
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 on the
17 record. Companies that screen residential tenants collect and



1 sell this information and the companies' data collection methods
2 typically 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 the courts to disassociate, within a
11 reasonable time, a residential tenant from a legal
12 proceeding brought by a landlord to evict a tenant, if
13 certain conditions are met;
- 14 (2) Authorize the court to disassociate a residential
15 tenant from a legal proceeding brought by a landlord
16 to evict a tenant upon motion by a tenant who is able
17 to demonstrate that certain conditions apply;
- 18 (3) Make it a discriminatory practice to discriminate
19 against a person based on the knowledge or belief that
20 the person has been the subject of an eviction action
21 that was disassociated; and



1 (4) Prohibit discrimination in real property transactions
2 against a person that has been the subject of an
3 eviction action that was disassociated.

4 PART II

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

8 "§666- Eviction records; disassociation. (a) Within a
9 reasonable time, the court shall disassociate a residential
10 tenant from a legal proceeding brought by a landlord to evict
11 the tenant, if:

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

16 (2) All parties agree to the disassociation, regardless of
17 the final disposition of the claim.

18 (b) The court may disassociate a residential tenant from a
19 legal proceeding brought by a landlord to evict the tenant, upon
20 motion by the tenant if the tenant demonstrates by a
21 preponderance of the evidence that:



- 1 (1) The judgment in favor of the landlord is for an amount
2 of \$500 or less;
- 3 (2) The residential tenant was evicted from a unit under
4 any low-income federal housing choice voucher program
5 or state low-income rent supplement program;
- 6 (3) The landlord brought an action for summary possession
7 in violation of federal law following an incident
8 pertaining to domestic violence, dating violence,
9 sexual assault, or stalking;
- 10 (4) The landlord committed a discriminatory practice under
11 chapter 515 against the residential tenant and sought
12 to recover possession of the rented premises in
13 response to the residential tenant filing a complaint
14 against unlawful discrimination with the civil rights
15 commission;
- 16 (5) The landlord violated section 521-39, 521-74(a), or
17 521-74.5;
- 18 (6) The parties entered into a settlement agreement that
19 did not result in the landlord recovering possession
20 of the rented premises; or



1 orientation; color; religion; marital status; familial status;
2 ancestry; disability; age; [~~or~~] human immunodeficiency virus
3 infection[+]; or status as a residential tenant in an eviction
4 action identified in section 666- to:

- 5 (1) [~~To refuse~~] Refuse to engage in a real estate
6 transaction with a person;
- 7 (2) [~~To discriminate~~] Discriminate against a person in the
8 terms, conditions, or privileges of a real estate
9 transaction or in the furnishing of facilities or
10 services in connection with a real estate transaction;
- 11 (3) [~~To refuse~~] Refuse to receive or [~~to~~] fail to transmit
12 a bona fide offer to engage in a real estate
13 transaction from a person;
- 14 (4) [~~To refuse~~] Refuse to negotiate for a real estate
15 transaction with a person;
- 16 (5) [~~To represent~~] Represent to a person that real
17 property is not available for inspection, sale,
18 rental, or lease when in fact it is available; fail to
19 bring a property listing to the person's attention;
20 refuse to permit the person to inspect real property;

1 or steer a person seeking to engage in a real estate
2 transaction;

3 (6) [~~To offer,~~] Offer, solicit, accept, use, or retain a
4 listing of real property with the understanding that a
5 person may be discriminated against in a real estate
6 transaction or in the furnishing of facilities or
7 services in connection with a real estate transaction;

8 (7) [~~To solicit~~] Solicit or require as a condition of
9 engaging in a real estate transaction that the buyer,
10 renter, or lessee be tested for human immunodeficiency
11 virus infection, the causative agent of acquired
12 immunodeficiency syndrome;

13 (8) [~~To refuse~~] Refuse to permit, at the expense of a
14 person with a disability, reasonable modifications to
15 existing premises occupied or to be occupied by the
16 person if modifications may be necessary to afford the
17 person full enjoyment of the premises; provided that a
18 real estate broker or salesperson, where it is
19 reasonable to do so, may condition permission for a
20 modification on the person agreeing to restore the
21 interior of the premises to the condition that existed



1 before the modification, reasonable wear and tear
2 excepted;

3 (9) [~~To refuse~~] Refuse to make reasonable accommodations
4 in rules, policies, practices, or services, when the
5 accommodations may be necessary to afford a person
6 with a disability equal opportunity to use and enjoy a
7 housing accommodation; provided that if reasonable
8 accommodations include the use of an assistance
9 animal, reasonable restrictions may be imposed;
10 provided further that if the disability is not readily
11 apparent, an owner or other person engaging in a real
12 estate transaction may request information that
13 verifies that the person has a disability, defined as
14 a physical or mental impairment that substantially
15 limits a major life activity. An owner or other
16 person engaging in a real estate transaction shall not
17 request medical records or access to health care
18 providers, and shall not inquire as to the diagnosis,
19 nature, or severity of the [~~person's~~] person's
20 disability. If the disability-related need for an
21 assistance animal is not readily apparent, an owner or



1 other person engaging in a real estate transaction may
2 request verification that the assistance animal is
3 needed to alleviate one or more symptoms of the
4 person's disability. Verification may be provided by
5 a letter or other communication from the person's
6 treating health care professional, mental health
7 professional, or social worker. Possession of a vest
8 or other distinguishing animal garment, tag, or
9 registration documents that are commonly purchased
10 online and purporting to identify an animal as a
11 service animal or assistance animal shall not
12 constitute valid verification;

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

18 (A) The housing accommodations have at least one
19 accessible entrance, unless it is impractical to
20 do so because of the terrain or unusual
21 characteristics of the site; and



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



1 facility involved either directly or indirectly in
2 real estate transactions, or ~~to~~ discriminate against
3 any person in the terms or conditions of access,
4 membership, or participation."

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

7 "**§515-5 Discriminatory financial practices.** It ~~is~~ shall
8 be a discriminatory practice for a person, a representative of
9 ~~such~~ a person, or a real estate broker or salesperson, to whom
10 an inquiry or application is made for financial assistance in
11 connection with a real estate transaction or for the
12 construction, rehabilitation, repair, maintenance, or
13 improvement of real property, because of race~~;~~; sex, including
14 gender identity or expression~~;~~; sexual orientation~~;~~;
15 color~~;~~; religion~~;~~; marital status~~;~~; familial status~~;~~;
16 ancestry~~;~~; disability~~;~~; age~~;~~; human immunodeficiency
17 virus infection~~;~~; or status as a residential tenant in an
18 eviction action identified in section 666- to:

- 19 (1) ~~To discriminate~~ Discriminate against the applicant;
- 20 (2) ~~To use~~ Use a form of application for financial
21 assistance or ~~to~~ make or keep a record or inquiry in



1 connection with applications for financial assistance
2 that indicates, directly or indirectly, an intent to
3 make a limitation, specification, or discrimination
4 unless the records are required by federal law;

5 (3) [~~To discriminate~~] Discriminate in the making or
6 purchasing of loans or the provision of other
7 financial assistance for purchasing, constructing,
8 improving, repairing, or maintaining a dwelling, or
9 the making or purchasing of loans or the provision of
10 other financial assistance secured by residential real
11 estate; or

12 (4) [~~To discriminate~~] Discriminate in the selling,
13 brokering, or appraising of residential real
14 property."

15 SECTION 6. 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[~~r~~]; sex, including gender
21 identity or expression[~~r~~]; sexual orientation[~~r~~]; color[~~r~~];



1 religion[~~τ~~]; marital status[~~τ~~]; familial status[~~τ~~]; ancestry[~~τ~~];
2 disability[~~τ~~]; age[~~τ-0x~~]; human immunodeficiency virus
3 infection[~~τ-is~~]; or status as a residential tenant in an
4 eviction action identified in section 666- , shall be void.

5 (b) Every condition, restriction, or prohibition,
6 including a right of entry or possibility of reverter, that
7 directly or indirectly limits the use or occupancy of real
8 property on the basis of race[~~τ~~]; sex, including gender identity
9 or expression[~~τ~~]; sexual orientation[~~τ~~]; color[~~τ~~]; religion[~~τ~~];
10 marital status[~~τ~~]; familial status[~~τ~~]; ancestry[~~τ~~];
11 disability[~~τ~~]; age[~~τ-0x~~]; human immunodeficiency virus infection
12 [~~is~~]; or status as a residential tenant in an eviction action
13 identified in section 666- shall be void, except a
14 limitation, on the basis of religion, on the use of real
15 property held by a religious institution or organization or by a
16 religious or charitable organization operated, supervised, or
17 controlled by a religious institution or organization, and used
18 for religious or charitable purposes."

19 SECTION 7. Section 515-7, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "**§515-7 Blockbusting.** It [~~is~~] shall be a discriminatory
2 practice for a person, representative of a person, or a real
3 estate broker or salesperson, for the purpose of inducing a real
4 estate transaction from which the person, representative, or
5 real estate broker or salesperson may benefit financially,
6 because of race[~~τ~~]; sex, including gender identity or
7 expression[~~τ~~]; sexual orientation[~~τ~~]; color[~~τ~~]; religion[~~τ~~];
8 marital status[~~τ~~]; familial status[~~τ~~]; ancestry[~~τ~~];
9 disability[~~τ~~]; age[~~τ~~]; human immunodeficiency virus
10 infection[~~+~~]; or status as a residential tenant in an eviction
11 action identified in section 666- to represent that:

- 12 (1) [~~To represent that a~~] A change has occurred or will or
13 may occur in the composition of the owners or
14 occupants in the block, neighborhood, or area in which
15 the real property is located; or
16 (2) [~~To represent that this~~] This change will or may
17 result in the lowering of property values, an increase
18 in criminal or antisocial behavior, or a decline in
19 the quality of schools in the block, neighborhood, or
20 area in which the real property is located."



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

3 "**§515-16 Other discriminatory practices.** It [~~is~~] shall be
4 a discriminatory practice for a person, or for two or more
5 persons, to conspire[+] to:

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

14 (2) [~~To aid,~~] Aid, abet, incite, or coerce a person to
15 engage in a discriminatory practice;

16 (3) [~~To interfere~~] Interfere with any person in the
17 exercise or enjoyment of any right granted or
18 protected by this chapter or with the performance of a
19 duty or the exercise of a power by the commission;



- 1 (4) ~~[To obstruct]~~ Obstruct or prevent a person from
2 complying with this chapter or an order issued
3 pursuant to this chapter;
- 4 (5) ~~[To intimidate]~~ Intimidate or threaten any person
5 engaging in activities designed to make other persons
6 aware of, or encouraging such other persons to
7 exercise, rights granted or protected by this chapter;
- 8 (6) ~~[To threaten]~~ Threaten, intimidate, or interfere with
9 persons in their enjoyment of a housing accommodation
10 because of the race~~[]~~i; sex, including gender identity
11 or expression~~[]~~i; sexual orientation~~[]~~i; color~~[]~~i;
12 religion~~[]~~i; marital status~~[]~~i; familial status~~[]~~i;
13 ancestry~~[]~~i; disability~~[]~~i; age~~[]~~i; human
14 immunodeficiency virus infection; or status as a
15 residential tenant in an eviction action identified in
16 section 666- of the persons, or of visitors or
17 associates of the persons; or
- 18 (7) ~~[To print]~~ Print, circulate, post, or mail, or cause
19 to be published a statement, advertisement, or sign,
20 or to use a form of application for a real estate
21 transaction, or to make a record or inquiry in



1 connection with a prospective real estate transaction,
2 that indicates, directly or indirectly, an intent to
3 make a limitation or specification, or to discriminate
4 because of race[~~τ~~]; sex, including gender identity or
5 expression[~~τ~~]; sexual orientation[~~τ~~]; color[~~τ~~];
6 religion[~~τ~~]; marital status[~~τ~~]; familial status[~~τ~~];
7 ancestry[~~τ~~]; disability[~~τ~~]; age[~~τ~~]; human
8 immunodeficiency virus infection[~~τ~~]; or status as a
9 residential tenant in an eviction action identified in
10 section 666- ."

PART IV

12 SECTION 9. If any provision of this Act, or the
13 application thereof to any person or circumstance, is held
14 invalid, the invalidity does not affect other provisions or
15 applications of the Act that can be given effect without the
16 invalid provision or application, and to this end the provisions
17 of this Act are severable.

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

20 SECTION 11. This Act shall take effect on July 1, 3000.



Report Title:

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

Description:

Requires the courts to disassociate, within a reasonable time, a residential tenant from a legal proceeding brought by a landlord to evict a tenant if certain conditions are met. Authorizes the court to disassociate a residential tenant from a legal proceeding upon motion by a tenant who is able to demonstrate that certain conditions apply. Makes it a discriminatory practice to discriminate against a person based on the knowledge or belief that the person has been the subject of an action that has been disassociated. Prohibits discrimination in real property transactions against a person that has been the subject of an action that has been disassociated. Effective 7/1/3000.
(HD3)

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

