

JAN 18 2019

S.B. NO. 122

A BILL FOR AN ACT

RELATING TO RENTAL DISCRIMINATION.

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

1 SECTION 1. The legislature finds that low-income
2 individuals experience extreme difficulty in finding affordable
3 rentals in Hawai'i. This situation becomes all the more
4 frustrating when housing vacancy advertisements proclaim "no
5 Section 8 accepted" or "Section 8 need not apply" in an effort
6 to prevent low-income individuals with housing vouchers from
7 being considered as tenants. News reports, locally and
8 nationally, have documented that prospective tenants are often
9 rejected by landlords due to their use of housing vouchers or
10 other forms of housing assistance, or based on requirements for
11 participation in a housing program.

12 The legislature further finds that studies have shown that
13 when there are laws to prevent discrimination against renters
14 with housing vouchers, such renters are twelve per cent more
15 likely to find housing. Discrimination against voucher holders
16 and recipients of other housing assistance programs, often
17 termed "source of income" discrimination, is prohibited in



1 twelve states and the District of Columbia, as well as numerous
2 cities and counties throughout the United States. Further, the
3 American Bar Association adopted a resolution in 2017 calling
4 for enactment of laws that ban housing discrimination based on
5 lawful sources of income. Hawai'i law currently does not
6 prohibit housing discrimination based on lawful sources of
7 income.

8 The legislature notes that source of income laws do not
9 alter or restrict the standard industry practices to vet
10 prospective renters. Rather, these laws prohibit landlords from
11 rejecting prospective renters who receive housing vouchers or
12 other housing assistance simply because of the voucher or
13 assistance. The legislature believes that renters who
14 participate in housing assistance programs, such as the federal
15 housing choice voucher program, also known as section 8 housing,
16 should have an equal opportunity to find housing.

17 The purpose of this Act is to prohibit discrimination,
18 including in advertisements for available rental units, based on
19 receipt of income from a housing assistance program, or
20 requirements related to participation in housing assistance
21 programs, in rental transactions and requirements.



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

4 "Housing assistance program" means any government or
5 private assistance, grant, loan, or rental assistance program,
6 including low-income housing assistance certificates and
7 vouchers under the United States Housing Act of 1937, as
8 amended."

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

11 **"§515-3 Discriminatory practices.** It is a discriminatory
12 practice for an owner or any other person engaging in a real
13 estate transaction, or for a real estate broker or salesperson,
14 because of race, sex, including gender identity or expression,
15 sexual orientation, color, religion, marital status, familial
16 status, ancestry, disability, age, participation in a housing
17 assistance program or requirements related to participation in a
18 housing assistance program, or human immunodeficiency virus
19 infection:

20 (1) To refuse to engage in a real estate transaction with
21 a person;



- 1 (2) To discriminate against a person in the terms,
2 conditions, or privileges of a real estate transaction
3 or in the furnishing of facilities or services in
4 connection with a real estate transaction;
- 5 (3) To refuse to receive or to fail to transmit a bona
6 fide offer to engage in a real estate transaction from
7 a person;
- 8 (4) To refuse to negotiate for a real estate transaction
9 with a person;
- 10 (5) To represent to a person that real property is not
11 available for inspection, sale, rental, or lease when
12 in fact it is available, or to fail to bring a
13 property listing to the person's attention, or to
14 refuse to permit the person to inspect real property,
15 or to steer a person seeking to engage in a real
16 estate transaction;
- 17 (6) To offer, solicit, accept, use, or retain a listing of
18 real property with the understanding that a person may
19 be discriminated against in a real estate transaction
20 or in the furnishing of facilities or services in
21 connection with a real estate transaction;



1 [†] (7) [†] To solicit or require as a condition of engaging in a
2 real estate transaction that the buyer, renter, or
3 lessee be tested for human immunodeficiency virus
4 infection, the causative agent of acquired
5 immunodeficiency syndrome;

6 [†] (8) [†] To refuse to permit, at the expense of a person with a
7 disability, reasonable modifications to existing
8 premises occupied or to be occupied by the person if
9 modifications may be necessary to afford the person
10 full enjoyment of the premises; provided that a real
11 estate broker or salesperson, where it is reasonable
12 to do so, may condition permission for a modification
13 on the person agreeing to restore the interior of the
14 premises to the condition that existed before the
15 modification, reasonable wear and tear excepted;

16 [†] (9) [†] To refuse to make reasonable accommodations in rules,
17 policies, practices, or services, when the
18 accommodations may be necessary to afford a person
19 with a disability equal opportunity to use and enjoy a
20 housing accommodation; provided that if reasonable



1 accommodations include the use of an animal,
2 reasonable restrictions may be imposed;
3 [†] (10) [†] In connection with the design and construction of
4 covered multifamily housing accommodations for first
5 occupancy after March 13, 1991, to fail to design and
6 construct housing accommodations in such a manner
7 that:

- 8 (A) The housing accommodations have at least one
9 accessible entrance, unless it is impractical to
10 do so because of the terrain or unusual
11 characteristics of the site; and
- 12 (B) With respect to housing accommodations with an
13 accessible building entrance:
- 14 (i) The public use and common use portions of
15 the housing accommodations are accessible to
16 and usable by persons with disabilities;
- 17 (ii) Doors allow passage by persons in
18 wheelchairs; and
- 19 (iii) All premises within covered multifamily
20 housing accommodations contain an accessible
21 route into and through the housing



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1 accommodations; light switches, electrical
2 outlets, thermostats, and other
3 environmental controls are in accessible
4 locations; reinforcements in the bathroom
5 walls allow installation of grab bars; and
6 kitchens and bathrooms are accessible by
7 wheelchair; or

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

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

17 "§515-4 Exemptions. (a) Section 515-3 does not apply:

- 18 (1) To the rental of a housing accommodation in a building
19 which contains housing accommodations for not more
20 than two families living independently of each other



1 if the owner or lessor resides in one of the housing
2 accommodations; or

3 (2) To the rental of a room or up to four rooms in a
4 housing accommodation by an owner or lessor if the
5 owner or lessor resides in the housing accommodation.

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

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

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

18 (c) Nothing in this chapter regarding familial status or
19 age shall apply to housing for older persons as defined by title
20 42 United States Code section 3607(b)(2).



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

4 (1) Verifying, in a commercially reasonable manner, the
5 source and amount of income of the potential buyer or
6 renter; or

7 (2) Evaluating, in a commercially reasonable manner, the
8 stability, security, and credit worthiness of the
9 potential buyer or renter or any source of income of
10 the potential buyer or renter."

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

13 **"§515-5 Discriminatory financial practices.** It is a
14 discriminatory practice for a person, a representative of such
15 person, or a real estate broker or salesperson, to whom an
16 inquiry or application is made for financial assistance in
17 connection with a real estate transaction or for the
18 construction, rehabilitation, repair, maintenance, or
19 improvement of real property, because of race, sex, including
20 gender identity or expression, sexual orientation, color,
21 religion, marital status, familial status, ancestry, disability,



1 age, participation in a housing assistance program or
2 requirements related to participation in a housing assistance
3 program, or human immunodeficiency virus infection:

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

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



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

10 (b) Every condition, restriction, or prohibition,
11 including a right of entry or possibility of reverter, that
12 directly or indirectly limits the use or occupancy of real
13 property on the basis of race, sex, including gender identity or
14 expression, sexual orientation, color, religion, marital status,
15 familial status, ancestry, disability, age, participation in a
16 housing assistance program or requirements related to
17 participation in a housing assistance program, or human
18 immunodeficiency virus infection is void, except a limitation,
19 on the basis of religion, on the use of real property held by a
20 religious institution or organization or by a religious or
21 charitable organization operated, supervised, or controlled by a



1 religious institution or organization, and used for religious or
2 charitable purposes."

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

5 "§515-7 **Blockbusting.** It is a discriminatory practice for
6 a person, representative of a person, or a real estate broker or
7 salesperson, for the purpose of inducing a real estate
8 transaction from which the person, representative, or real
9 estate broker or salesperson may benefit financially, because of
10 race, sex, including gender identity or expression, sexual
11 orientation, color, religion, marital status, familial status,
12 ancestry, disability, age, participation in a housing assistance
13 program or requirements related to participation in a housing
14 assistance program, or human immunodeficiency virus infection:

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

19 (2) To represent that this change will or may result in
20 the lowering of property values, an increase in
21 criminal or antisocial behavior, or a decline in the



1 quality of schools in the block, neighborhood, or area
2 in which the real property is located."

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

5 "§515-16 Other discriminatory practices. It is a
6 discriminatory practice for a person, or for two or more persons
7 to conspire:

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

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

18 (3) To interfere with any person in the exercise or
19 enjoyment of any right granted or protected by this
20 chapter or with the performance of a duty or the
21 exercise of a power by the commission;



- 1 (4) To obstruct or prevent a person from complying with
2 this chapter or an order issued pursuant to this
3 chapter;
- 4 (5) To intimidate or threaten any person engaging in
5 activities designed to make other persons aware of, or
6 encouraging such other persons to exercise rights
7 granted or protected by this chapter;
- 8 (6) To threaten, intimidate or interfere with persons in
9 their enjoyment of a housing accommodation because of
10 the race, sex, including gender identity or
11 expression, sexual orientation, color, religion,
12 marital status, familial status, ancestry, disability,
13 age, participation in a housing assistance program or
14 requirements related to participation in a housing
15 assistance program, or human immunodeficiency virus
16 infection of the persons, or of visitors or associates
17 of the persons; or
- 18 (7) To print, circulate, post, or mail, or cause to be
19 published a statement, advertisement, or sign, or to
20 use a form of application for a real estate
21 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 or specification, or to discriminate
4 because of race, sex, including gender identity or
5 expression, sexual orientation, color, religion,
6 marital status, familial status, ancestry, disability,
7 age, participation in a housing assistance program or
8 requirements related to participation in a housing
9 assistance program, or human immunodeficiency virus
10 infection."

11 SECTION 9. The department of commerce and consumer
12 affairs, in consultation with the Hawai'i civil rights
13 commission, shall produce materials related to this Act and
14 publicize the prohibition against discrimination based on
15 participation in housing assistance programs or requirements
16 related to participation in housing assistance programs.

17 SECTION 10. This Act does not affect rights and duties
18 that matured, penalties that were incurred, and proceedings that
19 were begun before its effective date.

20 SECTION 11. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



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

2

INTRODUCED BY:

Kal Rhoode



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Report Title:

Rental Discrimination; Housing Assistance Program

Description:

Prohibits discrimination, including in advertisements for available rental units, based on receipt of income from a housing assistance program, or requirements related to participation in housing assistance programs, in rental transactions and requirements.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

