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 some landlords have been charging prospective tenants fees for the opportunity to apply for housing units. These fees are frequently not returned to unsuccessful housing applicants and are a serious detriment to low-income housing applicants who must also contend with the costs of security deposits and higher rental rates.

The legislature also finds that current state law does not specifically regulate the nature and amount of application fees that landlords may charge prospective tenants. According to the office of consumer protection, the cost of an application fee often does not correlate with the actual cost of a background check. The legislature further finds that, in particularly egregious examples, some landlords or their agents invite numerous prospective tenants to submit applications for one apartment, most of which are not seriously considered. Instead of engaging in a valid tenant screening process, these landlords
or agents abuse their bargaining position to create a supplemental source of income.

The purpose of this Act is to establish criteria and limits for the assessment of application screening fees for residential rental property, while still enabling landlords to be compensated for the expense associated with credit checks.

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

"§521- Application screening fee. (a) A landlord or the landlord's agent may charge an applicant an application screening fee to recover costs incurred by the landlord or the landlord's agent in obtaining information about the applicant, including but not limited to personal reference checks and consumer credit reports produced by consumer credit reporting agencies, as defined in section 489P-2.

(b) The amount of the application screening fee shall not exceed the lesser of:

(1) The actual costs incurred by the landlord or the landlord's agent in obtaining the information, including but not limited to the cost of using a
tenant screening service or consumer credit reporting
service and the reasonable value of time spent by the
landlord or the landlord's agent in obtaining the
information; or
(2) $25 per applicant.
(c) Except as agreed to in writing by the applicant, the
landlord or the landlord's agent may not charge an application
screening fee if the landlord or the landlord's agent knows or
should have known that no rental unit is available or will be
available within the landlord's inventory of rental units within
a reasonable time.
(d) The landlord or the landlord's agent shall provide to
the applicant a receipt for the application screening fee paid
by the applicant, and the receipt shall itemize the actual
time spent by the landlord or the landlord's agent
to obtain and process the information about the applicant.
(e) The landlord or the landlord's agent shall return to
the applicant any amount of the application screening fee that
is not used for the purposes of this section.
(f) Upon payment of the application screening fee and at
the request of the applicant, the landlord or the landlord's
agent shall provide a copy of any obtained consumer credit
report to the applicant who is the subject of the report.

(g) The application screening fee shall not be considered
a security deposit under section 521-44.

(h) Nothing in this section shall be construed to preempt
any law that governs the collection of deposits and fees under
federal or state housing assistance programs.

(i) In complying with this section, a landlord or the
landlord's agent shall not pass on to or collect from an
applicant any taxes owed under chapter 237.

(j) For purposes of this section:
"Applicant" means any person who makes a request to a
landlord or the landlord's agent to rent a residential housing
unit or who agrees to act as a guarantor or cosigner on a rental
agreement.

"Application screening fee" means any nonrefundable payment
of money charged by a landlord or the landlord's agent to an
applicant, the purpose of which is to purchase a consumer credit
report and to validate, review, or otherwise process an
application for the rent or lease of residential rental
property."
SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2019.

INTRODUCED BY: [Signature]

JAN 22 2019
Report Title:
Landlord-Tenant Code; Application Screening Fees

Description:
Establishes criteria and limits for the assessment of application screening fees for residential rental property.

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