
A BILL FOR AN ACT

RELATING TO REAL PROPERTY TRANSACTIONS.

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

1 SECTION 1. The purpose of this Act is to prohibit
2 discriminatory practices in real property transactions,
3 specifically housing transactions, because of one's status as a
4 victim of domestic violence. Recent amendments to the federal
5 Violence Against Women Act of 1998 expressly prohibit federally-
6 funded public housing agencies from terminating a lease due to
7 incidents or threats of domestic violence, dating violence, or
8 stalking. The legislature finds that these protections should
9 be extended to victims of domestic violence in all real property
10 transactions, as victims of domestic violence are most likely to
11 be seeking new housing due to domestic violence.

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

15 "Victim of domestic violence" means:

16 (1) A person who was the cited victim of a felony or
17 misdemeanor crime of violence committed by a current
18 or former spouse of the victim, by a person with whom



1 the victim shares a child in common, or by a person
2 who is cohabitating with or has cohabitated with the
3 victim;

4 (2) A person who is the victim of stalking as defined by
5 section 711-1106.5;

6 (3) A person who has obtained a current valid temporary
7 restraining order or current valid protective order
8 pursuant to section 586-4 or 586-5.5; or

9 (4) A person who has sought assistance concerning the
10 domestic violence from a community resource, including
11 a domestic violence agency, a minister, a therapist,
12 or other social service agency."

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

15 "**§515-3 Discriminatory practices.** It is a discriminatory
16 practice for an owner or any other person engaging in a real
17 estate transaction, or for a real estate broker or salesperson,
18 because of race, sex, including gender identity or expression,
19 sexual orientation, color, religion, marital status, familial
20 status, ancestry, disability, age, status as a victim of
21 domestic violence, or human immunodeficiency virus infection:



- 1 (1) To refuse to engage in a real estate transaction with
2 a person;
- 3 (2) To discriminate against a person in the terms,
4 conditions, or privileges of a real estate transaction
5 or in the furnishing of facilities or services in
6 connection therewith;
- 7 (3) To refuse to receive or to fail to transmit a bona
8 fide offer to engage in a real estate transaction from
9 a person;
- 10 (4) To refuse to negotiate for a real estate transaction
11 with a person;
- 12 (5) To represent to a person that real property is not
13 available for inspection, sale, rental, or lease when
14 in fact it is available, or to fail to bring a
15 property listing to the person's attention, or to
16 refuse to permit the person to inspect real property,
17 or to steer a person seeking to engage in a real
18 estate transaction;
- 19 (6) To print, circulate, post, or mail, or cause to be
20 published a statement, advertisement, or sign, or to
21 use a form of application for a real estate
22 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, specification, or discrimination
4 with respect thereto;

5 (7) To offer, solicit, accept, use, or retain a listing of
6 real property with the understanding that a person may
7 be discriminated against in a real estate transaction
8 or in the furnishing of facilities or services in
9 connection therewith;

10 (8) To refuse to engage in a real estate transaction with
11 a person or to deny equal opportunity to use and enjoy
12 a housing accommodation due to a disability because
13 the person uses the services of a guide dog, signal
14 dog, or service animal; provided that reasonable
15 restrictions or prohibitions may be imposed regarding
16 excessive noise or other problems caused by those
17 animals. For the purposes of this paragraph:

18 "Blind" shall be as defined in section 235-1;

19 "Deaf" shall be as defined in section 235-1;

20 "Guide dog" means any dog individually trained by
21 a licensed guide dog trainer for guiding a blind



1 person by means of a harness attached to the dog and a
2 rigid handle grasped by the person;

3 "Reasonable restriction" shall not include any
4 restriction that allows any owner or person to refuse
5 to negotiate or refuse to engage in a real estate
6 transaction; provided that as used in this paragraph,
7 the "reasonableness" of a restriction shall be
8 examined by giving due consideration to the needs of a
9 reasonable prudent person in the same or similar
10 circumstances. Depending on the circumstances, a
11 "reasonable restriction" may require the owner of the
12 service animal, guide dog, or signal dog to comply
13 with one or more of the following:

- 14 (A) Observe applicable laws including leash laws and
15 pick-up laws;
- 16 (B) Assume responsibility for damage caused by the
17 dog; or
- 18 (C) Have the housing unit cleaned upon vacating by
19 fumigation, deodorizing, professional carpet
20 cleaning, or other method appropriate under the
21 circumstances.



1 The foregoing list is illustrative only, and neither
2 exhaustive nor mandatory;

3 "Service animal" means any animal that is trained
4 to provide those life activities limited by the
5 disability of the person;

6 "Signal dog" means any dog that is trained to
7 alert a deaf person to intruders or sounds;

8 (9) To solicit or require as a condition of engaging in a
9 real estate transaction that the buyer, renter, or
10 lessee be tested for human immunodeficiency virus
11 infection, the causative agent of acquired
12 immunodeficiency syndrome;

13 (10) To refuse to permit, at the expense of a person with a
14 disability, reasonable modifications to existing
15 premises occupied or to be occupied by the person if
16 modifications may be necessary to afford the person
17 full enjoyment of the premises. A real estate broker
18 or salesperson, where it is reasonable to do so, may
19 condition permission for a modification on the person
20 agreeing to restore the interior of the premises to
21 the condition that existed before the modification,
22 reasonable wear and tear excepted;



1 (11) To refuse to make reasonable accommodations in rules,
2 policies, practices, or services, when the
3 accommodations may be necessary to afford a person
4 with a disability equal opportunity to use and enjoy a
5 housing accommodation;

6 (12) In connection with the design and construction of
7 covered multifamily housing accommodations for first
8 occupancy after March 13, 1991, to fail to design and
9 construct housing accommodations in such a manner
10 that:

11 (A) The housing accommodations have at least one
12 accessible entrance, unless it is impractical to
13 do so because of the terrain or unusual
14 characteristics of the site; and

15 (B) With respect to housing accommodations with an
16 accessible building entrance:

17 (i) The public use and common use portions of
18 the housing accommodations are accessible to
19 and usable by disabled persons;

20 (ii) Doors allow passage by persons in
21 wheelchairs; and



1 (iii) All premises within covered multifamily
2 housing accommodations contain an accessible
3 route into and through the housing
4 accommodations; light switches, electrical
5 outlets, thermostats, and other
6 environmental controls are in accessible
7 locations; reinforcements in the bathroom
8 walls allow installation of grab bars; and
9 kitchens and bathrooms are accessible by
10 wheelchair; or

11 (13) To discriminate against or deny a person access to, or
12 membership or participation in any multiple listing
13 service, real estate broker's organization, or other
14 service, organization, or facility involved either
15 directly or indirectly in real estate transactions, or
16 to discriminate against any person in the terms or
17 conditions of such access, membership, or
18 participation."

19 SECTION 4. Section 515-5, Hawaii Revised Statutes, is
20 amended to read as follows:

21 **"§515-5 Discriminatory financial practices.** It is a
22 discriminatory practice for a person, a representative of such



1 person, or a real estate broker or salesperson, to whom an
2 inquiry or application is made for financial assistance in
3 connection with a real estate transaction or for the
4 construction, rehabilitation, repair, maintenance, or
5 improvement of real property, because of race, sex, including
6 gender identity or expression, sexual orientation, color,
7 religion, marital status, familial status, ancestry, disability,
8 age, status as a victim of domestic violence, or human
9 immunodeficiency virus infection:

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



1 (4) To discriminate in the selling, brokering, or
2 appraising of residential real property."

3 SECTION 5. Section 515-6, Hawaii Revised Statutes, is
4 amended by amending subsections (a) and (b) to read as follows:

5 "(a) Every provision in an oral agreement or a written
6 instrument relating to real property that purports to forbid or
7 restrict the conveyance, encumbrance, occupancy, or lease
8 thereof to individuals because of race, sex, including gender
9 identity or expression, sexual orientation, color, religion,
10 marital status, familial status, ancestry, disability, age,
11 status as a victim of domestic violence, or human
12 immunodeficiency virus infection, is void.

13 (b) Every condition, restriction, or prohibition,
14 including a right of entry or possibility of reverter, that
15 directly or indirectly limits the use or occupancy of real
16 property on the basis of race, sex, including gender identity or
17 expression, sexual orientation, color, religion, marital status,
18 familial status, ancestry, disability, age, status as a victim
19 of domestic violence, or human immunodeficiency virus infection
20 is void, except a limitation, on the basis of religion, on the
21 use of real property held by a religious institution or
22 organization or by a religious or charitable organization



1 operated, supervised, or controlled by a religious institution
2 or organization, and used for religious or charitable purposes."

3 SECTION 6. 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, status as a victim of domestic
13 violence, or human immunodeficiency virus infection:

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

18 (2) To represent that this change will or may result in
19 the lowering of property values, an increase in
20 criminal or antisocial behavior, or a decline in the
21 quality of schools in the block, neighborhood, or area
22 in which the real property is located."



1 SECTION 7. Section 521-74, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§521-74 Retaliatory evictions and rent increases**
4 **prohibited[-]; other prohibited actions.** (a) Notwithstanding
5 that the tenant has no written rental agreement or that it has
6 expired, so long as the tenant continues to tender the usual
7 rent to the landlord or proceeds to tender receipts for rent
8 lawfully withheld, no action or proceeding to recover possession
9 of the dwelling unit may be maintained against the tenant, nor
10 shall the landlord otherwise cause the tenant to quit the
11 dwelling unit involuntarily, nor demand an increase in rent from
12 the tenant; nor decrease the services to which the tenant has
13 been entitled, after:

14 (1) The tenant has complained in good faith to the
15 department of health, landlord, building department,
16 office of consumer protection, or any other
17 governmental agency concerned with landlord-tenant
18 disputes of conditions in or affecting the tenant's
19 dwelling unit which constitutes a violation of a
20 health law or regulation or of any provision of this
21 chapter; or



1 (2) The department of health or other governmental agency
2 has filed a notice or complaint of a violation of a
3 health law or regulation or any provision of this
4 chapter; or

5 (3) The tenant has in good faith requested repairs under
6 section 521-63 or 521-64.

7 (b) Notwithstanding that the tenant has no written rental
8 agreement or that it has expired, so long as the tenant
9 continues to tender the usual rent to the landlord or proceeds
10 to tender receipts for rent lawfully withheld, no action or
11 proceeding to recover possession of the dwelling unit may be
12 maintained against the tenant, nor shall the landlord otherwise
13 cause the tenant to quit the dwelling unit involuntarily,
14 because of the tenant's status as a victim of domestic violence,
15 as defined under section 515-2. Nothing in this subsection
16 shall prevent the landlord from establishing and proving a
17 legitimate non-discriminatory reason for an action or proceeding
18 to recover possession of the dwelling unit.

19 (c) Notwithstanding [~~subsection~~ subsections (a) [7] and
20 (b), the landlord may recover possession of the dwelling unit
21 if:



- 1 (1) The tenant is committing waste, or a nuisance, or is
2 using the dwelling unit for an illegal purpose or for
3 other than living or dwelling purposes in violation of
4 the tenant's rental agreement;
- 5 (2) The landlord seeks in good faith to recover possession
6 of the dwelling unit for immediate use as the
7 landlord's own abode or that of the landlord's
8 immediate family;
- 9 (3) The landlord seeks in good faith to recover possession
10 of the dwelling unit for the purpose of substantially
11 altering, remodeling, or demolishing the premises;
- 12 (4) The complaint or request of subsection (a) relates
13 only to a condition or conditions caused by the lack
14 of ordinary care by the tenant or another person in
15 the tenant's household or on the premises with the
16 tenant's consent;
- 17 (5) The landlord has received from the department of
18 health certification that the dwelling unit and other
19 property and facilities used by or affecting the use
20 and enjoyment of the tenant were on the date of filing
21 of the complaint or request in compliance with health
22 laws and regulations;



1 (6) The landlord has in good faith contracted to sell the
2 property, and the contract of sale contains a
3 representation by the purchaser corresponding to
4 paragraph (2) or (3); or

5 (7) The landlord is seeking to recover possession on the
6 basis of a notice to terminate a periodic tenancy,
7 which notice was given to the tenant previous to the
8 complaint or request of subsection (a) ~~[-]~~ or the
9 landlord's knowledge of the tenant's status as a
10 victim of domestic violence under subsection (b).

11 ~~[(e)]~~ (d) Any tenant from whom possession has been
12 recovered or who has been otherwise involuntarily dispossessed,
13 in violation of this section, is entitled to recover the damages
14 sustained by the tenant and the cost of suit, including
15 reasonable attorney's fees.

16 ~~[(e)]~~ (e) Notwithstanding subsection (a), the landlord may
17 increase the rent if:

18 (1) The landlord has received from the department of
19 health certification that the dwelling unit and other
20 property and facilities used by and affecting the use
21 and enjoyment of the tenant were on the date of filing

- 1 of the complaint or request of subsection (a) in
2 compliance with health laws and regulations;
- 3 (2) The landlord has become liable for a substantial
4 increase in property taxes, or a substantial increase
5 in other maintenance or operating costs not associated
6 with the landlord's complying with the complaint or
7 request, not less than four months prior to the demand
8 for an increase in rent; and the increase in rent does
9 not exceed the prorated portion of the net increase in
10 taxes or costs;
- 11 (3) The landlord has completed a capital improvement of
12 the dwelling unit or the property of which it is a
13 part and the increase in rent does not exceed the
14 amount which may be claimed for federal income tax
15 purposes as a straight-line depreciation of the
16 improvement, prorated among the dwelling units
17 benefited by the improvement;
- 18 (4) The complaint or request of subsection (a) relates
19 only to a condition or conditions caused by the want
20 of due care by the tenant or another person of the
21 tenant's household or on the premises with the
22 tenant's consent; or



1 (5) The landlord can establish, by competent evidence,
2 that the rent now demanded of the tenant does not exceed the
3 rent charged other tenants of similar dwelling units in the
4 landlord's building or, in the case of a single-family residence
5 or where there is no similar dwelling unit in the building, does
6 not exceed the market rental value of the dwelling unit."

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

13 SECTION 9. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 10. This Act shall take effect on June 30, 2099.



Report Title:

Nondiscrimination; Housing; Domestic Violence Victim

Description:

Prohibits discrimination against domestic violence victims in real property transactions, specifically housing discrimination.
(SD2)

