
A BILL FOR AN ACT

RELATING TO SERVICE ANIMALS.

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

1 SECTION 1. The legislature finds that the administrative
2 rules for the Americans with Disabilities Act (Public Law
3 101-336), Title II (codified at 42 U.S.C. 12131-12165) and Title
4 III (codified at 42 U.S.C. 12181-12189) were revised in 2010 and
5 published on September 15, 2010, and become effective on
6 March 15, 2011. Title 28 Code of Federal Regulations Part 35
7 relates specifically to state and county government programs and
8 services. Title 28 Code of Federal Regulations Part 36 relates
9 specifically to public accommodations or private businesses or
10 public conveyances. Both the Americans with Disabilities Act
11 and regulations adopted pursuant to that Act changed the
12 definition of "service animals" to specify dogs. Hawaii law
13 references service animals in several sections of the Hawaii
14 Revised Statutes.

15 The legislature also finds that the definition for service
16 animal varies between the Americans with Disabilities Act and
17 the federal Fair Housing Act (Public Law 100-430). The
18 definition for service animal is broader under the Fair Housing



1 Act than under the Americans with Disabilities Act, because it
2 allows animals other than dogs and expands coverage to "comfort
3 animals". The legislature believes that conforming state law to
4 the Americans with Disabilities Act and Fair Housing Act
5 definitions will assist a person with a disability who uses a
6 service animal or comfort animal, as well as government and
7 private entities serving the public.

8 The purpose of this Act is to:

- 9 (1) Clarify state law regarding dog licensing and public
10 access for persons who are blind, visually impaired,
11 or disabled to appropriately conform provisions
12 applicable to service dogs with the Americans with
13 Disabilities Act; and
- 14 (2) Amend the definition of "service animal" and include
15 "comfort animal" in state law provisions relating to
16 Fair Housing Act requirements for non-discrimination
17 in the sale and rental of housing.

18 SECTION 2. Section 143-4, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§143-4 Issuance of license and tags.** Upon the receipt of
21 the license fee, the director of finance shall issue to the
22 person paying the fee a license stating the following:



- 1 (1) The name and address of the person to whom the license
2 is issued;
- 3 (2) The year for which the license is paid;
- 4 (3) The date of payment;
- 5 (4) A description of the dog for which the license is
6 issued; and
- 7 (5) The number of the metal tag issued for the dog [~~and~~
8 ~~(6) Any dog approved by the director of finance pursuant~~
9 ~~to rules established by the director to be a guide,~~
10 ~~signal, or service dog shall be so designated on the~~
11 ~~license].~~

12 The director of finance shall at the same time issue and
13 deliver to the person a metal tag of such form and design as the
14 director of finance may designate with a serial number and the
15 year for which it is issued plainly inscribed thereon, which tag
16 shall be attached to a collar around the neck of the dog for
17 which the license has been issued. The fee for the tag shall be
18 set by each county council; provided that, until and unless
19 provided by ordinance, the fee shall be 10 cents.

20 [~~The director of finance, pursuant to chapter 91, shall~~
21 ~~adopt rules for the licensing of guide, signal, and service~~
22 ~~dogs.] "~~



1 SECTION 3. Section 347-13, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§347-13 [~~Blind, partially blind, physically handicapped;~~]
4 Persons who are blind, visually impaired, disabled; public
5 places; public conveyances. (a) [~~The blind, visually~~
6 ~~handicapped;~~] Persons who are blind, visually impaired, and
7 otherwise [~~physically~~] disabled are entitled to full and equal
8 accommodations, advantages, facilities, and privileges of all
9 common carriers, airplanes, motor vehicles, railroad trains,
10 motor buses, street cars, boats, or any other public conveyances
11 or modes of transportation, hotels, lodging places, places of
12 public accommodation, amusement, or resort, and other places to
13 which the general public is invited, subject only to the
14 conditions and limitations established by law and applicable
15 alike to all persons.

16 (b) Every person who is blind, deaf, [~~or~~] visually
17 impaired, or [~~physically handicapped person~~] disabled shall have
18 the right to be accompanied by a [~~guide, signal, or~~] service
19 dog, especially trained for the purpose[~~7~~] of assisting the
20 person, in any of the places listed in subsection (a) without
21 being required to pay an extra charge for the [~~guide, signal,~~
22 ~~or~~] service dog; provided that the [~~blind, deaf, or visually or~~



1 ~~physically handicapped~~ person shall be liable for any damage
2 done to the premises or facilities by such dog. No such dog
3 shall be considered dangerous merely because it is unmuzzled.

4 (c) Every physically ~~handicapped~~ disabled person shall
5 have the right to use a life jacket or other flotation device in
6 a public swimming pool; provided that:

7 (1) The ~~handicapped~~ physically disabled person suffers
8 from a physical disability or condition which requires
9 the use of a life jacket or other flotation device;
10 and

11 (2) The ~~handicapped~~ physically disabled person obtains a
12 statement signed by a licensed physician or physician
13 assistant attesting to the ~~handicapped~~ physically
14 disabled person's need to use a life jacket or other
15 flotation device.

16 (d) ~~[The director of human services shall adopt rules~~
17 ~~pursuant to chapter 91 necessary for the purposes of this~~
18 ~~section.]~~ For purposes of this section:

19 "Service dog" means any dog that is individually trained to
20 do work or perform tasks for the benefit of an individual with a
21 disability, including a physical, sensory, psychiatric,
22 intellectual, or other mental disability."



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

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

10 (1) To refuse to engage in a real estate transaction with
11 a person;

12 (2) To discriminate against a person in the terms,
13 conditions, or privileges of a real estate transaction
14 or in the furnishing of facilities or services in
15 connection therewith;

16 (3) To refuse to receive or to fail to transmit a bona
17 fide offer to engage in a real estate transaction from
18 a person;

19 (4) To refuse to negotiate for a real estate transaction
20 with a person;

21 (5) To represent to a person that real property is not
22 available for inspection, sale, rental, or lease when



1 in fact it is available, or to fail to bring a
2 property listing to the person's attention, or to
3 refuse to permit the person to inspect real property,
4 or to steer a person seeking to engage in a real
5 estate transaction;

6 (6) To print, circulate, post, or mail, or cause to be
7 published a statement, advertisement, or sign, or to
8 use a form of application for a real estate
9 transaction, or to make a record or inquiry in
10 connection with a prospective real estate transaction,
11 that indicates, directly or indirectly, an intent to
12 make a limitation, specification, or discrimination
13 with respect thereto;

14 (7) To offer, solicit, accept, use, or retain a listing of
15 real property with the understanding that a person may
16 be discriminated against in a real estate transaction
17 or in the furnishing of facilities or services in
18 connection therewith;

19 (8) To refuse to engage in a real estate transaction with
20 a person or to deny equal opportunity to use and enjoy
21 a housing accommodation due to a disability [because
22 ~~the person uses the services of a guide dog, signal~~



1 ~~dog, or service animal~~]; provided that reasonable
2 restrictions or prohibitions may be imposed regarding
3 excessive noise or other problems caused by [~~these~~
4 ~~animals.~~] any housing accommodations. For the
5 purposes of this paragraph:

6 ~~["Blind" shall be as defined in section 235-1;~~

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

8 ~~"Guide dog" means any dog individually trained by~~
9 ~~a licensed guide dog trainer for guiding a blind~~
10 ~~person by means of a harness attached to the dog and a~~
11 ~~rigid handle grasped by the person;]~~

12 "Reasonable restriction" shall not include any
13 restriction that allows any owner or person to refuse
14 to negotiate or refuse to engage in a real estate
15 transaction; provided that as used in this paragraph,
16 the "reasonableness" of a restriction shall be
17 examined by giving due consideration to the needs of a
18 reasonable prudent person in the same or similar
19 circumstances [~~Depending on the circumstances, a~~
20 ~~"reasonable restriction" may require the owner of the~~
21 ~~service animal, guide dog, or signal dog to comply~~
22 ~~with one or more of the following:~~



- 1 ~~(A) Observe applicable laws including leash laws and~~
2 ~~pick up laws;~~
- 3 ~~(B) Assume responsibility for damage caused by the~~
4 ~~dog; or~~
- 5 ~~(C) Have the housing unit cleaned upon vacating by~~
6 ~~fumigation, deodorizing, professional carpet~~
7 ~~cleaning, or other method appropriate under the~~
8 ~~circumstances.~~

9 ~~The foregoing list is illustrative only, and neither~~
10 ~~exhaustive nor mandatory;~~

11 ~~"Service animal" means any animal that is trained~~
12 ~~to provide those life activities limited by the~~
13 ~~disability of the person;~~

14 ~~"Signal dog" means any dog that is trained to~~
15 ~~alert a deaf person to intruders or sounds];~~

16 (9) To solicit or require as a condition of engaging in a
17 real estate transaction that the buyer, renter, or
18 lessee be tested for human immunodeficiency virus
19 infection, the causative agent of acquired
20 immunodeficiency syndrome;

21 (10) To refuse to permit, at the expense of a person with a
22 disability, reasonable modifications to existing



1 premises occupied or to be occupied by the person if
2 modifications may be necessary to afford the person
3 full enjoyment of the premises. A real estate broker
4 or salesperson, where it is reasonable to do so, may
5 condition permission for a modification on the person
6 agreeing to restore the interior of the premises to
7 the condition that existed before the modification,
8 reasonable wear and tear excepted;

9 (11) To refuse to make reasonable accommodations in rules,
10 policies, practices, or services, when the
11 accommodations may be necessary to afford a person
12 with a disability equal opportunity to use and enjoy a
13 housing accommodation;

14 (12) In connection with the design and construction of
15 covered multifamily housing accommodations for first
16 occupancy after March 13, 1991, to fail to design and
17 construct housing accommodations in such a manner
18 that:

19 (A) The housing accommodations have at least one
20 accessible entrance, unless it is impractical to
21 do so because of the terrain or unusual
22 characteristics of the site; and



- 1 (B) With respect to housing accommodations with an
2 accessible building entrance:
- 3 (i) The public use and common use portions of
4 the housing accommodations are accessible to
5 and usable by [~~disabled~~] persons[+] with
6 disabilities;
- 7 (ii) Doors allow passage by persons in
8 wheelchairs; and
- 9 (iii) All premises within covered multifamily
10 housing accommodations contain an accessible
11 route into and through the housing
12 accommodations; light switches, electrical
13 outlets, thermostats, and other
14 environmental controls are in accessible
15 locations; reinforcements in the bathroom
16 walls allow installation of grab bars; and
17 kitchens and bathrooms are accessible by
18 wheelchair; or
- 19 (13) To discriminate against or deny a person access to, or
20 membership or participation in any multiple listing
21 service, real estate broker's organization, or other
22 service, organization, or facility involved either



1 directly or indirectly in real estate transactions, or
2 to discriminate against any person in the terms or
3 conditions of such access, membership, or
4 participation."

5 SECTION 5. This Act does not affect rights and duties that
6 matured, penalties that were incurred, and proceedings that were
7 begun before its effective date.

8 SECTION 6. 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, which 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 7. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 8. This Act shall take effect upon its approval.

17



Report Title:

Service Animals; Definitions; ADA Rules; FHA

Description:

Adds a definition of "service dog" in provisions relating to dog licensing, among others, to conform with new ADA rules and FHA rules regarding non-discrimination in the sale or rental of housing. (SD1)

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

