons to exercise rights
21 granted or protected by this chapter;



1 (6) To threaten, intimidate, or interfere with persons in
2 their enjoyment of a housing accommodation because of
3 the race[~~τ~~]; sex, including gender identity or
4 expression[~~τ~~]; sexual orientation[~~τ~~]; color[~~τ~~];
5 religion[~~τ~~]; marital status[~~τ~~]; familial status[~~τ~~];
6 ancestry[~~τ~~]; disability[~~τ~~]; age[~~τ-ox~~]; human
7 immunodeficiency virus infection; or sealed eviction
8 record of the persons, or of visitors or associates of
9 the persons; or

10 (7) To print, circulate, post, or mail, or cause to be
11 published a statement, advertisement, or sign, or to
12 use a form of application for a real estate
13 transaction, or to make a record or inquiry in
14 connection with a prospective real estate transaction,
15 that indicates, directly or indirectly, an intent to
16 make a limitation or specification, or to discriminate
17 because of race[~~τ~~]; sex, including gender identity or
18 expression[~~τ~~]; sexual orientation[~~τ~~]; color[~~τ~~];
19 religion[~~τ~~]; marital status[~~τ~~]; familial status[~~τ~~];
20 ancestry[~~τ~~]; disability[~~τ~~]; age[~~τ-ox~~]; human



1 immunodeficiency virus infection[-]; or sealed
2 eviction record."

3 PART IV

4 SECTION 10. If any provision of this Act, or the
5 application thereof to any person or circumstance, is held
6 invalid, the invalidity does not affect other provisions or
7 applications of the Act that can be given effect without the
8 invalid provision or application, and to this end the provisions
9 of this Act are severable.

10 SECTION 11. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 12. This Act shall take effect on July 1, 3000.



Report Title:

Eviction Records; Sealed Court Records; Landlord and Tenant;
Summary Possession; Discriminatory Practices; Real Estate
Transactions

Description:

Requires that the courts make a good faith and diligent effort to seal all court records of any eviction proceeding within a reasonable time if certain conditions are met. Authorizes the court to seal certain eviction records upon motion by a tenant who is able to demonstrate that certain conditions apply. Requires the clerk of the court to provide access to sealed eviction records to the tenant. Makes it a discriminatory practice to discriminate against a person based on the knowledge or belief that the person has a sealed eviction record. Prohibits discrimination in real property transactions against a person with a sealed eviction record. Effective 7/1/3000.
(HD2)

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