

OVERVIEW

THE AUDITOR
STATE OF HAWAII

Sunrise Analysis of Rental Referral Agents

Summary

Four rental referral agencies operate in Hawaii's tight rental market. For an advance fee of \$40 to \$60, they provide customers with general lists of rental units or special lists screened to match a renter's needs. These companies obtain listings from landlords, realtors, and property owners who pay no fee for having their rentals listed.

The 1990 Legislature asked the auditor to determine whether regulation of rental agents was needed to protect the health, safety, and welfare of consumers. The resolution requesting this "sunrise" study expressed concern that the State lacked regulatory authority to respond to complaints made by landlords and prospective renters.

We found that the harm posed by rental referral agents was not sufficient to justify establishing a new regulatory program. The potential harm to consumers is loss of the advance fee. But complaints to the Office of Consumer Protection and the Better Business Bureau were few in number--together about one per month between January 1987 and July 1990--and usually resulted in a full or partial refund. We also found no reason to regulate rental referral agents under the real estate statutes because their activities differ from those of real estate brokers and salespersons.

Recommendations

Rental referral agents should not be regulated under the Sunset Law or the real estate statutes. Harmful business activities by these agents are covered under existing statutes on unfair and deceptive trade practices, which are enforced by the Office of Consumer Protection.

Background

Only 9 states and the District of Columbia have established separate regulatory programs for rental referral agencies. Another 15 require them to have real estate licenses; however, court decisions in two states have ruled these laws unconstitutional.

Hawaii used to be among those states regulating rental referral agencies. Prompted by complaints, the Legislature enacted regulation in 1969.

The Department of Regulatory Agencies, now the Department of Commerce and Consumer Affairs, oversaw licensing and enforcement. Scheduled to sunset in 1979, the statute regulating these agencies was repealed on the department's recommendation.

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