

JAN 19 2007

---

---

# A BILL FOR AN ACT

RELATING TO RENTAL APPLICATION FEES.

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

1           SECTION 1. The legislature finds that landlords have been  
2 charging prospective tenants for the opportunity to apply for  
3 housing units. These fees are frequently not returned to  
4 unsuccessful housing applicants and is a serious detriment to  
5 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 accurate information on  
8 tenant applications may make the difference between finding and  
9 not finding a rental unit, especially for tenants who are  
10 unaware of their rights under federal fair credit reporting laws  
11 that allow tenants to dispute inaccurate information.

12           The purpose of this Act is to regulate the imposition of  
13 tenant application fees by landlords and to require landlords to  
14 inform prospective tenants of their right to dispute inaccurate  
15 tenant application information.

16           SECTION 2. Chapter 521-8, Hawaii Revised Statutes, is  
17 amended by adding two new definitions to be appropriately  
18 inserted and to read as follows:

SB LRB 07-0550-1.doc



1       "Application fee" means a fee or deposit charged by a  
2 landlord to a prospective tenant to apply for a dwelling unit.  
3 The application fee includes, as provided in this chapter, a fee  
4 charged to conduct a background check or a credit check on a  
5 prospective tenant.

6       "Screening service" means a service hired by a landlord  
7 that verifies the information provided in a prospective tenant's  
8 application for a dwelling unit."

9       SECTION 3. Chapter 521, Hawaii Revised Statutes, is  
10 amended by adding a new section to be appropriately designated  
11 and to read as follows:

12       "§521-     **Application fees.** (a) A landlord shall not  
13 charge an application fee when the landlord knows or should have  
14 known that a dwelling unit is not available or will not become  
15 available within a reasonable period of time.

16       (b) A landlord shall not charge an application fee more  
17 than once to a prospective tenant within a six month period.

18       (c) An application fee may be charged by a landlord if  
19 written notice is given to a prospective tenant that includes:

20       (1) A reasonable explanation of the landlord's procedure  
21 for screening prospective tenant applicants;



1       (2) A tenant's right to dispute the accuracy of  
2           information provided by a tenant screening service or  
3           any other information provided in response to  
4           inquiries regarding a tenant's application; and

5       (3) If applicable, the name and address of the tenant  
6           screening service hired by the landlord.

7       (d) An application fee shall not exceed:

8       (1) The actual cost of hiring a tenant screening service;  
9           or

10       (2) If a landlord conducts a personal reference check on a  
11           tenant the lesser of:

12           (A) Charges for similar services in the area the  
13           dwelling unit is situated; or

14           (B) The actual costs for long distance phone calls  
15           and reasonable costs for time spent verifying  
16           information contained in a prospective tenant's  
17           application.

18       (e) Any charges made by a landlord that is in excess of  
19       the application fee charges allowed under this section shall be  
20       returned to the prospective tenant within            days; provided  
21       that if applicable, refunds may be:

22       (1) Returned to the applicant by mail;



- 1        (2) Destroyed upon the applicant's request, if payment of
- 2        the fee was made by check;
- 3        (3) Made available for the applicant to retrieve; or
- 4        (4) Used as credit to satisfy payment to the landlord, if
- 5        the applicant is selected to occupy the dwelling unit.

6        (f) Nothing in this section requires a landlord to  
 7        disclose information to a prospective tenant that was obtained  
 8        from a tenant screening service or from sources on a tenant's  
 9        application if it is not required to be disclosed under the  
 10       federal Fair Credit Reporting Act, 15 U.S.C. 1681, et. seq.

11       (g) In addition to any other penalties provided by law, a  
 12       landlord who violates this section shall be subject to damages  
 13       of three times the application fee or \$1,000, whichever is  
 14       greater, and civil court filing costs and reasonable attorney's  
 15       fees."

16       SECTION 4. New statutory material is underscored.

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

18

INTRODUCED BY: Maanoo Chun Oakland  
Randy H Baker  
Janice R. Mowye  
Jimm  
Carol Fukunaga



**Report Title:**

Landlord Tenant; Rental Application Fee

**Description:**

Regulates the imposition of rental application fees by landlords.

