

JAN 25 2012

A BILL FOR AN ACT

RELATING TO CIVIL ACTIONS FOR DISCRIMINATORY PRACTICES IN REAL
PROPERTY TRANSACTIONS.

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

1 SECTION 1. Section 515-9, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§515-9 Enforcement.** (a) The civil rights commission has
4 jurisdiction over the subject of real property transaction
5 practices and discrimination made unlawful by this chapter. The
6 commission has the following powers:

7 (1) To receive, initiate, investigate, seek to conciliate,
8 hold hearings on, and pass upon complaints alleging
9 violations of this chapter in accordance with the
10 procedure established in chapter 368, except that
11 investigations shall be completed within one hundred
12 days and a final administrative disposition shall be
13 made within one year of the date of the receipt of the
14 complaint, unless impracticable to do so;

15 (2) At any time after a complaint is filed, to require
16 answers to interrogatories, compel the attendance of
17 witnesses, examine witnesses under oath or

1 affirmation, and require the production of documents
2 relevant to the complaint. Before a finding of
3 reasonable cause, chapter 368 to the contrary
4 notwithstanding, the commission may issue a notice of
5 right to sue upon written request of the complainant
6 which must be exercised within ninety days of receipt
7 of the notice or one year after the filing of the
8 complaint, whichever is later. The commission may
9 make rules authorizing any individual designated to
10 exercise these powers in the performance of official
11 duties;

12 (3) Chapter 368 to the contrary notwithstanding, after a
13 finding of reasonable cause, to notify the
14 complainant, respondent, or an aggrieved person on
15 whose behalf the complaint was filed, that an election
16 may be made to file a civil action in lieu of an
17 administrative hearing. The election must be made not
18 later than twenty days after receipt by the electing
19 party of the notice. The electing party shall be
20 provided with a notice of right to sue which must be
21 exercised within ninety days of receipt of that notice
22 or one year after the filing of the complaint,
23 whichever is later. The commission will provide legal

S.B. NO. 2842

1 representation to the complainant in the event of an
2 election by any party. After the filing of a civil
3 action, the parties may stipulate to have the matter
4 remanded for an administrative hearing;

5 (4) To furnish technical assistance requested by persons
6 subject to this chapter to further compliance with the
7 chapter or an order issued thereunder;

8 (5) To make studies appropriate to effectuate the purposes
9 and policies of this chapter and to make the results
10 thereof available to the public;

11 (6) To render at least annually a comprehensive written
12 report to the governor and to the legislature. The
13 report may contain recommendations of the commission
14 for legislative or other action to effectuate the
15 purposes and policies of this chapter; and

16 (7) In accordance with chapter 91, to adopt rules to
17 effectuate the purposes and policies of this chapter,
18 including rules requiring the inclusion in advertising
19 material of notices prepared or approved by the
20 commission.

21 (b) Nothing in chapter 368 or this section shall be deemed
22 to preclude an aggrieved person from filing a civil action for
23 discriminatory practices made unlawful by this chapter no later

S.B. NO. 2842

1 than two years after the occurrence or the termination of an
2 alleged discriminatory practice; provided that, notwithstanding
3 section 368-12, the commission shall issue a right to sue on a
4 complaint filed with the commission if it determines that a
5 civil action alleging similar facts has been filed.

6 (c) In a civil action filed under subsection (b), the
7 remedies ordered by the court may include remedies as provided
8 under sections 368-17 and 515-13 such as compensatory and
9 punitive damages, legal and equitable relief, and reasonable
10 attorney's fees and costs."

11 SECTION 2. New statutory material is underscored.

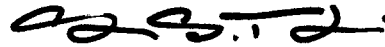
12 SECTION 3. This Act shall take effect upon its approval.

13

14

15

INTRODUCED BY:



16

BY REQUEST

17

Report Title:

Real Property Transactions; Civil Actions for Discriminatory Practices.

Description:

Allows aggrieved persons the right to file a civil action for housing discrimination no later than two years after the occurrence or termination of an alleged discriminatory housing practice.

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

JUSTIFICATION SHEET

DEPARTMENT: Labor and Industrial Relations

TITLE: A BILL FOR AN ACT RELATING TO CIVIL ACTIONS FOR DISCRIMINATORY PRACTICES IN REAL PROPERTY TRANSACTIONS.

PURPOSE: To make state law provisions relating to the filing of civil actions in housing discrimination cases more consistent with provisions found in the federal Fair Housing Act (FHA) by allowing an aggrieved person to file a civil action in an appropriate court no later than two years after the occurrence or termination of an alleged discriminatory housing practice and by allowing the Hawaii Civil Rights Commission (HCRC) to issue a right to sue on a complaint filed with the commission if it determines that a civil action alleging similar facts has been filed.

MEANS: Amend section 515-9, Hawaii Revised Statutes.

JUSTIFICATION: Currently, section 515-9 allows an aggrieved person to file a civil action after filing an administrative complaint with the HCRC and obtaining a notice of right to sue. The enforcement provisions of the FHA do not include such administrative exhaustion requirements. Rather, they provide an aggrieved person the option of filing a civil action without first filing an administrative complaint. The U.S. Department of Housing and Urban Development

has deemed section 515-9 not substantially equivalent to the FHA and has requested the HCRC to seek an amendment to section 515-9 accordingly.

Impact on the public: Would clarify that an aggrieved person may file a civil action in an appropriate court no later than two years after the occurrence or termination of an alleged discriminatory housing practice.

Impact on the department and other agencies: Inclusion of this provision may decrease the number of complaints filed with the HCRC and/or decrease the amount of time to investigate respondents claiming the exemptions.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: LBR 153.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.