

JAN 22 2021

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



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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 real property, based
19 on participation in a housing assistance program, or
20 requirements related to participation in housing assistance
21 programs, in real estate transactions and requirements.



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

4 "CHAPTER

5 SOURCE OF INCOME DISCRIMINATION IN HOUSING

6 § -1 **Definitions.** As used in this chapter, unless the
7 context clearly requires otherwise:

8 "Housing assistance program" means any government
9 assistance, grant, loan, or rental assistance program, including
10 low-income housing assistance certificates and vouchers under
11 the United States Housing Act of 1937, as amended.

12 "Rental transaction" means any part of the process or
13 transaction for the rental or lease of a premises for
14 residential purposes.

15 "Steer" means the practice of directing persons who seek to
16 enter into a rental transaction toward or away from the premises
17 to deprive them of the benefits of living in a discrimination-
18 free environment.

19 § -2 **Discriminatory practices.** (a) It is a
20 discriminatory practice for an owner or any other person
21 engaging in a real estate transaction, or for a real estate



1 broker or salesperson, because of participation in a housing
2 assistance program or requirements related to participation in a
3 housing assistance program to:

4 (1) Refuse to engage in a real estate transaction with a
5 person;

6 (2) Discriminate against a person in the terms,
7 conditions, or privileges of a real estate transaction
8 or in the furnishing of facilities or services in
9 connection with a real estate transaction;

10 (3) Refuse to receive or to fail to transmit a bona fide
11 offer to engage in a real estate transaction from a
12 person;

13 (4) Refuse to negotiate for a real estate transaction with
14 a person;

15 (5) Represent to a person that real property is not
16 available for inspection, sale, rental, or lease when
17 in fact it is available; or to fail to bring a
18 property listing to the person's attention; or to
19 refuse to permit the person to inspect real property;
20 or to steer a person seeking to engage in a real
21 estate transaction;



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- 1 (6) Offer, solicit, accept, use, or retain a listing of
2 real property with the understanding that a person may
3 be discriminated against in a real estate transaction
4 or in the furnishing of facilities or services in
5 connection with a real estate transaction; or
- 6 (7) Discriminate against or deny a person access to, or
7 membership or participation in, any multiple listing
8 service, real estate broker's organization, or other
9 service, organization, or facility involved either
10 directly or indirectly in real estate transactions; or
11 to discriminate against any person in the terms or
12 conditions of access, membership, or participation.
- 13 (b) Nothing in this section shall be deemed to prohibit a
14 person from determining the ability of a potential buyer or
15 renter to pay a purchase price or rent by:
- 16 (1) Verifying, in a commercially reasonable manner, the
17 source and amount of income of the potential buyer or
18 renter; or
- 19 (2) Evaluating, in a commercially reasonable manner, the
20 stability, security, and credit worthiness of the



1 potential buyer or renter or any source of income of
2 the potential buyer or renter.

3 § -3 **Blockbusting** It is a discriminatory practice for a
4 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 participation in a housing assistance program or requirements
9 related to participation in a housing assistance program to
10 represent that:

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

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



1 § -4 Other discriminatory practices. It is a
2 discriminatory practice for a person, or for two or more persons
3 to conspire to:

4 (1) Retaliate, threaten, or discriminate against a person
5 because of the exercise or enjoyment of any right
6 granted or protected by this chapter; or because the
7 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) Aid, abet, incite, or coerce a person to engage in a
13 discriminatory practice;

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

18 (4) Obstruct or prevent a person from complying with this
19 chapter or an order issued pursuant to this chapter;

20 (5) 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;
- 3 (6) Threaten, intimidate, or interfere with persons in
4 their enjoyment of a housing accommodation because of
5 participation in a housing assistance program or
6 requirements related to participation in a housing
7 assistance program; or
- 8 (7) Print, circulate, post, or mail, or cause to be
9 published a statement, advertisement, or sign, or to
10 use a form of application for a real estate
11 transaction, or to make a record or inquiry in
12 connection with a prospective real estate transaction
13 that indicates, directly or indirectly, an intent to
14 make a limitation or specification, or to discriminate
15 because of participation in a housing assistance
16 program or requirements related to participation in a
17 housing assistance program.

18 **§ -5 Remedies for discrimination based on participation**
19 **in a housing assistance program.** (a) If a person engaging in a
20 real estate transaction engages in a discriminatory practice
21 based on participation in a housing assistance program or



1 requirements related to participation in a housing assistance
2 program in violation of this chapter, any aggrieved person may
3 bring a civil action in district court for appropriate
4 injunctive relief within one year of the occurrence of the
5 discriminatory violation.

6 (b) In an action brought pursuant to subsection (a), a
7 district court:

8 (1) May issue an injunction to enjoin violation of this
9 chapter in regard to discriminatory practices based on
10 participation in a housing assistance program or
11 requirements related to participation in a housing
12 assistance program; and

13 (2) In any case in which it issues an injunction pursuant
14 to paragraph (1), may also assess a fine not to exceed
15 \$500 and award reasonable attorney's fees incurred in
16 the civil action."

17 SECTION 3. The Hawaii civil rights commission shall
18 produce materials related to this Act and publicize the
19 prohibition against discrimination based on participation in
20 housing assistance programs or requirements related to
21 participation in housing assistance programs.



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1 SECTION 4. 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 5. This Act shall take effect upon its approval.

5

INTRODUCED BY: *Kal Rhoads*



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Report Title:

Real Property Discrimination; Housing Assistance Program

Description:

Prohibits discrimination, including in advertisements for available real property, based on participation in a housing assistance program or requirements related to participation in housing assistance programs, in real estate 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.

