

JAN 23 2014

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**A BILL FOR AN ACT**

RELATING TO CRIMINAL HISTORY RECORD CHECKS FOR REAL ESTATE  
APPRAISERS.

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

1           SECTION 1. Section 846-2.7, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:  
3           "(b) Criminal history record checks may be conducted by:  
4           (1) The department of health or the department's designee  
5                on operators of adult foster homes or developmental  
6                disabilities domiciliary homes and their employees, as  
7                provided by section 333F-22;  
8           (2) The department of health or the department's designee  
9                on prospective employees, persons seeking to serve as  
10              providers, or subcontractors in positions that place  
11              them in direct contact with clients when providing  
12              non-witnessed direct mental health services as  
13              provided by section 321-171.5;  
14           (3) The department of health or the department's designee  
15              on all applicants for licensure for, operators for,  
16              prospective employees, and volunteers at one or more  
17              of the following: skilled nursing facility,

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1 intermediate care facility, adult residential care  
2 home, expanded adult residential care home, assisted  
3 living facility, home health agency, hospice, adult  
4 day health center, special treatment facility,  
5 therapeutic living program, intermediate care facility  
6 for individuals with intellectual disabilities,  
7 hospital, rural health center and rehabilitation  
8 agency, and, in the case of any of the above  
9 facilities operating in a private residence, on any  
10 adult living in the facility other than the client as  
11 provided by section 321-15.2;

12 (4) The department of education on employees, prospective  
13 employees, and teacher trainees in any public school  
14 in positions that necessitate close proximity to  
15 children as provided by section 302A-601.5;

16 (5) The counties on employees and prospective employees  
17 who may be in positions that place them in close  
18 proximity to children in recreation or child care  
19 programs and services;

20 (6) The county liquor commissions on applicants for liquor  
21 licenses as provided by section 281-53.5;

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- 1           (7) The county liquor commissions on employees and  
2           prospective employees involved in liquor  
3           administration, law enforcement, and liquor control  
4           investigations;
- 5           (8) The department of human services on operators and  
6           employees of child caring institutions, child placing  
7           organizations, and foster boarding homes as provided  
8           by section 346-17;
- 9           (9) The department of human services on prospective  
10          adoptive parents as established under section 346-  
11          19.7;
- 12          (10) The department of human services on applicants to  
13          operate child care facilities, prospective employees  
14          of the applicant, and new employees of the provider  
15          after registration or licensure as provided by section  
16          346-154;
- 17          (11) The department of human services on persons exempt  
18          pursuant to section 346-152 to be eligible to provide  
19          child care and receive child care subsidies as  
20          provided by section 346-152.5;
- 21          (12) The department of health on operators and employees of  
22          home and community-based case management agencies and

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1 operators and other adults, except for adults in care,  
2 residing in foster family homes as provided by section  
3 321-484;

4 (13) The department of human services on staff members of  
5 the Hawaii youth correctional facility as provided by  
6 section 352-5.5;

7 (14) The department of human services on employees,  
8 prospective employees, and volunteers of contracted  
9 providers and subcontractors in positions that place  
10 them in close proximity to youth when providing  
11 services on behalf of the office or the Hawaii youth  
12 correctional facility as provided by section 352D-4.3;

13 (15) The judiciary on employees and applicants at detention  
14 and shelter facilities as provided by section 571-34;

15 (16) The department of public safety on employees and  
16 prospective employees who are directly involved with  
17 the treatment and care of persons committed to a  
18 correctional facility or who possess police powers  
19 including the power of arrest as provided by section  
20 353C-5;

- 1           (17) The board of private detectives and guards on  
2                    applicants for private detective or private guard  
3                    licensure as provided by section 463-9;
- 4           (18) Private schools and designated organizations on  
5                    employees and prospective employees who may be in  
6                    positions that necessitate close proximity to  
7                    children; provided that private schools and designated  
8                    organizations receive only indications of the states  
9                    from which the national criminal history record  
10                  information was provided pursuant to section 302C-1;
- 11          (19) The public library system on employees and prospective  
12                  employees whose positions place them in close  
13                  proximity to children as provided by section 302A-  
14                  601.5;
- 15          (20) The State or any of its branches, political  
16                  subdivisions, or agencies on applicants and employees  
17                  holding a position that has the same type of contact  
18                  with children, vulnerable adults, or persons committed  
19                  to a correctional facility as other public employees  
20                  who hold positions that are authorized by law to  
21                  require criminal history record checks as a condition  
22                  of employment as provided by section 78-2.7;

- 1           (21) The department of health on licensed adult day care  
2                   center operators, employees, new employees,  
3                   subcontracted service providers and their employees,  
4                   and adult volunteers as provided by section 321-496;
- 5           (22) The department of human services on purchase of  
6                   service contracted and subcontracted service providers  
7                   and their employees serving clients of the adult and  
8                   community care services branch, as provided by section  
9                   346-97;
- 10          (23) The department of human services on foster grandparent  
11                   program, senior companion program, and respite  
12                   companion program participants as provided by section  
13                   346-97;
- 14          (24) The department of human services on contracted and  
15                   subcontracted service providers and their current and  
16                   prospective employees that provide home and community-  
17                   based services under section 1915(c) of the Social  
18                   Security Act, Title 42 United States Code section  
19                   1396n(c), or under any other applicable section or  
20                   sections of the Social Security Act for the purposes  
21                   of providing home and community-based services, as  
22                   provided by section 346-97;

- 1           (25) The department of commerce and consumer affairs on  
2           proposed directors and executive officers of a bank,  
3           savings bank, savings and loan association, trust  
4           company, and depository financial services loan  
5           company as provided by section 412:3-201;
- 6           (26) The department of commerce and consumer affairs on  
7           proposed directors and executive officers of a  
8           nondepository financial services loan company as  
9           provided by section 412:3-301;
- 10          (27) The department of commerce and consumer affairs on the  
11          original chartering applicants and proposed executive  
12          officers of a credit union as provided by section  
13          412:10-103;
- 14          (28) The department of commerce and consumer affairs on:  
15            (A) Each principal of every non-corporate applicant  
16            for a money transmitter license; and  
17            (B) The executive officers, key shareholders, and  
18            managers in charge of a money transmitter's  
19            activities of every corporate applicant for a  
20            money transmitter license,  
21          as provided by sections 489D-9 and 489D-15;

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- 1           (29) The department of commerce and consumer affairs on  
2                    applicants for licensure and persons licensed under  
3                    title 24;
- 4           (30) The Hawaii health systems corporation on:  
5                    (A) Employees;  
6                    (B) Applicants seeking employment;  
7                    (C) Current or prospective members of the corporation  
8                    board or regional system board; or  
9                    (D) Current or prospective volunteers, providers, or  
10                    contractors,  
11                    in any of the corporation's health facilities as  
12                    provided by section 323F-5.5;
- 13          (31) The department of commerce and consumer affairs on:  
14                    (A) An applicant for a mortgage loan originator  
15                    license; and  
16                    (B) Each control person, executive officer, director,  
17                    general partner, and manager of an applicant for  
18                    a mortgage loan originator company license,  
19                    as provided by chapter 454F;
- 20          (32) The state public charter school commission or public  
21                    charter schools on employees, teacher trainees,  
22                    prospective employees, and prospective teacher

1 trainees in any public charter school for any position  
2 that places them in close proximity to children, as  
3 provided in section 302D-B;

4 (33) The counties on prospective employees who work with  
5 vulnerable adults or senior citizens in community-  
6 based programs;

7 (34) The counties on prospective employees for fire  
8 department positions which involve contact with  
9 children or dependent adults;

10 (35) The counties on prospective employees for emergency  
11 medical services positions which involve contact with  
12 children or dependent adults;

13 (36) The counties on prospective employees for emergency  
14 management positions and community volunteers whose  
15 responsibilities involve planning and executing  
16 homeland security measures including viewing,  
17 handling, and engaging in law enforcement or  
18 classified meetings and assisting vulnerable and  
19 disabled citizens during emergencies or crises; [~~and~~]

20 (37) The department of commerce and consumer affairs on  
21 applicants for real estate appraiser licensure as  
22 provided by chapter 466K; and

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1 [~~37~~](38) Any other organization, entity, or the State, its  
2 branches, political subdivisions, or agencies as may  
3 be authorized by state law."

4 SECTION 2. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 3. This Act, upon its approval, shall take effect  
7 on July 1, 2014.

8

INTRODUCED BY: 

BY REQUEST

S.B. NO. 2822

**Report Title:**

Criminal Background Checks; Real Estate Appraisers

**Description:**

Authorizes criminal background checks for real estate appraisers as required by federal law.

# SB. NO. 2822

## JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: RELATING TO CRIMINAL HISTORY RECORD CHECKS FOR REAL ESTATE APPRAISERS.

PURPOSE: The purpose of this bill is to amend the law relating to criminal history record checks to allow the Department of Commerce and Consumer Affairs ("Department") to conduct criminal background checks on real estate appraiser license applicants as required by federal law.

MEANS: Amend section 846-2.7, Hawaii Revised Statutes ("HRS").

JUSTIFICATION: Under the provisions of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Appraiser Qualifications Board ("AQB") establishes the minimum education, experience, and examination requirements for real property appraisers to obtain a state license or certification. Effective January 1, 2015, all candidates for a real property appraiser credential must undergo background screening. State appraiser regulatory agencies shall, at a minimum, obtain fingerprints of the individual and any appropriate identifying information for submission to the Federal Bureau of Investigation and/or any governmental agency or entity authorized to receive such information in connection with a state and national background check.

Impact on the public: This will ensure that candidates for a real estate appraiser license do not possess a criminal background that could call into question public trust.

Impact on the department and other agencies:  
The amendment will allow the Department to comply with federal law by conducting criminal history background checks through the Hawaii Criminal Justice Data Center of the Department of the Attorney General.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: CCA-105

OTHER AFFECTED  
AGENCIES: Hawaii Criminal Justice Data Center.

EFFECTIVE DATE: July 1, 2014.