

JAN 21 2011

S.B. NO. 909

A BILL FOR AN ACT

RELATING TO DISCRIMINATION.

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

1 SECTION 1. The legislature finds that low-income
2 individuals have an extremely difficult time finding affordable
3 rentals in Hawaii. This situation is made more frustrating when
4 housing vacancy advertisements discourage people from applying
5 by advertising "no section 8 accepted". Hawaii's laws currently
6 do not prohibit discrimination based on lawful source of income.
7 However, a number of other states, including California and
8 Oregon, have prohibited this type of income discrimination.
9 Renters who participate in government assistance programs, such
10 as the federal Housing Choice Voucher program, also known as
11 section 8 housing, should have an equal opportunity to find
12 housing.

13 The purpose of this Act is to prohibit discrimination based
14 on lawful source of income in real estate transactions,
15 including advertisements for available rental units.

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

SB LRB 11-0764.doc



1 "Source of income" means any lawful source of money paid
2 directly or indirectly to a renter or buyer of housing,
3 including:

4 (1) Any lawful profession or occupation;

5 (2) Any government or private assistance, grant, loan, or
6 rental assistance program, including low-income
7 housing assistance certificates and vouchers under the
8 United States Housing Act of 1937, as amended;

9 (3) Any gift, inheritance, pension, annuity, alimony,
10 child support, or other consideration or benefit; and

11 (4) Any sale or pledge of property or interest in
12 property."

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, source of income, or human
21 immunodeficiency virus infection:



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- 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;

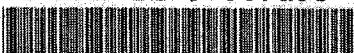
20 "Guide dog" means any dog individually trained by
21 a licensed guide dog trainer for guiding a blind



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 515-4, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "§515-4 Exemptions. (a) Section 515-3 does not apply:



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

6 (2) To the rental of a room or up to four rooms in a
7 housing accommodation by an individual if the
8 individual resides therein.

9 (b) Nothing in section 515-3 shall be deemed to prohibit
10 refusal, because of sex, including gender identity or
11 expression, sexual orientation, or marital status, to rent or
12 lease housing accommodations:

13 (1) Owned or operated by a religious institution and used
14 for church purposes as that term is used in applying
15 exemptions for real property taxes; or

16 (2) Which are part of a religiously affiliated institution
17 of higher education housing program which is operated
18 on property that the institution owns or controls, or
19 which is operated for its students pursuant to Title
20 IX of the Higher Education Act of 1972.



1 (c) Nothing in this chapter regarding familial status or
2 age shall apply to housing for older persons as defined by 42
3 United States Code section 3607(b) (2).

4 (d) Nothing in section 515-3 shall be deemed to prohibit a
5 person from determining the ability of a potential buyer or
6 renter to pay a purchase price or rent by:

7 (1) Verifying, in a commercially reasonable manner, the
8 source and amount of income of the potential buyer or
9 renter; or

10 (2) Evaluating, in a commercially reasonable manner, the
11 stability, security, and credit worthiness of the
12 potential buyer or renter or any source of income of
13 the potential buyer or renter."

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

16 "**§515-5 Discriminatory financial practices.** It is a
17 discriminatory practice for a person, a representative of [such]
18 a person, or a real estate broker or salesperson, to whom an
19 inquiry or application is made for financial assistance in
20 connection with a real estate transaction or for the
21 construction, rehabilitation, repair, maintenance, or
22 improvement of real property, because of race, sex, including



1 gender identity or expression, sexual orientation, color,
2 religion, marital status, familial status, ancestry, disability,
3 age, source of income, or human immunodeficiency virus
4 infection:

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

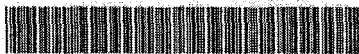
20 SECTION 6. Section 515-6, Hawaii Revised Statutes, is
21 amended by amending subsections (a) and (b) to read as follows:



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

9 (b) Every condition, restriction, or prohibition,
10 including a right of entry or possibility of reverter, that
11 directly or indirectly limits the use or occupancy of real
12 property on the basis of race, sex, including gender identity or
13 expression, sexual orientation, color, religion, marital status,
14 familial status, ancestry, disability, age, source of income, or
15 human immunodeficiency virus infection is void, except a
16 limitation, on the basis of religion, on the use of real
17 property held by a religious institution or organization or by a
18 religious or charitable organization operated, supervised, or
19 controlled by a religious institution or organization, and used
20 for religious or charitable purposes."

21 SECTION 7. Section 515-7, Hawaii Revised Statutes, is
22 amended to read as follows:

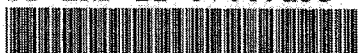


1 "§515-7 Blockbusting. It is a discriminatory practice for
2 a person, representative of a person, or a real estate broker or
3 salesperson, for the purpose of inducing a real estate
4 transaction from which the person, representative, or real
5 estate broker or salesperson may benefit financially, because of
6 race, sex, including gender identity or expression, sexual
7 orientation, color, religion, marital status, familial status,
8 ancestry, disability, age, source of income, or human
9 immunodeficiency virus infection:

10 (1) To represent that a change has occurred or will or may
11 occur in the composition of the owners or occupants in
12 the block, neighborhood, or area in which the real
13 property is located; or

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

19 SECTION 8. Section 515-16, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "§515-16 Other discriminatory practices. It is a
2 discriminatory practice for a person, or for two or more persons
3 to conspire:

4 (1) To retaliate, threaten, or discriminate against a
5 person because of the exercise or enjoyment of any
6 right granted or protected by this chapter, or because
7 the person has opposed a discriminatory practice, or
8 because the person has made a charge, filed a
9 complaint, testified, assisted, or participated in an
10 investigation, proceeding, or hearing under this
11 chapter;

12 (2) To aid, abet, incite, or coerce a person to engage in
13 a discriminatory practice;

14 (3) To interfere with any person in the exercise or
15 enjoyment of any right granted or protected by this
16 chapter or with the performance of a duty or the
17 exercise of a power by the commission;

18 (4) To obstruct or prevent a person from complying with
19 this chapter or an order issued thereunder;

20 (5) To intimidate or threaten any person engaging in
21 activities designed to make other persons aware of, or



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1 encouraging [~~such~~] other persons to exercise rights
2 granted or protected by this chapter; or

3 (6) To threaten, intimidate or interfere with persons in
4 their enjoyment of a housing accommodation because of
5 the race, sex, color, religion, marital status,
6 familial status, ancestry, disability, age, source of
7 income, or human immunodeficiency virus infection of
8 [~~such~~] the persons, or of visitors or associates of
9 [~~such~~] the persons."

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

13 SECTION 10. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 11. This Act shall take effect upon its approval.

16 INTRODUCED BY: *Fizanne Chun Oakland*



Report Title:

Discrimination in Real Property Transactions; Source of Income

Description:

Prohibits discrimination in real property transactions based on lawful source of income.

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