

JAN 22 2021

---

---

# A BILL FOR AN ACT

RELATING TO HOUSING.

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

1           SECTION 1. The legislature finds that there is a critical  
2 shortage in the number of rental housing units in the State.  
3 The legislature also finds that many planned community and  
4 homeowners' associations have imposed restrictions that prohibit  
5 or limit their members from renting out their units.

6           The purpose of this Act is to ensure that more rental  
7 housing units are made available in the State by prohibiting  
8 planned community and homeowners' associations from preventing  
9 their members from renting out their single-family detached  
10 dwelling units when the duration of the tenancy is for six  
11 months or longer.

12           SECTION 2. Chapter 421J, Hawaii Revised Statutes, is  
13 amended by adding a new section to be appropriately designated  
14 and to read as follows:

15           "§421J-       Prohibition on use restrictions; affordable  
16 rental housing. (a) Notwithstanding any law to the contrary,  
17 no association shall prevent by any covenant, declaration,



1 bylaws, restriction, deed, lease, term, provision, condition,  
2 codicil, contract, rule, or similar binding agreement, however  
3 worded, its members from renting their units; provided that:

4 (1) The unit is a single-family detached dwelling unit;

5 (2) The tenancy is for a duration of six months or longer;

6 (3) There is a written rental agreement; and

7 (4) The premises that is subject to the tenant's exclusive  
8 use and occupancy under the rental agreement includes  
9 the entire unit and the tenant is not a roomer or  
10 boarder.

11 Any provision in any agreement, lease, instrument, or  
12 contract contrary to the intent of this section shall be void  
13 and unenforceable.

14 (b) Every association may adopt rules that place  
15 reasonable conditions under which its members may rent their  
16 units; provided that those conditions do not prohibit the  
17 renting of any member's unit under this section. No association  
18 shall assess or charge any member any fees for a member's  
19 renting of their units under this section.

20 (c) For purposes of this section:



1       "Dwelling unit" means a structure or part of a structure  
2 that is used as a home, residence, or sleeping place by one  
3 person or by two or more persons maintaining a common household,  
4 to the exclusion of all others.

5       "Family" includes a family of one individual.

6       "Premises" means a dwelling unit, appurtenances thereto,  
7 grounds, and facilities held out for the use of tenants  
8 generally and any other area or facility whose use is promised  
9 to the tenant.

10       "Rental agreement" means all written agreements that  
11 establish or modify the terms, conditions, rules, regulations,  
12 or any other provisions concerning the use and occupancy of a  
13 dwelling unit and premises.

14       "Roomer" or "boarder" means a tenant occupying a dwelling  
15 unit:

16       (1) That lacks at least one major bathroom or kitchen  
17 facility, such as a toilet, refrigerator, or stove;

18       (2) In a building where one or more such major facilities  
19 are supplied to be used in common by the occupants of  
20 the tenant's dwelling unit and by the occupants of one  
21 or more other dwelling units; and



1        (3) In a building in which the landlord resides.

2        "Single-family detached dwelling unit" means an individual,  
3 freestanding, unattached dwelling unit, typically built on a lot  
4 larger than the structure itself, resulting in an area  
5 surrounding the dwelling.

6        "Tenant" means any person who occupies a dwelling unit for  
7 dwelling purposes under a rental agreement."

8        SECTION 3. If any provision of this Act, or the  
9 application thereof to any person or circumstance, is held  
10 invalid, the invalidity does not affect other provisions or  
11 applications of the Act that can be given effect without the  
12 invalid provision or application, and to this end the provisions  
13 of this Act are severable.

14        SECTION 4. New statutory material is underscored.

15        SECTION 5. This Act shall take effect upon its approval.

16

INTRODUCED BY:

 \_\_\_\_\_



# S.B. NO. 746

**Report Title:**

Rental Housing; Homeowners' Associations; Rental Restrictions

**Description:**

Prohibits planned community and homeowners' associations from preventing its members from renting out their single-family dwelling units when the duration of the tenancy is for six months or longer.

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

