
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 (P.L. 101-336),
3 Title II (codified at 42 U.S.C. 12131-12165) and Title III
4 (codified at 42 U.S.C. 12181-12189) were revised and published
5 on September 15, 2010, and become effective on March 15, 2011.
6 The administrative rules governing Title II (28 C.F.R. Part 35)
7 relate specifically to state and county government programs and
8 services. The administrative rules governing Title III (28
9 C.F.R. Part 36) relate specifically to public accommodations or
10 private businesses or public conveyances. Both the Americans
11 with Disabilities Act Titles II and III rules 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 the
17 federal Fair Housing Act (P.L. 100-430). The definition for



1 service animal is broader under the Fair Housing Act than under
2 the Americans with Disabilities Act.

3 The purpose of this Act is to make changes to state law
4 relating to public places and conveyances to the Americans with
5 Disabilities Act.

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

8 "~~§347-13 [Blind, partially blind, physically handicapped,]~~
9 Persons with disabilities; public places; public conveyances.

10 (a) [~~The blind, visually handicapped, and otherwise physically~~
11 ~~disabled~~] Persons with disabilities are entitled to full and
12 equal accommodations, advantages, facilities, and privileges of
13 all common carriers, airplanes, motor vehicles, railroad trains,
14 motor buses, street cars, boats, or any other public conveyances
15 or modes of transportation, hotels, lodging places, places of
16 public accommodation, amusement, or resort, and other places to
17 which the general public is invited, subject only to the
18 conditions and limitations established by law and applicable
19 alike to all persons.

20 (b) Every [~~blind, deaf, or visually or physically~~
21 ~~handicapped person~~] person with a physical disability shall have
22 the right to be accompanied by a [~~guide, signal, or~~] service



1 dog, especially trained for the purpose~~[7]~~ of assisting the
2 person with a physical disability, in any of the places listed
3 in subsection (a) without being required to pay an extra charge
4 for the ~~[guide, signal, or]~~ service dog; provided that the
5 ~~[blind, deaf, or visually or physically handicapped]~~ person with
6 a physical disability shall be liable for any damage done to the
7 premises or facilities by such dog. No such dog shall be
8 considered dangerous merely because it is unmuzzled.

9 (c) Every ~~[physically handicapped]~~ person with a physical
10 disability shall have the right to use a life jacket or other
11 flotation device in a public swimming pool; provided that:

12 (1) The ~~[handicapped]~~ person with a physical disability
13 suffers from a physical disability or condition
14 ~~[which]~~ that requires the use of a life jacket or
15 other flotation device; and

16 (2) The ~~[handicapped]~~ person with a physical disability
17 obtains a statement signed by a licensed physician or
18 physician assistant attesting to the ~~[handicapped~~
19 ~~person's]~~ person with a physical disability's need to
20 use a life jacket or other flotation device.



1 (d) The director of human services shall adopt rules
2 pursuant to chapter 91 necessary for the purposes of this
3 section."

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

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

- 13 (1) To refuse to engage in a real estate transaction with
14 a person;
- 15 (2) To discriminate against a person in the terms,
16 conditions, or privileges of a real estate transaction
17 or in the furnishing of facilities or services in
18 connection therewith;
- 19 (3) To refuse to receive or to fail to transmit a bona
20 fide offer to engage in a real estate transaction from
21 a person;



- 1 (4) To refuse to negotiate for a real estate transaction
2 with a person;
- 3 (5) To represent to a person that real property is not
4 available for inspection, sale, rental, or lease when
5 in fact it is available, or to fail to bring a
6 property listing to the person's attention, or to
7 refuse to permit the person to inspect real property,
8 or to steer a person seeking to engage in a real
9 estate transaction;
- 10 (6) To print, circulate, post, or mail, or cause to be
11 published a statement, advertisement, or sign, or to
12 use a form of application for a real estate
13 transaction, or to make a record or inquiry in
14 connection with a prospective real estate transaction,
15 that indicates, directly or indirectly, an intent to
16 make a limitation, specification, or discrimination
17 with respect thereto;
- 18 (7) To offer, solicit, accept, use, or retain a listing of
19 real property with the understanding that a person may
20 be discriminated against in a real estate transaction
21 or in the furnishing of facilities or services in
22 connection therewith;



1 (8) To refuse to engage in a real estate transaction with
2 'a person or to deny equal opportunity to use and enjoy
3 a housing accommodation due to a disability because
4 the person uses the services of a [~~guide dog, signal~~
5 ~~dog, or~~] service animal; provided that reasonable
6 restrictions or prohibitions may be imposed regarding
7 excessive noise or other problems caused by those
8 animals. For the purposes of this paragraph:

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

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

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

15 "Reasonable restriction" shall not include any
16 restriction that allows any owner or person to refuse
17 to negotiate or refuse to engage in a real estate
18 transaction; provided that as used in this paragraph,
19 the "reasonableness" of a restriction shall be
20 examined by giving due consideration to the needs of a
21 reasonable prudent person in the same or similar
22 circumstances. Depending on the circumstances, a



1 "reasonable restriction" may require the owner of the
2 service animal [~~, guide dog, or signal dog~~] to comply
3 with one or more of the following:

4 (A) Observe applicable laws including leash laws and
5 pick-up laws;

6 (B) Assume responsibility for damage caused by the
7 dog; or

8 (C) Have the housing unit cleaned upon vacating by
9 fumigation, deodorizing, professional carpet
10 cleaning, or other method appropriate under the
11 circumstances.

12 The foregoing list is illustrative only, and is
13 neither exhaustive nor mandatory;

14 "Service animal" means any [~~animal~~] dog,
15 including guide dogs and hearing dogs, that is trained
16 to provide those life activities limited by the
17 disability of the person;

18 [~~"Signal dog" means any dog that is trained to~~
19 ~~alert a deaf person to intruders or sounds;~~]

20 (9) To solicit or require as a condition of engaging in a
21 real estate transaction that the buyer, renter, or
22 lessee be tested for human immunodeficiency virus



- 1 infection, the causative agent of acquired
2 immunodeficiency syndrome;
- 3 (10) To refuse to permit, at the expense of a person with a
4 disability, reasonable modifications to existing
5 premises occupied or to be occupied by the person if
6 modifications may be necessary to afford the person
7 full enjoyment of the premises. A real estate broker
8 or salesperson, where it is reasonable to do so, may
9 condition permission for a modification on the person
10 agreeing to restore the interior of the premises to
11 the condition that existed before the modification,
12 reasonable wear and tear excepted;
- 13 (11) To refuse to make reasonable accommodations in rules,
14 policies, practices, or services, when the
15 accommodations may be necessary to afford a person
16 with a disability equal opportunity to use and enjoy a
17 housing accommodation;
- 18 (12) In connection with the design and construction of
19 covered multifamily housing accommodations for first
20 occupancy after March 13, 1991, to fail to design and
21 construct housing accommodations in such a manner
22 that:



- 1 (A) The housing accommodations have at least one
2 accessible entrance, unless it is impractical to
3 do so because of the terrain or unusual
4 characteristics of the site; and
- 5 (B) With respect to housing accommodations with an
6 accessible building entrance:
- 7 (i) The public use and common use portions of
8 the housing accommodations are accessible to
9 and usable by [~~disabled~~] persons[+] with
10 disabilities;
- 11 (ii) Doors allow passage by persons in
12 wheelchairs; and
- 13 (iii) All premises within covered multifamily
14 housing accommodations contain an accessible
15 route into and through the housing
16 accommodations; light switches, electrical
17 outlets, thermostats, and other
18 environmental controls are in accessible
19 locations; reinforcements in the bathroom
20 walls allow installation of grab bars; and
21 kitchens and bathrooms are accessible by
22 wheelchair; or



1 (13) To discriminate against or deny a person access to, or
2 membership or participation in any multiple listing
3 service, real estate broker's organization, or other
4 service, organization, or facility involved either
5 directly or indirectly in real estate transactions, or
6 to discriminate against any person in the terms or
7 conditions of such access, membership, or
8 participation."

9 SECTION 4. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun before its effective date.

12 SECTION 5. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

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



Report Title:

Service Animals; Definitions; ADA Rules; FHA

Description:

Makes changes to state law relating to public conveyances to the Americans With Disabilities Act. (HB601 HD1)

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

