



HAWAII CIVIL RIGHTS COMMISSION

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March 28, 2012
Conference Rm. 308
10:00 A.m.

To: The Honorable Marcus Oshiro, Chair
and Members of the House Committee on Finance

From: Linda Hamilton Krieger, Chair
and Commissioners of the Hawai'i Civil Rights Commission

Re: S. B. No. 2842, S.D.1, H.D.1

The Hawai'i Civil Rights Commission (HCRC) has enforcement jurisdiction over state laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state-funded services. The HCRC carries out the Hawai'i constitutional mandate that "no person shall be discriminated against in the exercise of their civil rights because of race, religion, sex or ancestry". Art. I, Sec. 5.

The HCRC supports S.B. No. 2842, S.D.1, H.D.1. This is an administration bill requested by the HCRC in order to maintain state fair housing law in substantial equivalence with the federal Fair Housing Act, as required for continued receipt of federal funds.

The purpose of this bill is to make state law provisions relating to the filing of civil actions in housing discrimination cases consistent with provisions found in the federal Fair Housing Act (FHA). Specifically, the bill amends H.R.S. § 515-9 to allow 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, without first filing an administrative complaint with the HCRC and obtaining a notice of right to sue. The bill also allows the 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.

Currently, H.R.S. § 515-9 allows an aggrieved person to file a civil action only 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 HCRC receives federal funding through a cooperative agreement with the U.S. Department of Housing and Urban Development (HUD) for investigation of dual-filed fair housing complaints under state laws and the FHA. The HUD cooperative agreement requires state fair housing law to be "substantially equivalent" to the FHA. In May 2011, the HCRC received a notice from Kenneth Carroll, Director, HUD Fair Housing Assistance Program Division, directing the HCRC to seek amendment of our state law to make it substantially equivalent to the FHA by providing for civil enforcement by an aggrieved person by the commencement of a court action without exhaustion of administrative remedies. Attached please find Mr. Carroll's letter to that effect.

S.B. No. 2842, S.D.1, H.D.1, satisfies the federal law requirement of substantial equivalency. HUD has reviewed the proposed language and approved it. For these reasons, the HCRC supports S.B. No. 2842, S.D.1, H.D.1, and urges its approval.



STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

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March 28, 2012

To: The Honorable Marcus R. Oshiro, Chair,
The Honorable Marilyn B. Lee, Vice Chair; and
Members of the House Committee on Finance

Date: Wednesday, March 28, 2012
Time: 10:00 a.m.
Place: Conference Room 308, State Capitol

From: Dwight Y. Takamine, Director
Department of Labor and Industrial Relations (DLIR)

**RE: SB2842 SD1HD1 RELATING TO CIVIL ACTIONS FOR DISCRIMINATORY
PRACTICES IN REAL PROPERT TRANSACTIONS**

I. OVERVIEW OF PROPOSED LEGISLATION

The purpose of this proposal is to make state law provisions relating to the filing of civil actions in housing discrimination cases consistent with provisions found in the federal Fair Housing Act (FHA).

DLIR strongly supports this administration proposal that will satisfy federal conformity issues and allow the Hawaii Civil Rights Commission (HCRC) to continue to receive federal funds from the U.S. Department of Housing and Urban Development (HUD).

II. CURRENT LAW

Currently, Hawaii Revised Statutes § 515-9 allows an aggrieved person to file a civil action only after filing an administrative complaint with the HCRC and obtaining a notice of right to sue.

III. COMMENTS ON THE SENATE BILL

SB2842 SD1HD1 would allow the HCRC to meet federal requirements for the continued receipt of federal funds to investigate dual-filed fair housing complaints. HUD reviewed and approved the language in the proposal. DLIR urges approval of this administration measure.