

STAND. COM. REP. NO.

1071

Honolulu, Hawaii

FEB 28, 2025

RE: H.B. No. 463
H.D. 3

Honorable Nadine K. Nakamura
Speaker, House of Representatives
Thirty-Third State Legislature
Regular Session of 2025
State of Hawaii

Madame:

Your Committee on Judiciary & Hawaiian Affairs, to which was referred H.B. No. 463, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO EVICTION RECORDS,"

begs leave to report as follows:

The purpose of this measure is to:

- (1) Require that the courts make a good faith and diligent effort to seal all court records of any eviction proceeding within a reasonable time if certain conditions are met;
- (2) Authorize the court to seal certain eviction records upon motion by a tenant who is able to demonstrate that certain conditions apply;
- (3) Require the clerk of the court to provide access to sealed eviction records to the tenant;
- (4) Make it a discriminatory practice to discriminate against a person based on the knowledge or belief that the person has a sealed eviction records; and
- (5) Prohibit discrimination in real property transactions against a person with a sealed eviction record.

2025-2008 HB463 HD3 HSCR HMSO



Your Committee received testimony in support of this measure from the Medical-Legal Partnership for Children in Hawai'i; Hawai'i Appleseed Center for Law & Economic Justice; Lahaina Strong; and four individuals. Your Committee received testimony in opposition to this measure from the Public First Law Center and one individual. Your Committee received comments on this measure from the Department of the Attorney General; Judiciary; and Hawai'i Association of REALTORS.

Your Committee finds that eviction records, even when cases are dismissed or resolved in favor of tenants, can create significant obstacles to securing future housing, as once an eviction case is filed, it remains on record and is often used by landlords and screening companies to deny rental applications. This measure seeks to reduce the long-term effects of eviction filings, ensuring fair access to housing and preventing unjust barriers to securing rental opportunities.

However, your Committee finds that this measure may face legal challenge under the First Amendment of the United States Constitution. Courts have held that the public has a right to inspect certain court records under the First Amendment. Consequently, the provisions of this measure that require the Judiciary to impose a blanket sealing of all court records relating to eviction proceedings may interfere with a presumptive public right of access in violation of the First Amendment.

Accordingly, your Committee has amended this measure by:

- (1) Changing the mechanism from the sealing of records to the disassociation of the tenant in the Judiciary's publicly accessible electronic databases to ensure that a legal proceeding cannot be accessed online by the tenant's name;
- (2) Deleting language requiring the clerk of the court to provide access to a sealed record;
- (3) Amending the language prohibiting discriminatory practices to be based on the person's status of being the subject of an eviction action that was disassociated, rather than it being based on having a sealed eviction record, with conforming amendments to



effectuate that intent, including deleting the definition of "sealed eviction record"; and

- (4) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary & Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 463, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 463, H.D. 3.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary &
Hawaiian Affairs,



DAVID A. TARNAS, Chair



