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# A BILL FOR AN ACT

RELATING TO EVICTION RECORDS.

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

1 PART I

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

10 The legislature further finds that the simple filing of  
11 eviction proceedings against a residential tenant, even when  
12 those proceedings are meritless, can create a long-term barrier  
13 to access to housing because eviction records are created the  
14 moment a landlord files a complaint with the court. Thus, even  
15 if the court does not find for the landlord or the landlord  
16 withdraws the complaint, the eviction filing remains of record.  
17 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 all court records of any eviction  
11 proceeding be sealed within specified timeframes upon  
12 resolution of the proceeding;
- 13 (2) Authorize the court to seal certain eviction records  
14 prior to the expiration of these timeframes upon  
15 motion by a tenant who is able to demonstrate that  
16 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 require a person  
20 to disclose a sealed eviction record as a condition of  
21 certain real property transactions; and



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

3 PART II

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

7 "§666- Eviction records; sealing. (a) The court shall  
8 seal all court records of any legal proceeding brought by a  
9 landlord to evict a residential tenant, whether by a summary  
10 possession proceeding or an action in the nature of an action of  
11 ejectment or otherwise:

12 (1) Immediately, if:

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

17 (B) All parties agree to the sealing of records,  
18 regardless of the final disposition of the claim;  
19 and

20 (2) Within two years of the final disposition of a  
21 landlord's claim to recover possession of the rented



1           premises from a residential tenant, if the landlord  
2           prevails and regains summary possession.

3           (b) The court may seal court records of any legal  
4           proceeding brought by a landlord to evict a residential tenant,  
5           whether by a summary possession proceeding or an action in the  
6           nature of an action of ejectment or otherwise, prior to the  
7           expiration of the times specified in subsection (a) (2) upon  
8           motion by a residential tenant if the residential tenant  
9           demonstrates by a preponderance of the evidence that:

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

12           (2) The residential tenant was evicted from a unit under  
13           any low-income federal housing choice voucher program  
14           or state low-income rental supplement program;

15           (3) The landlord brought an action for summary possession  
16           in violation of federal law following an incident  
17           pertaining to domestic violence, dating violence,  
18           sexual assault, or stalking;

19           (4) The landlord committed a discriminatory practice under  
20           chapter 515 against the residential tenant and sought  
21           to recover possession of the rented premises in





1        (b) It is a discriminatory practice for any person to  
2 require another person to disclose a sealed eviction record as a  
3 condition of:

4        (1) Entering into any transaction in real property;

5        (2) Including any clause, condition, or restriction in the  
6 terms of a transaction in real property;

7        (3) Appraising a property, agreeing to lend money,  
8 guaranteeing a loan, purchasing a loan, accepting  
9 residential real property as security for a loan,  
10 accepting a deed of trust or mortgage, or otherwise  
11 making funds available for the purchase, acquisition,  
12 construction, alteration, rehabilitation, repair, or  
13 maintenance of real property; or providing title or  
14 other insurance relating to ownership or use of any  
15 interest in real property;

16        (4) Accessing facilities, services, repairs, or  
17 improvements for a tenant or lessee; or

18        (5) Accessing, joining as a member of, or participating  
19 in, any multiple listing service, real estate brokers'  
20 organization, or other service, organization, or  
21 facility involved either directly or indirectly in



1           real estate transactions, including in terms or  
2           conditions of access, membership, or participation in  
3           any such organization, service, or facility."

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

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

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

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

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

20           (2) To discriminate against a person in the terms,  
21           conditions, or privileges of a real estate transaction



- 1 or in the furnishing of facilities or services in  
2 connection with a real estate transaction;
- 3 (3) To refuse to receive or to fail to transmit a bona  
4 fide offer to engage in a real estate transaction from  
5 a person;
- 6 (4) To refuse to negotiate for a real estate transaction  
7 with a person;
- 8 (5) To represent to a person that real property is not  
9 available for inspection, sale, rental, or lease when  
10 in fact it is available; fail to bring a property  
11 listing to the person's attention; refuse to permit  
12 the person to inspect real property; or steer a person  
13 seeking to engage in a real estate transaction;
- 14 (6) To offer, solicit, accept, use, or retain a listing of  
15 real property with the understanding that a person may  
16 be discriminated against in a real estate transaction  
17 or in the furnishing of facilities or services in  
18 connection with a real estate transaction;
- 19 (7) To solicit or require as a condition of engaging in a  
20 real estate transaction that the buyer, renter, or  
21 lessee be tested for human immunodeficiency virus





1 infection, the causative agent of acquired  
2 immunodeficiency syndrome;

3 (8) To refuse to permit, at the expense of a person with a  
4 disability, reasonable modifications to existing  
5 premises occupied or to be occupied by the person if  
6 modifications may be necessary to afford the person  
7 full enjoyment of the premises; provided that a real  
8 estate broker or salesperson, where it is reasonable  
9 to do so, may condition permission for a modification  
10 on the person agreeing to restore the interior of the  
11 premises to the condition that existed before the  
12 modification, reasonable wear and tear excepted;

13 (9) To refuse to make reasonable accommodations in rules,  
14 policies, practices, or services, when the  
15 accommodations may be necessary to afford a person  
16 with a disability equal opportunity to use and enjoy a  
17 housing accommodation; provided that if reasonable  
18 accommodations include the use of an assistance  
19 animal, reasonable restrictions may be imposed;  
20 provided further that if the disability is not readily  
21 apparent, an owner or other person engaging in a real



1 estate transaction may request information that  
2 verifies that the person has a disability, defined as  
3 a physical or mental impairment that substantially  
4 limits a major life activity. An owner or other  
5 person engaging in a real estate transaction shall not  
6 request medical records or access to health care  
7 providers, and shall not inquire as to the diagnosis,  
8 nature, or severity of the person's disability. If  
9 the disability-related need for an assistance animal  
10 is not readily apparent, an owner or other person  
11 engaging in a real estate transaction may request  
12 verification that the assistance animal is needed to  
13 alleviate one or more symptoms of the person's  
14 disability. Verification may be provided by a letter  
15 or other communication from the person's treating  
16 health care professional, mental health professional,  
17 or social worker. Possession of a vest or other  
18 distinguishing animal garment, tag, or registration  
19 documents that are commonly purchased online and  
20 purporting to identify an animal as a service animal



1 or assistance animal shall not constitute valid  
2 verification;

3 (10) In connection with the design and construction of  
4 covered multifamily housing accommodations for first  
5 occupancy after March 13, 1991, to fail to design and  
6 construct housing accommodations in such a manner  
7 that:

8 (A) The housing accommodations have at least one  
9 accessible entrance, unless it is impractical to  
10 do so because of the terrain or unusual  
11 characteristics of the site; and

12 (B) With respect to housing accommodations with an  
13 accessible building entrance:

14 (i) The public use and common use portions of  
15 the housing accommodations are accessible to  
16 and usable by persons with disabilities;

17 (ii) Doors allow passage by persons in  
18 wheelchairs; and

19 (iii) All premises within covered multifamily  
20 housing accommodations contain an accessible  
21 route into and through the housing



1 accommodations; light switches, electrical  
2 outlets, thermostats, and other  
3 environmental controls are in accessible  
4 locations; reinforcements in the bathroom  
5 walls allow installation of grab bars; and  
6 kitchens and bathrooms are accessible by  
7 wheelchair; or

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

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

17 "**§515-5 Discriminatory financial practices.** It is a  
18 discriminatory practice for a person, a representative of such  
19 person, or a real estate broker or salesperson, to whom an  
20 inquiry or application is made for financial assistance in  
21 connection with a real estate transaction or for the



1 construction, rehabilitation, repair, maintenance, or  
2 improvement of real property, because of race[~~τ~~]; sex, including  
3 gender identity or expression[~~τ~~]; sexual orientation[~~τ~~];  
4 color[~~τ~~]; religion[~~τ~~]; marital status[~~τ~~]; familial status[~~τ~~];  
5 ancestry[~~τ~~]; disability[~~τ~~]; age[~~τ-ox~~]; human immunodeficiency  
6 virus infection[+]; or sealed eviction records:

- 7 (1) To discriminate against the applicant;
- 8 (2) To use a form of application for financial assistance  
9 or to make or keep a record or inquiry in connection  
10 with applications for financial assistance that  
11 indicates, directly or indirectly, an intent to make a  
12 limitation, specification, or discrimination unless  
13 the records are required by federal law;
- 14 (3) To discriminate in the making or purchasing of loans  
15 or the provision of other financial assistance for  
16 purchasing, constructing, improving, repairing, or  
17 maintaining a dwelling, or the making or purchasing of  
18 loans or the provision of other financial assistance  
19 secured by residential real estate; or
- 20 (4) To discriminate in the selling, brokering, or  
21 appraising of residential real property."



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

3 "(a) Every provision in an oral agreement or a written  
4 instrument relating to real property that purports to forbid or  
5 restrict the conveyance, encumbrance, occupancy, or lease  
6 thereof to individuals because of race[~~τ~~]; sex, including gender  
7 identity or expression[~~τ~~]; sexual orientation[~~τ~~]; color[~~τ~~];  
8 religion[~~τ~~]; marital status[~~τ~~]; familial status[~~τ~~]; ancestry[~~τ~~];  
9 disability[~~τ~~]; age[~~τ-0#~~]; human immunodeficiency virus  
10 infection[~~τ~~]; or sealed eviction record, is void.

11 (b) Every condition, restriction, or prohibition,  
12 including a right of entry or possibility of reverter, that  
13 directly or indirectly limits the use or occupancy of real  
14 property on the basis of race[~~τ~~]; sex, including gender identity  
15 or expression[~~τ~~]; sexual orientation[~~τ~~]; color[~~τ~~]; religion[~~τ~~];  
16 marital status[~~τ~~]; familial status[~~τ~~]; ancestry[~~τ~~];  
17 disability[~~τ~~]; age[~~τ-0#~~]; human immunodeficiency virus  
18 infection; or sealed eviction record is void, except a  
19 limitation, on the basis of religion, on the use of real  
20 property held by a religious institution or organization or by a  
21 religious or charitable organization operated, supervised, or



1 controlled by a religious institution or organization, and used  
2 for religious or charitable purposes."

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

5 "**§515-7 Blockbusting.** It is a discriminatory practice for  
6 a person, representative of a person, or a real estate broker or  
7 salesperson, for the purpose of inducing a real estate  
8 transaction from which the person, representative, or real  
9 estate broker or salesperson may benefit financially, because of  
10 race[~~τ~~]; sex, including gender identity or expression[~~τ~~]; sexual  
11 orientation[~~τ~~]; color[~~τ~~]; religion[~~τ~~]; marital status[~~τ~~];  
12 familial status[~~τ~~]; ancestry[~~τ~~]; disability[~~τ~~]; age[~~τ-0x~~]; human  
13 immunodeficiency virus infection[+]; or sealed eviction record:

14 (1) To represent that a change has occurred or will or may  
15 occur in the composition of the owners or occupants in  
16 the block, neighborhood, or area in which the real  
17 property is located; or

18 (2) To represent that this change will or may result in  
19 the lowering of property values, an increase in  
20 criminal or antisocial behavior, or a decline in the



1           quality of schools in the block, neighborhood, or area  
2           in which the real property is located."

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

5           "**§515-16 Other discriminatory practices.** It is a  
6 discriminatory practice for a person, or for two or more persons  
7 to conspire:

8           (1) To retaliate, threaten, or discriminate against a  
9           person because of the exercise or enjoyment of any  
10           right granted or protected by this chapter, or because  
11           the person has opposed a discriminatory practice, or  
12           because the person has made a charge, filed a  
13           complaint, testified, assisted, or participated in an  
14           investigation, proceeding, or hearing under this  
15           chapter;

16           (2) To aid, abet, incite, or coerce a person to engage in  
17           a discriminatory practice;

18           (3) To interfere with any person in the exercise or  
19           enjoyment of any right granted or protected by this  
20           chapter or with the performance of a duty or the  
21           exercise of a power by the commission;





- 1 (4) To obstruct or prevent a person from complying with  
2 this chapter or an order issued pursuant to this  
3 chapter;
- 4 (5) To intimidate or threaten any person engaging in  
5 activities designed to make other persons aware of, or  
6 encouraging such other persons to exercise rights  
7 granted or protected by this chapter;
- 8 (6) To threaten, intimidate, or interfere with persons in  
9 their enjoyment of a housing accommodation because of  
10 the race[  ]; sex, including gender identity or  
11 expression[  ]; sexual orientation[  ]; color[  ];  
12 religion[  ]; marital status[  ]; familial status[  ];  
13 ancestry[  ]; disability[  ]; age[]; human  
14 immunodeficiency virus infection; or sealed eviction  
15 record of the persons, or of visitors or associates of  
16 the persons; or
- 17 (7) To print, circulate, post, or mail, or cause to be  
18 published a statement, advertisement, or sign, or to  
19 use a form of application for a real estate  
20 transaction, or to make a record or inquiry in  
21 connection with a prospective real estate transaction,



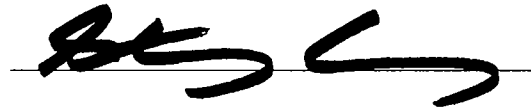
1           that indicates, directly or indirectly, an intent to  
 2           make a limitation or specification, or to discriminate  
 3           because of race[~~τ~~]; sex, including gender identity or  
 4           expression[~~τ~~]; sexual orientation[~~τ~~]; color[~~τ~~];  
 5           religion[~~τ~~]; marital status[~~τ~~]; familial status[~~τ~~];  
 6           ancestry[~~τ~~]; disability[~~τ~~]; age[~~τ~~]; human  
 7           immunodeficiency virus infection[~~τ~~]; or sealed  
 8           eviction record."

PART IV

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

12           SECTION 11. This Act shall take effect upon its approval.

INTRODUCED BY:



A handwritten signature in black ink, appearing to be 'S. J. ...', is written over a horizontal line.



# S.B. NO. 154

**Report Title:**

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

**Description:**

Requires that all court records of any eviction proceeding be sealed within specified timeframes upon resolution of the proceeding. Authorizes the court to seal certain eviction records prior to the expiration of these timeframes 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 require a person to disclose a sealed eviction record as a condition of certain real property transactions. Prohibits discrimination in real property transactions against a person with a sealed eviction record.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

