

JAN 26 2022

S.B. NO. 3107

A BILL FOR AN ACT

RELATING TO THE RESIDENTIAL LANDLORD-TENANT CODE.

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

SECTION 1. The legislature finds that low-income individuals experience difficulty in finding affordable rental housing in Hawaii. According to the National Low Income Housing Coalition, an estimated twenty-two per cent of renter households in Hawaii are extremely low-income, with incomes at or below the poverty guideline or thirty per cent of the area median income. Hawaii continues to have the second highest per capita rate of homelessness in the United States, with 45.6 out of every 10,000 people experiencing homelessness.

There are numerous barriers to accessing affordable housing for low-income households and people experiencing homelessness. One example of a barrier to accessing affordable housing is application screening fees, which are intended to cover the cost of tenant screening conducted when applying for a residential rental unit. This barrier is particularly difficult for low-income or homeless households.

The legislature further finds that the cost of application screening fees varies widely and may exceed the actual cost of the screening. Many potential tenants are unable to afford the

S.B. NO. 3107

1 cost of multiple application screening fees required to
2 successfully secure a rental unit. Hawaii's residential
3 landlord-tenant code does not currently regulate how these fees
4 are determined or applied.

5 The federal government recently allocated significant
6 resources, including nearly 700 emergency housing vouchers, to
7 assist Hawaii households to secure stable, long-term housing
8 following the COVID-19 pandemic. The unregulated use of
9 application screening fees creates barriers to stable housing
10 for low-income and homeless households and jeopardizes the
11 federal resources by reducing the number of households that
12 apply for housing with a subsidized housing voucher.

13 The purposes of this Act are to regulate the charging of
14 application screening fees to process an application to rent
15 residential property and to require landlords to refund any
16 unused amount of the application screening fee.

17 SECTION 2. Chapter 521, Hawaii Revised Statutes, is
18 amended by adding a new section to part I be appropriately
19 designated and to read as follows:

20 "§521- Application screening fee. (a) When a landlord
21 or the landlord's agent receives an application to rent
22 residential property from an applicant, the landlord or the
23 landlord's agent may charge the applicant an application

S.B. NO. 3107

1 screening fee to cover the costs of obtaining information about
2 the applicant. The application screening fee may be used to
3 obtain personal reference checks, tenant reports, and credit
4 reports produced by any consumer credit reporting agency.

5 (b) The amount of the application screening fee shall not
6 exceed \$25. A landlord or the landlord's agent may charge only
7 one application screening fee per application and shall not
8 charge an application screening fee for each member of a
9 household.

10 (c) Upon written request by the applicant, the landlord or
11 the landlord's agent shall provide to the applicant a receipt
12 for payment of the application screening fee and a copy of any
13 report obtained by the landlord or the landlord's agent that was
14 paid for with the application screening fee within ten days of
15 obtaining the report.

16 (d) The landlord or the landlord's agent shall return to
17 the applicant any amount of the application screening fee that
18 is not used for the purposes authorized by this section.

19 (e) For the purposes of this section:

20 "Consumer credit reporting agency" has the same meaning as
21 in section 489P-2.

22 "Credit report" has the same meaning as in section 489P-2."

S.B. NO. 3107

1 SECTION 3. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

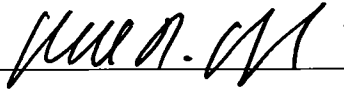
4 SECTION 4. New statutory material is underscored.

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

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INTRODUCED BY:

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8

BY REQUEST

S.B. NO. 3107

Report Title:

Residential Landlord-Tenant Code; Application Screening Fee;
Tenant Report; Credit Report

Description:

Allows a landlord, when processing an application to rent residential property, to charge an application screening fee up to a maximum of \$25 for the cost of requesting a tenant report or credit report for a potential tenant. Requires landlords to refund any unused amount of the application screening fee and, upon request, provide a receipt of the fee and a copy of any report obtained via the screening process to the applicant.

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

JUSTIFICATION SHEET

DEPARTMENT: Department of Human Services

TITLE: A BILL FOR AN ACT RELATING TO THE
RESIDENTIAL LANDLORD-TENANT CODE.

PURPOSE: To regulate the charging of fees to process
an application to rent residential property
and the use of the fees, and to require the
refund of any unused amount of the
application screening fee.

MEANS: Adds a new section to part I of chapter 521,
Hawaii Revised Statutes.

JUSTIFICATION: The Residential Landlord-Tenant Code,
chapter 521, Hawaii Revised Statutes, does
not regulate the charging of application
fees for residential rental units.
Landlords may charge application screening
fees regardless of whether a background or
credit check is conducted for a potential
tenant. In addition, application screening
fees range in cost and there is no cap on
the amount of fees that may be charged. The
COVID-19 pandemic and economic crisis have
impacted residents' ability to afford basic
needs, adding additional pressures on low-
income households who may have been
displaced and are in search of rental
housing.

This proposal will benefit potential
renters, including low-income households and
those experiencing homelessness, by
regulating the charging of application
screening fees and ensuring that screening
fees are refunded if no background or credit
check is conducted.

Impact on the public: The regulation of
application screening fees will help remove
barriers in securing affordable rental
housing for potential renters, including

low-income households and households
transitioning from homelessness.

Impact on the department and other agencies:
The Office of Consumer Protection,
Department of Commerce and Consumer Affairs,
may receive inquiries from the public about
this new regulation of application screening
fees.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: Department of Commerce and Consumer Affairs,
Office of Consumer Protection.

EFFECTIVE DATE: Upon approval.