

JAN 27 2021

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A BILL FOR AN ACT

RELATING TO RENTAL DISCRIMINATION.

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

1           SECTION 1. The federal housing choice voucher program,  
2 also known as Section 8, provides federally funded, tenant-based  
3 vouchers to low-income households that are responsible for  
4 finding appropriate rental units in the private market. A  
5 challenge once a household receives a Section 8 voucher is  
6 finding a landlord willing to accept it. The legislature  
7 believes that renters who participate in housing assistance  
8 programs, such as Section 8, should have an equal opportunity to  
9 find housing and should not be discriminated against because  
10 their source of income includes funds from housing assistance  
11 programs.

12           Studies have shown that when there are laws to prevent  
13 discrimination against renters with housing assistant vouchers,  
14 the renters are twelve per cent more likely to find housing.  
15 The American Bar Association adopted a resolution in 2017  
16 calling for enactment of laws that ban housing discrimination  
17 based on lawful sources of income. The legislature notes that  
18 source of income discrimination laws do not alter or restrict  
19 the standard industry practices to vet prospective renters.

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1 Rather, these laws prohibit landlords from rejecting prospective  
2 renters who receive Section 8 vouchers or other housing  
3 assistance simply because of the voucher or assistance.

4 The legislature finds that ten states, the District of  
5 Columbia, fourteen counties, and fifty-six major cities across  
6 the country have laws that prohibit source of income  
7 discrimination in housing. Honolulu is one of the largest  
8 cities in the United States that does not prohibit source of  
9 income discrimination in housing.

10 The legislature finds that low-income individuals  
11 experience extreme difficulty in finding affordable rentals in  
12 Hawaii. Prior to the COVID-19 pandemic, news reports, locally  
13 and nationally, have documented that prospective tenants are  
14 often rejected by landlords due to their use of Section 8  
15 vouchers or other forms of housing assistance, or based on  
16 requirements for participation in a housing assistance program.  
17 This situation becomes all the more frustrating when housing  
18 vacancy advertisements state "no Section 8 accepted" or "Section  
19 8 need not apply" in an effort to prevent low-income individuals  
20 receiving housing assistance from being considered as tenants.

21 The COVID-19 pandemic and resulting economic conditions  
22 have impacted many residents' ability to pay their rent. An  
23 August 2020 survey of 271 landlords and property managers

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1 statewide conducted by the economic research organization at the  
2 University of Hawaii indicated that more than 9,000 households  
3 were two months or more behind in rent, and that more tenants  
4 were thirty days behind in rent than prior to the pandemic.

5 Prior to the pandemic, nationally, eighty-three per cent of  
6 households participating in Section 8, were led by women.

7 Currently, there are more than 22,000 single mothers in Hawaii,  
8 and ninety-two per cent of fifty-five single mothers surveyed in  
9 Hawaii during the COVID-19 pandemic reported that they have lost  
10 financial independence due to the economic crisis. Allowing  
11 landlords to consider a rental applicant's source of income can  
12 also function as a proxy for discrimination against single  
13 mothers.

14 The purpose of this Act is to prohibit discrimination in  
15 rental transactions based on receipt of income from a housing  
16 assistance program or requirements related to participation in  
17 housing assistance programs.

18 SECTION 2. The Hawaii Revised Statutes is amended by  
19 adding a new chapter to be appropriately designated and to read  
20 as follows:

21 **"CHAPTER .**

22 **RENTAL DISCRIMINATION BASED ON SOURCE OF INCOME**

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1           **§ -1 Definitions.** As used in this chapter, unless the  
2 context clearly requires otherwise:

3           "Housing assistance program" means any government rental  
4 assistance program, including low-income housing assistance  
5 under the United States Housing Act of 1937, 42 U.S.C. § 1437f,  
6 as amended.

7           "Rental transaction" means any part of the process for the  
8 rental or lease of a premises for residential purposes.

9           **§ -2 Discriminatory practices in a rental transaction**  
10 **based on source of income.** (a) It is a discriminatory practice  
11 for a landlord to:

12           (1) Indicate in any manner used to advertise the  
13 availability of a rental property that the landlord  
14 will not rent a property to a person participating in  
15 a housing assistance program;

16           (2) Discourage in any manner a person from seeking to  
17 engage in a rental transaction based on the person's  
18 participation in a housing assistance program;

19           (3) Refuse to engage in a rental transaction with a person  
20 because of the person's participation in a housing  
21 assistance program or requirements related to  
22 participation in a housing assistance program; or

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1           (4) Require rental conditions that are different from  
2                   those required for a person not participating in a  
3                   housing assistance program.

4           (b) Nothing in this section shall be deemed to prohibit a  
5   landlord from determining in a commercially reasonable manner  
6   the ability of a person to pay rent by:

7           (1) Verifying the source and amount of income of the  
8                   person; or

9           (2) Evaluating the stability, security, and  
10                   creditworthiness of the potential tenant or any source  
11                   of income of the person.

12         §    -3   **Remedies.** (a) If a landlord engages in a  
13   discriminatory practice prohibited under this chapter, an  
14   aggrieved person may bring a civil action in district court  
15   within one year of the occurrence of the alleged violation for  
16   appropriate injunctive relief and damages.

17           (b) In an action brought pursuant to subsection (a), a  
18   district court may issue an injunction to enjoin violation of  
19   this chapter. If the court issues an injunction, the court may  
20   also award damages not to exceed \$5,000 to the person bringing  
21   the action, and reasonable attorney's fees and costs incurred in  
22   the civil action."

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1 SECTION 3. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun before its effective date.

4 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

A handwritten signature in black ink, appearing to read 'MUNICH', is written over a horizontal line.

BY REQUEST

**S . B . N O . 1135**

1 **Report Title:**

2 Source of Income, Rental Discrimination; Definitions

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4 **Description:**

5 Creates a new chapter on "source of income" discrimination in  
6 rental transactions, adds definitions, and enforcement remedies  
7 by direct civil action.

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

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JUSTIFICATION SHEET

DEPARTMENT: Department of Human Services

TITLE: A BILL FOR AN ACT RELATING TO RENTAL DISCRIMINATION.

PURPOSE: To prohibit discrimination in rental housing transactions.

MEANS: Adds a new chapter to Hawaii Revised Statutes; creates remedies and enforcement by direct civil action.

JUSTIFICATION: The federal Fair Housing Act (42 U.S.C. §§ 3601-3619) and chapter 515, Hawaii Revised Statutes, do not bar landlords from denying rental applicants who have a federal Housing Choice Voucher, also known as Section 8 housing vouchers. Nationwide, 83% of Section 8 housing voucher holders are women. Honolulu is one of the largest U.S. Cities that does not prohibit source of income discrimination in housing. The COVID-19 pandemic and economic crisis have impacted many residents' ability to make rental payments, adding additional pressure on low-income residents who have lost jobs and income, and who are struggling to secure more affordable rental housing. This proposal would benefit the existing and future renters that hold Section 8 vouchers. A ban on source of income discrimination in housing rental transactions will improve access to rental housing for women and other residents who receive Section 8 vouchers or other government rental assistance.

Impact on the public: A prohibition on source of income discrimination will help remove barriers in securing affordable rental housing for holders of Section 8 vouchers or other government rental assistance, especially single mothers and women who are survivors of gender-based violence.

Impact on the department and other agencies:  
The Hawaii Civil Rights Commission may receive inquiries from the public about this new prohibition on source of income discrimination.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: HMS 888.

OTHER AFFECTED  
AGENCIES: Hawaii Civil Rights Commission.

EFFECTIVE DATE: Upon approval.