
A BILL FOR AN ACT

RELATING TO FAIR HOUSING REASONABLE ACCOMMODATIONS.

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

1 SECTION 1. The legislature finds that recent legislation
2 prohibits the misrepresentation of animals as service animals.
3 Act 217, Session Laws of Hawaii 2018 (Act 217), amends the
4 definition of "service animal" to mean "any dog that is
5 individually trained to do work or perform tasks for the benefit
6 of an individual with a disability, including a physical,
7 sensory, psychiatric, intellectual, or other mental disability"
8 and requires that the work or tasks performed by the service
9 animal relate directly to the individual's disability. Act 217
10 also excludes other species of animals and the provision of
11 emotional support, comfort, or companionship.

12 The legislature further finds that the term "service
13 animal" applies in the general context of the Americans with
14 Disabilities Act, while the broader term "assistance animal",
15 which is used under the federal and state fair housing laws and
16 rules, includes a wider category of animals that provide
17 support, including emotional support animals and service



1 animals. When a person with a disability requests the use of an
2 assistance animal as a reasonable housing accommodation, the
3 housing provider may ask for information, including verification
4 from a treating health care professional, that the person has a
5 disability, and the requested assistance animal is needed to
6 alleviate one or more symptoms of the person's disability.
7 "Assistance animal" is defined in the State's administrative
8 rules, but not in statute.

9 To assist individuals requiring assistance animals and
10 housing providers who are requested to make reasonable
11 accommodations for assistance animals, the purpose of this Act
12 is to:

- 13 (1) Define "assistance animal" in the context of existing
14 state law prohibiting discrimination in real property
15 transactions;
- 16 (2) Codify the administrative process to verify that a
17 person requesting a reasonable accommodation that
18 includes the use of an assistance animal has a
19 disability and the assistance animal is needed to
20 alleviate one or more symptoms of the person's
21 disability; and



1 (3) Specify that possession of a vest or other
 2 distinguishing animal garment, tag, or registration
 3 document commonly purchased online and purporting to
 4 identify an animal as a service animal or assistance
 5 animal does not constitute valid verification of a
 6 disability-related need for an assistance animal.

7 SECTION 2. Section 515-3, Hawaii Revised Statutes, is
 8 amended to read as follows:

9 **"§515-3 Discriminatory practices.** (a) It is a
 10 discriminatory practice for an owner or any other person
 11 engaging in a real estate transaction, or for a real estate
 12 broker or salesperson, because of race[]; sex, including gender
 13 identity or expression[]; sexual orientation[]; color[];
 14 religion[]; marital status[]; familial status[]; ancestry[];
 15 disability[]; age[]; or human immunodeficiency virus
 16 infection:

17 (1) To refuse to engage in a real estate transaction with
 18 a person;

19 (2) To discriminate against a person in the terms,
 20 conditions, or privileges of a real estate transaction



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



1 lessee be tested for human immunodeficiency virus
2 infection, the causative agent of acquired
3 immunodeficiency syndrome;

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

14 [+] (9) [+] To refuse to make reasonable accommodations in rules,
15 policies, practices, or services, when the
16 accommodations may be necessary to afford a person
17 with a disability equal opportunity to use and enjoy a
18 housing accommodation; provided that if reasonable
19 accommodations include the use of an assistance
20 animal, reasonable restrictions may be imposed;
21 provided further that if the disability is not readily



1 apparent, an owner or other person engaging in a real
2 estate transaction may request information that
3 verifies that the person has a disability, defined as
4 a physical or mental impairment that substantially
5 limits a major life activity. An owner or other
6 person engaging in a real estate transaction shall not
7 request medical records or access to health care
8 providers, and shall not inquire as to the diagnosis,
9 nature, or severity of the person's disability. If
10 the disability-related need for an assistance animal
11 is not readily apparent, an owner or other person
12 engaging in a real estate transaction may request
13 verification that the assistance animal is needed to
14 alleviate one or more symptoms of the person's
15 disability. Verification may be provided by a letter
16 or other communication from the person's treating
17 health care professional, mental health professional,
18 or social worker. Possession of a vest or other
19 distinguishing animal garment, tag, or registration
20 documents that are commonly purchased online and
21 purporting to identify an animal as a service animal



1 or assistance animal shall not constitute valid
2 verification;
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



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 [f] (11) [f] To discriminate against or deny a person access to [r]
9 or 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 (b) For purposes of this section, "assistance animal"
16 means an animal that is needed to perform disability-related
17 work, services, or tasks for the benefit of a person with a
18 disability or provide emotional support that alleviates one or
19 more identified symptoms or effects of a person's disability.
20 "Assistance animals" may include but are not limited to service
21 animals, therapy animals, comfort animals, or emotional support



1 animals that may have formal training or may be untrained and
2 may include species other than dogs."

3 SECTION 3. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 4. This Act shall take effect on November 1, 2022.



Report Title:

Assistance Animals; Real Estate Transactions; Disability;
Reasonable Accommodation; Verification

Description:

Defines "assistance animal" in the context of Hawaii law prohibiting discrimination in real property transactions. Codifies the administrative process in verifying that a person requesting a reasonable accommodation that includes the use of an assistance animal has a disability and the assistance animal is needed to alleviate one or more symptoms of the person's disability. Specifies that possession of a vest or other distinguishing animal garment, tag, or registration document commonly purchased online and purporting to identify an animal as a service animal or assistance animal does not constitute valid verification. Effective 11/1/2022. (HD2)

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