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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 tenants and can also have  
4 severe and long-lasting impacts on tenants. Once evicted,  
5 tenants must find a new residence, pay moving expenses, suffer  
6 damage to their credit scores, and bear other costs such as  
7 rental application fees and security deposits, and even costs  
8 borne by the landlord during the eviction process.

9 The legislature further finds that the simple filing of  
10 eviction proceedings against a tenant, even when those  
11 proceedings are meritless, can create a long-term barrier to  
12 access to housing because eviction records are created the  
13 moment a landlord files a complaint with the court. Thus, even  
14 if the court does not find for the landlord or the landlord  
15 withdraws the complaint, the eviction filing remains of record.  
16 Companies that screen tenants collect and sell this information  
17 and their data collection methods typically include anyone named



1 as a defendant in an eviction proceeding. Landlords screen  
2 against prospective tenants who have had any eviction action  
3 initiated against them without regard to outcome. This process  
4 disempowers tenants who may have legitimate disputes with their  
5 landlords because eviction filings can be used to pressure  
6 tenants to vacate a residence.

7 The purpose of this Act is to:

- 8 (1) Require that all court records of any eviction  
9 proceeding be sealed within specified timeframes upon  
10 resolution of the proceeding;
- 11 (2) Authorize the court to seal certain eviction records  
12 prior to the expiration of these timeframes upon  
13 motion by a tenant who is able to demonstrate that  
14 certain conditions apply;
- 15 (3) Require the clerk of the court to provide access to  
16 sealed eviction records to the tenant;
- 17 (4) Make it a discriminatory practice to require a person  
18 to disclose a sealed eviction record as a condition of  
19 certain real property transactions; and
- 20 (5) Prohibit discrimination in real property transactions  
21 against a person with a sealed eviction record.



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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 seal all court records of any legal proceeding brought by a landlord to evict a tenant, whether by a summary possession proceeding or an action in the nature of an action of ejectment or otherwise, within:

(1) Thirty days of the final resolution of an eviction proceeding that does not result in a judgment for possession in favor of the landlord; or

(2) Three years of the resolution of a landlord's claim to recover possession of the rented premises from a tenant, 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 tenant, whether by a summary possession proceeding or an action in the nature of an action of ejectment or otherwise, prior to the expiration of the



1 times specified in subsection (a) upon motion by a tenant if the  
2 tenant demonstrates by a preponderance of the evidence that:

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

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

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

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

17 (5) The landlord violated sections 521-39, 521-74(a), or  
18 521-74.5;

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





1           residential real property as security for a loan,  
2           accepting a deed of trust or mortgage, or otherwise  
3           making funds available for the purchase, acquisition,  
4           construction, alteration, rehabilitation, repair, or  
5           maintenance of real property; or providing title or  
6           other insurance relating to ownership or use of any  
7           interest in real property;

8           (4) Accessing facilities, services, repairs, or  
9           improvements for a tenant or lessee; or

10          (5) Accessing, joining as a member of, or participating  
11          in, any multiple listing service, real estate brokers'  
12          organization, or other service, organization, or  
13          facility involved either directly or indirectly in  
14          real estate transactions, including in terms or  
15          conditions of access, membership, or participation in  
16          any such organization, service, or facility."

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

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



1 SECTION 5. Section 515-3, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§515-3 Discriminatory practices.** It is a discriminatory  
4 practice for an owner or any other person engaging in a real  
5 estate transaction, or for a real estate broker or salesperson,  
6 because of race, sex, including gender identity or expression,  
7 sexual orientation, color, religion, marital status, familial  
8 status, ancestry, disability, age, [~~or~~] human immunodeficiency  
9 virus infection[+], or sealed eviction record:

- 10 (1) To refuse to engage in a real estate transaction with  
11 a person;
- 12 (2) To discriminate against a person in the terms,  
13 conditions, or privileges of a real estate  
14 transaction, or in the furnishing of facilities or  
15 services in connection with a real estate transaction;
- 16 (3) To refuse to receive or to fail to transmit a bona  
17 fide offer to engage in a real estate transaction from  
18 a person;
- 19 (4) To refuse to negotiate for a real estate transaction  
20 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, or to fail to bring a  
4           property listing to the person's attention, or to  
5           refuse to permit the person to inspect real property,  
6           or to steer a person seeking to engage in a real  
7           estate transaction;
- 8           (6) To offer, solicit, accept, use, or retain a listing of  
9           real property with the understanding that a person may  
10          be discriminated against in a real estate transaction  
11          or in the furnishing of facilities or services in  
12          connection with a real estate transaction;
- 13        [+] (7) [+]        To solicit or require as a condition of engaging  
14          in a real estate transaction that the buyer, renter,  
15          or lessee be tested for human immunodeficiency virus  
16          infection, the causative agent of acquired  
17          immunodeficiency syndrome;
- 18        [+] (8) [+]        To refuse to permit, at the expense of a person  
19          with a disability, reasonable modifications to  
20          existing premises occupied or to be occupied by the  
21          person if modifications may be necessary to afford the



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

8 [†] (9) [†] To refuse to make reasonable accommodations in  
9 rules, policies, practices, or services, when the  
10 accommodations may be necessary to afford a person  
11 with a disability equal opportunity to use and enjoy a  
12 housing accommodation; provided that if reasonable  
13 accommodations include the use of an animal,  
14 reasonable restrictions may be imposed;

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

20 (A) The housing accommodations have at least one  
21 accessible entrance, unless it is impractical to



1 do so because of the terrain or unusual  
2 characteristics of the site; and  
3 (B) With respect to housing accommodations with an  
4 accessible building entrance:  
5 (i) The public use and common use portions of  
6 the housing accommodations are accessible to  
7 and usable by persons with disabilities;  
8 (ii) Doors allow passage by persons in  
9 wheelchairs; and  
10 (iii) All premises within covered multifamily  
11 housing accommodations contain an accessible  
12 route into and through the housing  
13 accommodations; light switches, electrical  
14 outlets, thermostats, and other  
15 environmental controls are in accessible  
16 locations; reinforcements in the bathroom  
17 walls allow installation of grab bars; and  
18 kitchens and bathrooms are accessible by  
19 wheelchair; or  
20 [+](11)[+] To discriminate against or deny a person access  
21 to, or membership or participation in any multiple



1 listing service, real estate broker's organization, or  
2 other service, organization, or facility involved  
3 either directly or indirectly in real estate  
4 transactions, or to discriminate against any person in  
5 the terms or conditions of access, membership, or  
6 participation."

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

9 "**§515-5 Discriminatory financial practices.** It is a  
10 discriminatory practice for a person, a representative of such  
11 person, or a real estate broker or salesperson, to whom an  
12 inquiry or application is made for financial assistance in  
13 connection with a real estate transaction or for the  
14 construction, rehabilitation, repair, maintenance, or  
15 improvement of real property, because of race, sex, including  
16 gender identity or expression, sexual orientation, color,  
17 religion, marital status, familial status, ancestry, disability,  
18 age, [~~e~~] human immunodeficiency virus infection[+], or sealed  
19 eviction record:

20 (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, religion,

1 marital status, familial status, ancestry, disability, age, [e]r]  
2 human immunodeficiency virus infection, or sealed eviction  
3 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, sex, including gender identity or  
8 expression, sexual orientation, color, religion, marital status,  
9 familial status, ancestry, disability, age, [e]r] human  
10 immunodeficiency virus infection, or sealed eviction record is  
11 void, except a limitation, on the basis of religion, on the use  
12 of real property held by a religious institution or organization  
13 or by a religious or charitable organization operated,  
14 supervised, or controlled by a religious institution or  
15 organization, and used for religious or charitable purposes."

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

18 "**§515-7 Blockbusting.** It is a discriminatory practice for  
19 a person, representative of a person, or a real estate broker or  
20 salesperson, for the purpose of inducing a real estate  
21 transaction from which the person, representative, or real



1 estate broker or salesperson may benefit financially, because of  
2 race, sex, including gender identity or expression, sexual  
3 orientation, color, religion, marital status, familial status,  
4 ancestry, disability, age, [~~or~~] human immunodeficiency virus  
5 infection[+], or sealed eviction record:

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

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

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

17 "**§515-16 Other discriminatory practices.** It is a  
18 discriminatory practice for a person, or for two or more persons  
19 to conspire:

20 (1) To retaliate, threaten, or discriminate against a  
21 person because of the exercise or enjoyment of any



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



1 the race, sex, including gender identity or  
2 expression, sexual orientation, color, religion,  
3 marital status, familial status, ancestry, disability,  
4 age, [~~or~~] human immunodeficiency virus infection, or  
5 sealed eviction record of the persons, or of visitors  
6 or associates of the persons; or

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

19 PART IV

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



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

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INTRODUCED BY:

*Amy Panso*

JAN 21 2022



# H.B. NO. 1862

**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.*

