



GOV. MSG. NO. 1131

April 29, 2011

The Honorable Shan Tsutsui, President  
and Members of the Senate  
Twenty-Sixth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

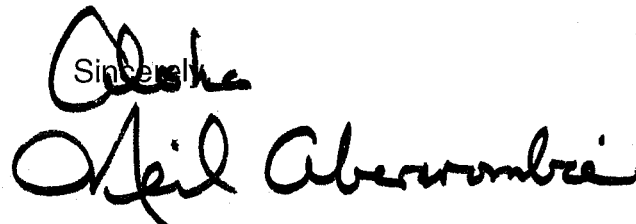
The Honorable Calvin Say, Speaker  
and Members of the House  
Twenty-Sixth State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on April 29, 2011, the following bill was signed into law:

SB1301 SD1 HD1

RELATING TO FAIR HOUSING EXEMPTIONS  
ACT 031 (11)

Sincerely,  


NEIL ABERCROMBIE  
Governor, State of Hawaii

Approved by the Governor

on APR 29 2011

THE SENATE  
TWENTY-SIXTH LEGISLATURE, 2011  
STATE OF HAWAII

ACT 031

S.B. NO. 1301  
S.D. 1  
H.D. 1

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# A BILL FOR AN ACT

RELATING TO FAIR HOUSING EXEMPTIONS.

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

1 SECTION 1. The purpose of this Act is to make the  
2 exemptions from prohibited discriminatory practices in our state  
3 fair housing laws consistent with similar exemptions found in  
4 the federal Fair Housing Act by clarifying that the exemptions  
5 apply to lessors as well as owners, that the exemptions do not  
6 apply to advertising, publications, or statements, and by making  
7 the groups protected in section 515-16, Hawaii Revised Statutes,  
8 consistent with the rest of chapter 515, Hawaii Revised  
9 Statutes.

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

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

SB1301 HD1 HMS 2011-3439



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



1 ~~transaction, or to make a record or inquiry in~~  
2 ~~connection with a prospective real estate transaction,~~  
3 ~~that indicates, directly or indirectly, an intent to~~  
4 ~~make a limitation, specification, or discrimination~~  
5 ~~with respect thereto;~~

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

12 [(+8)] (7) To refuse to engage in a real estate transaction  
13 with a person or to deny equal opportunity to use and  
14 enjoy a housing accommodation due to a disability  
15 because the person uses the services of a guide dog,  
16 signal dog, or service animal; provided that  
17 reasonable restrictions or prohibitions may be imposed  
18 regarding excessive noise or other problems caused by  
19 those animals. For the purposes of this paragraph:

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

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



1 "Guide dog" means any dog individually trained by  
2 a licensed guide dog trainer for guiding a blind  
3 person by means of a harness attached to the dog and a  
4 rigid handle grasped by the person;

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

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



1 cleaning, or other method appropriate under the  
2 circumstances.

3 The foregoing list is illustrative only, and neither  
4 exhaustive nor mandatory;

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

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

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

15 ~~[(+10)]~~ (9) To refuse to permit, at the expense of a person  
16 with a disability, reasonable modifications to  
17 existing premises occupied or to be occupied by the  
18 person if modifications may be necessary to afford the  
19 person full enjoyment of the premises ~~[-A]~~; provided  
20 that a real estate broker or salesperson, where it is  
21 reasonable to do so, may condition permission for a  
22 modification on the person agreeing to restore the



1 interior of the premises to the condition that existed  
2 before the modification, reasonable wear and tear  
3 excepted;

4 [~~(11)~~] (10) To refuse to make reasonable accommodations in  
5 rules, policies, practices, or services, when the  
6 accommodations may be necessary to afford a person  
7 with a disability equal opportunity to use and enjoy a  
8 housing accommodation;

9 [~~(12)~~] (11) In connection with the design and construction  
10 of covered multifamily housing accommodations for  
11 first occupancy after March 13, 1991, to fail to  
12 design and construct housing accommodations in such a  
13 manner that:

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

18 (B) With respect to housing accommodations with an  
19 accessible building entrance:

20 (i) The public use and common use portions of  
21 the housing accommodations are accessible to  
22 and usable by disabled persons;



1 (ii) Doors allow passage by persons in  
2 wheelchairs; and  
3 (iii) All premises within covered multifamily  
4 housing accommodations contain an accessible  
5 route into and through the housing  
6 accommodations; light switches, electrical  
7 outlets, thermostats, and other  
8 environmental controls are in accessible  
9 locations; reinforcements in the bathroom  
10 walls allow installation of grab bars; and  
11 kitchens and bathrooms are accessible by  
12 wheelchair;  
13 or  
14 ~~[(13)]~~ (12) To discriminate against or deny a person access  
15 to, or membership or participation in any multiple  
16 listing service, real estate broker's organization, or  
17 other service, organization, or facility involved  
18 either directly or indirectly in real estate  
19 transactions, or to discriminate against any person in  
20 the terms or conditions of ~~[such]~~ access, membership,  
21 or participation."





1 SECTION 3. Section 515-4, Hawaii Revised Statutes, is  
2 amended as follows:

3 1. By amending subsection (a) to read:

4 "(a) Section 515-3 does not apply:

5 (1) To the rental of a housing accommodation in a building  
6 which contains housing accommodations for not more  
7 than two families living independently of each other  
8 if the owner or lessor resides in one of the housing  
9 accommodations; or

10 (2) To the rental of a room or up to four rooms in a  
11 housing accommodation by an [~~individual~~] owner or  
12 lessor if the [~~individual~~] owner or lessor resides  
13 [~~therein.~~] in the housing accommodation."

14 2. By amending subsection (c) to read:

15 "(c) Nothing in this chapter regarding familial status or  
16 age shall apply to housing for older persons as defined by Title  
17 42 United States Code [~~section~~] Section 3607(b)(2)."

18 SECTION 4. Section 515-16, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "**§515-16 Other discriminatory practices.** It is a  
21 discriminatory practice for a person, or for two or more persons  
22 to conspire:



- 1 (1) To retaliate, threaten, or discriminate against a  
2 person because of the exercise or enjoyment of any  
3 right granted or protected by this chapter, or because  
4 the person has opposed a discriminatory practice, or  
5 because the person has made a charge, filed a  
6 complaint, testified, assisted, or participated in an  
7 investigation, proceeding, or hearing under this  
8 chapter;
- 9 (2) To aid, abet, incite, or coerce a person to engage in  
10 a discriminatory practice;
- 11 (3) To interfere with any person in the exercise or  
12 enjoyment of any right granted or protected by this  
13 chapter or with the performance of a duty or the  
14 exercise of a power by the commission;
- 15 (4) To obstruct or prevent a person from complying with  
16 this chapter or an order issued [~~thereunder,~~] pursuant  
17 to this chapter;
- 18 (5) To intimidate or threaten any person engaging in  
19 activities designed to make other persons aware of, or  
20 encouraging such other persons to exercise rights  
21 granted or protected by this chapter; [ø]



1 (6) To threaten, intimidate or interfere with persons in  
2 their enjoyment of a housing accommodation because of  
3 the race, sex, including gender identity or  
4 expression, sexual orientation, color, religion,  
5 marital status, familial status, ancestry, disability,  
6 age, or human immunodeficiency virus infection of  
7 [~~sueh~~] the persons, or of visitors or associates of  
8 [~~sueh~~] the persons[-]; or

9 (7) To print, circulate, post, or mail, or cause to be  
10 published a statement, advertisement, or sign, or to  
11 use a form of application for a real estate  
12 transaction, or to make a record or inquiry in  
13 connection with a prospective real estate transaction,  
14 that indicates, directly or indirectly, an intent to  
15 make a limitation or specification, or to discriminate  
16 because of race, sex, including gender identity or  
17 expression, sexual orientation, color, religion,  
18 marital status, familial status, ancestry, disability,  
19 age, or human immunodeficiency virus infection."

20 SECTION 5. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.

22 SECTION 6. This Act shall take effect upon its approval.

S.B. NO. 1301  
S.D. 1  
H.D. 1

APPROVED this *29th* day of *April*, 2011

*Neil Abernethy*

GOVERNOR OF THE STATE OF HAWAII