

JAN 23 2009

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# A BILL FOR AN ACT

RELATING TO DISCRIMINATION.

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

1           SECTION 1. The legislature finds that low-income  
2 individuals have an extremely difficult time finding affordable  
3 rentals in Hawaii. This situation is made more frustrating when  
4 housing vacancy advertisements discourage people from applying  
5 by advertising "no section 8 accepted". At this time, in the  
6 State of Hawaii, the law does not prohibit discrimination based  
7 on lawful source of income. However, thirteen other states,  
8 including California and Oregon, have prohibited this type of  
9 income discrimination. Renters who participate in government  
10 assistance programs, such as Housing Choice Vouchers, also known  
11 as, section 8, should have an equal opportunity to find housing.

12           The purpose of this Act is to prohibit discrimination based  
13 on lawful source of income in real estate transactions,  
14 including advertising available rental units.

15           SECTION 2. Section 515-2, Hawaii Revised Statutes, is  
16 amended by adding a new definition to be appropriately inserted  
17 and to read as follows:



1        "Source of income" means any lawful source of money paid  
2 directly or indirectly to a renter or buyer of housing,  
3 including:

4        (1) Any lawful profession or occupation;

5        (2) Any government or private assistance, grant, loan, or  
6 rental assistance program, including low-income  
7 housing assistance certificates and vouchers under the  
8 United States Housing Act of 1937, as amended;

9        (3) Any gift, inheritance, pension, annuity, alimony,  
10 child support, or other consideration or benefit; and

11        (4) Any sale or pledge of property or interest in  
12 property."

13        SECTION 3. Section 515-3, Hawaii Revised Statutes, is  
14 amended to read as follows:

15        "§515-3 Discriminatory practices. It is a discriminatory  
16 practice for an owner or any other person engaging in a real  
17 estate transaction, or for a real estate broker or salesperson,  
18 because of race, sex, including gender identity or expression,  
19 sexual orientation, color, religion, marital status, familial  
20 status, ancestry, disability, age, source of income, or human  
21 immunodeficiency virus infection:



- 1           (1) To refuse to engage in a real estate transaction with  
2                   a person;
- 3           (2) To discriminate against a person in the terms,  
4                   conditions, or privileges of a real estate transaction  
5                   or in the furnishing of facilities or services in  
6                   connection therewith;
- 7           (3) To refuse to receive or to fail to transmit a bona  
8                   fide offer to engage in a real estate transaction from  
9                   a person;
- 10          (4) To refuse to negotiate for a real estate transaction  
11                   with a person;
- 12          (5) To represent to a person that real property is not  
13                   available for inspection, sale, rental, or lease when  
14                   in fact it is available, or to fail to bring a  
15                   property listing to the person's attention, or to  
16                   refuse to permit the person to inspect real property,  
17                   or to steer a person seeking to engage in a real  
18                   estate transaction;
- 19          (6) To print, circulate, post, or mail, or cause to be  
20                   published a statement, advertisement, or sign, or to  
21                   use a form of application for a real estate  
22                   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, specification, or discrimination  
4 with respect thereto;

5 (7) To offer, solicit, accept, use, or retain a listing of  
6 real property with the understanding that a person may  
7 be discriminated against in a real estate transaction  
8 or in the furnishing of facilities or services in  
9 connection therewith;

10 (8) To refuse to engage in a real estate transaction with  
11 a person or to deny equal opportunity to use and enjoy  
12 a housing accommodation due to a disability because  
13 the person uses the services of a guide dog, signal  
14 dog, or service animal; provided that reasonable  
15 restrictions or prohibitions may be imposed regarding  
16 excessive noise or other problems caused by those  
17 animals. For the purposes of this paragraph:

18 "Blind" shall be as defined in section 235-1;

19 "Deaf" shall be as defined in section 235-1;

20 "Guide dog" means any dog individually trained by  
21 a licensed guide dog trainer for guiding a blind



1 person by means of a harness attached to the dog and a  
2 rigid handle grasped by the person;

3 "Reasonable restriction" shall not include any  
4 restriction that allows any owner or person to refuse  
5 to negotiate or refuse to engage in a real estate  
6 transaction; provided that as used in this paragraph,  
7 the "reasonableness" of a restriction shall be  
8 examined by giving due consideration to the needs of a  
9 reasonable prudent person in the same or similar  
10 circumstances. Depending on the circumstances, a  
11 "reasonable restriction" may require the owner of the  
12 service animal, guide dog, or signal dog to comply  
13 with one or more of the following:

- 14 (A) Observe applicable laws including leash laws and  
15 pick-up laws;
- 16 (B) Assume responsibility for damage caused by the  
17 dog; or
- 18 (C) Have the housing unit cleaned upon vacating by  
19 fumigation, deodorizing, professional carpet  
20 cleaning, or other method appropriate under the  
21 circumstances.



1 The foregoing list is illustrative only, and neither  
2 exhaustive nor mandatory;

3 "Service animal" means any animal that is trained  
4 to provide those life activities limited by the  
5 disability of the person;

6 "Signal dog" means any dog that is trained to  
7 alert a deaf person to intruders or sounds;

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

13 (10) To refuse to permit, at the expense of a person with a  
14 disability, reasonable modifications to existing  
15 premises occupied or to be occupied by the person if  
16 modifications may be necessary to afford the person  
17 full enjoyment of the premises. A real estate broker  
18 or salesperson, where it is reasonable to do so, may  
19 condition permission for a modification on the person  
20 agreeing to restore the interior of the premises to  
21 the condition that existed before the modification,  
22 reasonable wear and tear excepted;



1           (11) To refuse to make reasonable accommodations in rules,  
2                   policies, practices, or services, when the  
3                   accommodations may be necessary to afford a person  
4                   with a disability equal opportunity to use and enjoy a  
5                   housing accommodation;

6           (12) In connection with the design and construction of  
7                   covered multifamily housing accommodations for first  
8                   occupancy after March 13, 1991, to fail to design and  
9                   construct housing accommodations in [such] a manner  
10                  that:

11           (A) The housing accommodations have at least one  
12                   accessible entrance, unless it is impractical to  
13                   do so because of the terrain or unusual  
14                   characteristics of the site; and

15           (B) With respect to housing accommodations with an  
16                   accessible building entrance:

17                   (i) The public use and common use portions of  
18                          the housing accommodations are accessible to  
19                          and usable by disabled persons;

20                   (ii) Doors allow passage by persons in  
21                          wheelchairs; and

1 (iii) All premises within covered multifamily  
2 housing accommodations contain an accessible  
3 route into and through the housing  
4 accommodations; light switches, electrical  
5 outlets, thermostats, and other  
6 environmental controls are in accessible  
7 locations; reinforcements in the bathroom  
8 walls allow installation of grab bars; and  
9 kitchens and bathrooms are accessible by  
10 wheelchair; or

11 (13) To discriminate against or deny a person access to, or  
12 membership or participation in any multiple listing  
13 service, real estate broker's organization, or other  
14 service, organization, or facility involved either  
15 directly or indirectly in real estate transactions, or  
16 to discriminate against any person in the terms or  
17 conditions of [such] access, membership, or  
18 participation."

19 SECTION 4. Section 515-4, Hawaii Revised Statutes, is  
20 amended to read as follows:

21 "§515-4 Exemptions. (a) Section 515-3 does not apply:





1           (1) To the rental of a housing accommodation in a building  
2                    which contains housing accommodations for not more  
3                    than two families living independently of each other  
4                    if the lessor resides in one of the housing  
5                    accommodations; or

6           (2) To the rental of a room or up to four rooms in a  
7                    housing accommodation by an individual if the  
8                    individual resides therein.

9           (b) Nothing in section 515-3 shall be deemed to prohibit  
10           refusal, because of sex, including gender identity or  
11           expression, sexual orientation, or marital status, to rent or  
12           lease housing accommodations:

13           (1) Owned or operated by a religious institution and used  
14                    for church purposes as that term is used in applying  
15                    exemptions for real property taxes; or

16           (2) Which are part of a religiously affiliated institution  
17                    of higher education housing program which is operated  
18                    on property that the institution owns or controls, or  
19                    which is operated for its students pursuant to Title  
20                    IX of the Higher Education Act of 1972.



1 (c) Nothing in this chapter regarding familial status or  
2 age shall apply to housing for older persons as defined by 42  
3 United States Code section 3607(b) (2).

4 (d) Nothing in section 515-3 shall be deemed to prohibit a  
5 person from determining the ability of a potential buyer or  
6 renter to pay a purchase price or rent by:

7 (1) Verifying, in a commercially reasonable manner, the  
8 source and amount of income of the potential buyer or  
9 renter; or

10 (2) Evaluating, in a commercially reasonable manner, the  
11 stability, security, and credit worthiness of the  
12 potential buyer or renter or any source of income of  
13 the potential buyer or renter.

14 (e) The prohibition against discrimination based on source  
15 of income shall not prevent a person from refusing to consider  
16 income derived from any criminal activity."

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

19 "§515-5 Discriminatory financial practices. It is a  
20 discriminatory practice for a person, a representative of [such]  
21 a person, or a real estate broker or salesperson, to whom an  
22 inquiry or application is made for financial assistance in



1 connection with a real estate transaction or for the  
2 construction, rehabilitation, repair, maintenance, or  
3 improvement of real property, because of race, sex, including  
4 gender identity or expression, sexual orientation, color,  
5 religion, marital status, familial status, ancestry, disability,  
6 age, source of income, or human immunodeficiency virus  
7 infection:

- 8 (1) To discriminate against the applicant;
- 9 (2) To use a form of application for financial assistance  
10 or to make or keep a record or inquiry in connection  
11 with applications for financial assistance that  
12 indicates, directly or indirectly, an intent to make a  
13 limitation, specification, or discrimination unless  
14 the records are required by federal law;
- 15 (3) To discriminate in the making or purchasing of loans  
16 or the provision of other financial assistance for  
17 purchasing, constructing, improving, repairing, or  
18 maintaining a dwelling, or the making or purchasing of  
19 loans or the provision of other financial assistance  
20 secured by residential real estate; or
- 21 (4) To discriminate in the selling, brokering, or  
22 appraising of residential real property."



1 SECTION 6. Section 515-6, Hawaii Revised Statutes, is  
2 amended by amending subsections (a) and (b) to read as follows:

3 "(a) Every provision in an oral agreement or a written  
4 instrument relating to real property that purports to forbid or  
5 restrict the conveyance, encumbrance, occupancy, or lease  
6 thereof to individuals because of race, sex, including gender  
7 identity or expression, sexual orientation, color, religion,  
8 marital status, familial status, ancestry, disability, age,  
9 source of income, or human immunodeficiency virus infection, is  
10 void.

11 (b) Every condition, restriction, or prohibition,  
12 including a right of entry or possibility of reverter, that  
13 directly or indirectly limits the use or occupancy of real  
14 property on the basis of race, sex, including gender identity or  
15 expression, sexual orientation, color, religion, marital status,  
16 familial status, ancestry, disability, age, source of income, or  
17 human immunodeficiency virus infection is void, except a  
18 limitation, on the basis of religion, on the use of real  
19 property held by a religious institution or organization or by a  
20 religious or charitable organization operated, supervised, or  
21 controlled by a religious institution or organization, and used  
22 for religious or charitable purposes."



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

3 "§515-7 Blockbusting. It is a discriminatory practice for  
4 a person, representative of a person, or a real estate broker or  
5 salesperson, for the purpose of inducing a real estate  
6 transaction from which the person, representative, or real  
7 estate broker or salesperson may benefit financially, because of  
8 race, sex, including gender identity or expression, sexual  
9 orientation, color, religion, marital status, familial status,  
10 ancestry, disability, age, source of income, or human  
11 immunodeficiency virus infection:

12 (1) To represent that a change has occurred or will or may  
13 occur in the composition of the owners or occupants in  
14 the block, neighborhood, or area in which the real  
15 property is located; or

16 (2) To represent that this change will or may result in  
17 the lowering of property values, an increase in  
18 criminal or antisocial behavior, or a decline in the  
19 quality of schools in the block, neighborhood, or area  
20 in which the real property is located."

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



1           "§515-16 Other discriminatory practices. It is a  
2 discriminatory practice for a person, or for two or more persons  
3 to conspire:

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

12           (2) To aid, abet, incite, or coerce a person to engage in  
13 a discriminatory practice;

14           (3) To interfere with any person in the exercise or  
15 enjoyment of any right granted or protected by this  
16 chapter or with the performance of a duty or the  
17 exercise of a power by the commission;

18           (4) To obstruct or prevent a person from complying with  
19 this chapter or an order issued thereunder;

20           (5) To intimidate or threaten any person engaging in  
21 activities designed to make other persons aware of, or



1 encouraging [~~such~~] other persons to exercise rights  
2 granted or protected by this chapter; or  
3 (6) To threaten, intimidate or interfere with persons in  
4 their enjoyment of a housing accommodation because of  
5 the race, sex, color, religion, marital status,  
6 familial status, ancestry, disability, age, source of  
7 income, or human immunodeficiency virus infection of  
8 [~~such~~] the persons, or of visitors or associates of  
9 [~~such~~] the persons."

10 SECTION 9. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12 SECTION 10. This Act shall take effect upon its approval.

13

INTRODUCED BY: Gay L. Aaron



**Report Title:**

Discrimination in Real Property Transactions; Source of Income

**Description:**

Prohibits discrimination in real property transactions based on lawful source of income.

