
A BILL FOR AN ACT

RELATING TO HOMELESSNESS.

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

1 SECTION 1. The legislature finds that homelessness is a
2 critical issue in the State. The State and counties have tried
3 to address this systemic issue, but it is still ongoing and
4 prevalent. One way the State may help address the issue is by
5 helping these families with homeless family members, by
6 providing financial assistance to families that provide care for
7 a homeless family member. The assistance would not be
8 permanent, and it is intended to provide support to allow the
9 homeless family member to reintegrate into the community.

10 The purpose of this Act is to help address the homeless
11 issue in the State by assisting households that provide
12 temporary care for a homeless family member.

13 SECTION 2. Chapter 346, Hawaii Revised Statutes, is
14 amended by adding a new part to be appropriately designated and
15 to read as follows:

16 **"HOMELESS CARE RESIDENCES"**

17 **§346-A Definitions.** For the purposes of this part:



1 "Care" refers to those situations where a person has agreed
2 to assume and has been entrusted with the responsibility to
3 provide a homeless care residence to a homeless family or
4 household member, as those terms are defined in section 346-A.

5 "Department" means the department of human services.

6 "Family or household member" means, with respect to a
7 certain individual, another individual related by blood to that
8 individual or spouses or reciprocal beneficiaries, former
9 spouses or former reciprocal beneficiaries, or persons who have
10 a child in common.

11 "Homeless" means:

12 (1) An individual who lacks a fixed, regular, and adequate
13 night-time residence; or

14 (2) An individual who has a primary night residence that
15 is:

16 (A) A supervised and publicly or privately operated
17 shelter designed to provide temporary living
18 accommodations;

19 (B) An institution that provides temporary residence
20 for individuals intended to be institutionalized;
21 or



1 (C) A public or private place not designed for or
2 ordinarily used as sleeping accommodations for
3 human beings.

4 This term does not include any individual imprisoned or
5 otherwise detained under an act of Congress or a state law.

6 "Homeless care residence" means a private residence,
7 including a home, apartment, unit, or townhouse, as those terms
8 are defined in section 502C-1, at which care may be provided for
9 a homeless family or household member, as those terms are
10 defined in 346-A.

11 "Provider" means the person who is issued the license or
12 certificate of registration, as the case may be, by the
13 department to provide care in a homeless care residence.

14 **§346-B Registration for homeless care residence.** No
15 person shall operate or maintain a homeless care residence
16 unless registered to do so by the department under this part.
17 The registration shall be valid for one year unless sooner
18 revoked and shall require annual registration.

19 **§346-C Rules for registration.** (a) No later than January
20 1, 2017, the department shall adopt rules pursuant to chapter 91
21 establishing minimum requirements to ensure the health and
22 safety of any family member or household member provided care in



1 a homeless care residence. The rules may specify, but shall not
2 be limited to, minimum requirements concerning:

3 (1) The number of persons who may be cared for at one
4 time;

5 (2) The health of the provider and the persons cared for
6 by the provider;

7 (3) Fire and sanitation standards; and

8 (4) Protection of persons who are provided care from
9 abuse.

10 (b) It is the intent of the legislature that the minimum
11 requirements shall:

12 (1) Be as simple and clear as possible;

13 (2) Be germane to the provision of care to person in a
14 private home as opposed to a homeless facility or
15 institution;

16 (3) Require as little recordkeeping by the provider
17 possible; and

18 (4) Require information and reports if necessary, from the
19 provider that the department intends to scrutinize
20 carefully and not cursorily.

21 (c) The department shall establish minimum requirements,
22 compliance with which shall be assessed objectively by officers



1 and employees of the department, providers, and those cared for
2 by providers.

3 **§346-D Procedures for registration.** (a) A person
4 desiring to have the person's home registered as a homeless care
5 residence shall make application to the department. Upon
6 receipt of the application, the department shall conduct a study
7 of the applicant's qualifications, home, and proposed operation.
8 The department shall issue a certificate of registration to the
9 applicant that authorizes the applicant to operate a homeless
10 care residence if the department is satisfied that the premises
11 and proposed operation will be in compliance with the minimum
12 requirements established under section 346-C and subject to the
13 criminal history record checks established under section 846-
14 2.7.

15 The provider shall operate and maintain the premises of the
16 homeless care facility in accordance with the minimum
17 requirements established under section 346-C so long as
18 registered.

19 (b) The department may establish reasonable fees for the
20 issuance or renewal of certificates of registration according to
21 rules adopted pursuant to chapter 91.



1 **§346-E Visitation and inspection of homeless care**
2 **residence; revocation of registration.** (a) The department
3 shall visit and inspect the premises and operation of a homeless
4 care residence to determine compliance with the minimum
5 requirements established under section 346-C:

- 6 (1) At least once during each six-month period; and
- 7 (2) Upon receipt of a complaint that the premises or
8 operation of the home is in violation of the minimum
9 requirements established under section 346-C.

10 (b) If the visitation and inspection reveal that the
11 premises or operation of the home is in violation of a minimum
12 requirement, the department shall immediately suspend or revoke
13 the registration. Upon suspension or revocation, the home shall
14 no longer be a registered homeless care residence.

15 A person whose registration has been suspended or revoked
16 may appeal the suspension or revocation in accordance with
17 chapter 91, but the appeal shall not stay the suspension or
18 revocation. If an appeal is made under chapter 91, the appeal
19 of the suspension or revocation, and not the suspension or
20 revocation itself, shall be deemed the contested case.

21 The department shall suspend the registration if the
22 violation of the minimum requirement is the first violation of



1 the provider and the violation does not warrant the revocation
2 of the registration. The department shall revoke the
3 registration if the provider has violated any minimum
4 requirement or requirements to such an extent or of a nature
5 that the provider is unfit to be trusted with the operation of a
6 homeless care residence or if the provider has had the
7 provider's registration suspended at least once previously.

8 (c) The department may reinstate a suspended registration
9 or restore a revoked registration if it deems that the person is
10 willing and able to comply with the rules adopted under section
11 346-C. A suspended registration may be reinstated upon the
12 department's satisfaction that the violation has been or will be
13 corrected. A revoked registration shall be restored only after
14 new application is made and reviewed under this subpart.

15 **§346-F Waiver.** The State shall not be liable for any
16 loss, damage, injury, or death arising from the homeless family
17 or household member's use of the homeless care residence or the
18 provider's operation of the homeless care residence.

19 **§346-G Penalty.** Any person violating any provision of
20 this part or any rule adopted pursuant thereto shall be fined as
21 follows:

22 (1) Up to \$1,000 for a first violation; and



1 (2) Up to \$3,000 for the second violation and each
2 succeeding violation.

3 **§346-H Participation limit.** A homeless family or
4 household member who receives care by a provider shall be
5 limited to a maximum of twelve months of participation under the
6 program. This twelve-month limit shall apply to consecutive or
7 nonconsecutive months and shall apply even if care is received
8 from a succession of different providers.

9 **§346-I Homeless care residence cap.** The total number of
10 homeless care residences that are actively participating in the
11 program, providing care for a homeless family or household
12 member, and in receipt of funds shall be capped at one hundred
13 residences per month, with the number to be determined on the
14 first day of each month.

15 **§346-J Rules.** The department shall adopt rules pursuant
16 to chapter 91 for the purposes of this part."

17 SECTION 3. Chapter 235, Hawaii Revised Statutes, is
18 amended by adding a new section to be appropriately designated
19 and to read as follows:

20 **"§235-A Credit for homeless care residence.** (a) There
21 shall be allowed to each taxpayer licensed under chapter 346-B,
22 346-C, and 346-D, who is subject to the tax imposed by this



1 chapter, and does not owe the State delinquent taxes, penalties,
2 or interest, a credit for functioning as a homeless care
3 residence. The credit shall be deductible from the taxpayer's
4 net income tax liability, if any, imposed by this chapter for
5 the taxable year in which the credit is properly claimed.

6 (b) The amount of the credit determined under this section
7 for the taxable year shall be equal to two percent of the
8 taxpayer's gross reported income for each month serving as a
9 homeless care residence; provided that the gross reported income
10 shall not exceed \$100,000.

11 (c) All claims for tax credits under this section,
12 including any amended claims, shall be filed on or before the
13 end of the twelfth month following the close of the taxable year
14 for which the credits may be claimed. Failure to comply with
15 the foregoing provision shall constitute a waiver of the right
16 to claim the credit.

17 (d) The director of taxation shall prepare any forms that
18 may be necessary to allow a credit to be claimed under this
19 section.

20 SECTION 3. Section 846-2.7, Hawaii Revised Statutes, is
21 amended by amending subsection (b) to read as follows:

22 "(b) Criminal history record checks may be conducted by:



- 1 (1) The department of health or its designee on operators
2 of adult foster homes for individuals with
3 developmental disabilities or developmental
4 disabilities domiciliary homes and their employees, as
5 provided by section 321-15.2;
- 6 (2) The department of health or its designee on
7 prospective employees, persons seeking to serve as
8 providers, or subcontractors in positions that place
9 them in direct contact with clients when providing
10 non-witnessed direct mental health or health care
11 services as provided by section 321-171.5;
- 12 (3) The department of health or its designee on all
13 applicants for licensure or certification for,
14 operators for, prospective employees, adult
15 volunteers, and all adults, except adults in care, at
16 healthcare facilities as defined in section 321-15.2;
- 17 (4) The department of education on employees, prospective
18 employees, and teacher trainees in any public school
19 in positions that necessitate close proximity to
20 children as provided by section 302A-601.5;
- 21 (5) The counties on employees and prospective employees
22 who may be in positions that place them in close



- 1 proximity to children in recreation or child care
2 programs and services;
- 3 (6) The county liquor commissions on applicants for liquor
4 licenses as provided by section 281-53.5;
- 5 (7) The county liquor commissions on employees and
6 prospective employees involved in liquor
7 administration, law enforcement, and liquor control
8 investigations;
- 9 (8) The department of human services on operators and
10 employees of child caring institutions, child placing
11 organizations, and foster boarding homes as provided
12 by section 346-17;
- 13 (9) The department of human services on prospective
14 adoptive parents as established under section
15 346-19.7~~+~~, and on providers of homeless care
16 residences as provided by section 346-A;
- 17 (10) The department of human services or its designee on
18 applicants to operate child care facilities, household
19 members of the applicant, prospective employees of the
20 applicant, and new employees and household members of
21 the provider after registration or licensure as



1 provided by section 346-154, and persons subject to
2 section 346-152.5;

3 (11) The department of human services on persons exempt
4 pursuant to section 346-152 to be eligible to provide
5 child care and receive child care subsidies as
6 provided by section 346-152.5;

7 (12) The department of health on operators and employees of
8 home and community-based case management agencies and
9 operators and other adults, except for adults in care,
10 residing in community care foster family homes as
11 provided by section 321-15.2;

12 (13) The department of human services on staff members of
13 the Hawaii youth correctional facility as provided by
14 section 352-5.5;

15 (14) The department of human services on employees,
16 prospective employees, and volunteers of contracted
17 providers and subcontractors in positions that place
18 them in close proximity to youth when providing
19 services on behalf of the office or the Hawaii youth
20 correctional facility as provided by section 352D-4.3;

21 (15) The judiciary on employees and applicants at detention
22 and shelter facilities as provided by section 571-34;



- 1 (16) The department of public safety on employees and
2 prospective employees who are directly involved with
3 the treatment and care of persons committed to a
4 correctional facility or who possess police powers
5 including the power of arrest as provided by section
6 353C-5;
- 7 (17) The board of private detectives and guards on
8 applicants for private detective or private guard
9 licensure as provided by section 463-9;
- 10 (18) Private schools and designated organizations on
11 employees and prospective employees who may be in
12 positions that necessitate close proximity to
13 children; provided that private schools and designated
14 organizations receive only indications of the states
15 from which the national criminal history record
16 information was provided pursuant to section 302C-1;
- 17 (19) The public library system on employees and prospective
18 employees whose positions place them in close
19 proximity to children as provided by section
20 302A-601.5;
- 21 (20) The State or any of its branches, political
22 subdivisions, or agencies on applicants and employees



1 holding a position that has the same type of contact
2 with children, vulnerable adults, or persons committed
3 to a correctional facility as other public employees
4 who hold positions that are authorized by law to
5 require criminal history record checks as a condition
6 of employment as provided by section 78-2.7;

7 (21) The department of health on licensed adult day care
8 center operators, employees, new employees,
9 subcontracted service providers and their employees,
10 and adult volunteers as provided by section 321-15.2;

11 (22) The department of human services on purchase of
12 service contracted and subcontracted service providers
13 and their employees serving clients of the adult
14 protective and community services branch, as provided
15 by section 346-97;

16 (23) The department of human services on foster grandparent
17 program, senior companion program, and respite
18 companion program participants as provided by section
19 346-97;

20 (24) The department of human services on contracted and
21 subcontracted service providers and their current and
22 prospective employees that provide home and community-



1 based services under section 1915(c) of the Social
2 Security Act, title 42 United States Code section
3 1396n(c), or under any other applicable section or
4 sections of the Social Security Act for the purposes
5 of providing home and community-based services, as
6 provided by section 346-97;

7 (25) The department of commerce and consumer affairs on
8 proposed directors and executive officers of a bank,
9 savings bank, savings and loan association, trust
10 company, and depository financial services loan
11 company as provided by section 412:3-201;

12 (26) The department of commerce and consumer affairs on
13 proposed directors and executive officers of a
14 nondepository financial services loan company as
15 provided by section 412:3-301;

16 (27) The department of commerce and consumer affairs on the
17 original chartering applicants and proposed executive
18 officers of a credit union as provided by section
19 412:10-103;

20 (28) The department of commerce and consumer affairs on:
21 (A) Each principal of every non-corporate applicant
22 for a money transmitter license;



- 1 (B) The executive officers, key shareholders, and
- 2 managers in charge of a money transmitter's
- 3 activities of every corporate applicant for a
- 4 money transmitter license; and
- 5 (C) The persons who are to assume control of a money
- 6 transmitter licensee in connection with an
- 7 application requesting approval of a proposed
- 8 change in control of licensee,
- 9 as provided by sections 489D-9 and 489D-15;
- 10 (29) The department of commerce and consumer affairs on
- 11 applicants for licensure and persons licensed under
- 12 title 24;
- 13 (30) The Hawaii health systems corporation on:
- 14 (A) Employees;
- 15 (B) Applicants seeking employment;
- 16 (C) Current or prospective members of the corporation
- 17 board or regional system board; or
- 18 (D) Current or prospective volunteers, providers, or
- 19 contractors,
- 20 in any of the corporation's health facilities as
- 21 provided by section 323F-5.5;
- 22 (31) The department of commerce and consumer affairs on:



- 1 (A) An applicant for a mortgage loan originator
- 2 license; and
- 3 (B) Each control person, executive officer, director,
- 4 general partner, and manager of an applicant for
- 5 a mortgage loan originator company license,
- 6 as provided by chapter 454F;
- 7 (32) The state public charter school commission or public
- 8 charter schools on employees, teacher trainees,
- 9 prospective employees, and prospective teacher
- 10 trainees in any public charter school for any position
- 11 that places them in close proximity to children, as
- 12 provided in section 302D-33;
- 13 (33) The counties on prospective employees who work with
- 14 children, vulnerable adults, or senior citizens in
- 15 community-based programs;
- 16 (34) The counties on prospective employees for fire
- 17 department positions which involve contact with
- 18 children or vulnerable adults;
- 19 (35) The counties on prospective employees for emergency
- 20 medical services positions which involve contact with
- 21 children or vulnerable adults;



- 1 (36) The counties on prospective employees for emergency
2 management positions and community volunteers whose
3 responsibilities involve planning and executing
4 homeland security measures including viewing,
5 handling, and engaging in law enforcement or
6 classified meetings and assisting vulnerable citizens
7 during emergencies or crises;
- 8 (37) The State and counties on employees, prospective
9 employees, volunteers, and contractors whose position
10 responsibilities require unescorted access to secured
11 areas and equipment related to a traffic management
12 center;
- 13 (38) The State and counties on employees and prospective
14 employees whose positions involve the handling or use
15 of firearms for other than law enforcement purposes;
- 16 (39) The State and counties on current and prospective
17 systems analysts and others involved in an agency's
18 information technology operation whose position
19 responsibilities provide them with access to
20 proprietary, confidential, or sensitive information;



1 (40) The department of commerce and consumer affairs on
2 applicants for real estate appraiser licensure or
3 certification as provided by chapter 466K;

4 (41) The department of health or its designee on all
5 license applicants, licensees, employees, contractors,
6 and prospective employees of medical marijuana
7 dispensaries, and individuals permitted to enter and
8 remain in medical marijuana dispensary facilities as
9 provided under sections 329D-15(a)(4) and
10 329D-16(a)(3);

11 (42) The department of commerce and consumer affairs on
12 applicants for nurse licensure or license renewal,
13 reactivation, or restoration as provided by sections
14 457-7, 457-8, 457-8.5, and 457-9;

15 ~~[(43)]~~ (43) The county police departments on applicants
16 for permits to acquire firearms pursuant to section
17 134-2 and on individuals registering their firearms
18 pursuant to section 134-3;

19 ~~[(44)]~~ (44) The department of commerce and consumer
20 affairs on:

21 (A) Each of the controlling persons of the applicant
22 for licensure as an escrow depository, and each



1 of the officers, directors, and principals who
2 will be in charge of the escrow depository's
3 activities upon licensure; and

4 (B) Each of the controlling persons of an applicant
5 for proposed change in control of an escrow
6 depository licensee, and each of the officers,
7 directors, and principals who will be in charge
8 of the licensee's activities upon approval of
9 such application,

10 as provided by chapter 449; and

11 ~~[(45)]~~ (45) Any other organization, entity, or the
12 State, its branches, political subdivisions, or
13 agencies as may be authorized by state law.

14 SECTION 4. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 5. This Act does not affect rights and duties that
17 matured, penalties that were incurred, and proceedings that were
18 begun before its effective date.

19 SECTION 6. This Act shall take effect upon its approval.

20



H.B. NO. 1375

INTRODUCED BY:





JAN 24 2017



H.B. NO. 1375

Report Title:

Homelessness; Homeless Care Residence; Income tax credit

Description:

Establishes a homeless care residence program to provide financial assistance to households providing temporary housing and care to a homeless relative. Requires that providers undergo certification and inspection by the department of human services and caps program participation at twelve months. Offers non-refundable income tax credit for providers.

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