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## 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:



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:



- 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 with a real estate transaction;
- 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 offer, solicit, accept, use, or retain a listing of  
20                   real property with the understanding that a person may  
21                   be discriminated against in a real estate transaction



1 or in the furnishing of facilities or services in  
2 connection with a real estate transaction;

3 [+] (7) [+] To solicit or require as a condition of engaging in a  
4 real estate transaction that the buyer, renter, or  
5 lessee be tested for human immunodeficiency virus  
6 infection, the causative agent of acquired  
7 immunodeficiency syndrome;

8 [+] (8) [+] To refuse to permit, at the expense of a person with  
9 a disability, reasonable modifications to existing  
10 premises occupied or to be occupied by the person if  
11 modifications may be necessary to afford the person  
12 full enjoyment of the premises; provided that a real  
13 estate broker or salesperson, where it is reasonable  
14 to do so, may condition permission for a modification  
15 on the person agreeing to restore the interior of the  
16 premises to the condition that existed before the  
17 modification, reasonable wear and tear excepted;

18 [+] (9) [+] To refuse to make reasonable accommodations in rules,  
19 policies, practices, or services, when the  
20 accommodations may be necessary to afford a person  
21 with a disability equal opportunity to use and enjoy a  
22 housing accommodation; provided that if reasonable



1 accommodations include the use of an animal,  
2 reasonable restrictions may be imposed;

3 [†] (10) [†] In connection with the design and construction of  
4 covered multifamily housing accommodations for first  
5 occupancy after March 13, 1991, to fail to design and  
6 construct housing accommodations in [~~such~~] a manner  
7 that:

8 (A) The housing accommodations have at least one  
9 accessible entrance, unless it is impractical to  
10 do so because of the terrain or unusual  
11 characteristics of the site; and

12 (B) With respect to housing accommodations with an  
13 accessible building entrance:

14 (i) The public use and common use portions of  
15 the housing accommodations are accessible to  
16 and usable by persons with disabilities;

17 (ii) Doors allow passage by persons in  
18 wheelchairs; and

19 (iii) All premises within covered multifamily  
20 housing accommodations contain an accessible  
21 route into and through the housing  
22 accommodations; light switches, electrical



1 outlets, thermostats, and other  
2 environmental controls are in accessible  
3 locations; reinforcements in the bathroom  
4 walls allow installation of grab bars; and  
5 kitchens and bathrooms are accessible by  
6 wheelchair; or

7 [†] (11) [†] To discriminate against or deny a person access to,  
8 or membership or participation in any multiple listing  
9 service, real estate broker's organization, or other  
10 service, organization, or facility involved either  
11 directly or indirectly in real estate transactions, or  
12 to discriminate against any person in the terms or  
13 conditions of access, membership, or participation."

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

16 "§515-4 Exemptions. (a) Section 515-3 does not apply:

17 (1) To the rental of a housing accommodation in a building  
18 which contains housing accommodations for not more  
19 than two families living independently of each other  
20 if the owner or lessor resides in one of the housing  
21 accommodations; or



1           (2) To the rental of a room or up to four rooms in a  
2           housing accommodation by an owner or lessor if the  
3           owner or lessor resides in the housing accommodation.

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

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

11           (2) Which are part of a religiously affiliated institution  
12           of higher education housing program which is operated  
13           on property that the institution owns or controls, or  
14           which is operated for its students pursuant to Title  
15           IX of the Higher Education Act of 1972.

16           (c) Nothing in this chapter regarding familial status or  
17 age shall apply to housing for older persons as defined by Title  
18 42 United States Code Section 3607(b) (2).

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



- 1        (1) Verifying, in a commercially reasonable manner, the  
2                    source and amount of income of the potential buyer or  
3                    renter; or
- 4        (2) Evaluating, in a commercially reasonable manner, the  
5                    stability, security, and credit worthiness of the  
6                    potential buyer or renter or any source of income of  
7                    the potential buyer or renter."

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

10            "**§515-5 Discriminatory financial practices.** It is a  
11 discriminatory practice for a person, a representative of [~~such~~]  
12 a person, or a real estate broker or salesperson, to whom an  
13 inquiry or application is made for financial assistance in  
14 connection with a real estate transaction or for the  
15 construction, rehabilitation, repair, maintenance, or  
16 improvement of real property, because of race, sex, including  
17 gender identity or expression, sexual orientation, color,  
18 religion, marital status, familial status, ancestry, disability,  
19 age, source of income, or human immunodeficiency virus  
20 infection:

- 21            (1) To discriminate against the applicant;





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

15          SECTION 6. Section 515-6, Hawaii Revised Statutes, is  
16          amended to read as follows:

17          "**§515-6 Restrictive covenants and conditions.** (a) Every  
18          provision in an oral agreement or a written instrument relating  
19          to real property that purports to forbid or restrict the  
20          conveyance, encumbrance, occupancy, or lease thereof to  
21          individuals because of race, sex, including gender identity or  
22          expression, sexual orientation, color, religion, marital status,



1 familial status, ancestry, disability, age, source of income, or  
2 human immunodeficiency virus infection, is void.

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

15 (c) It is a discriminatory practice to insert in a written  
16 instrument relating to real property a provision that is void  
17 under this section or to honor or attempt to honor such a  
18 provision in the chain of title."

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

21 "§515-7 **Blockbusting**. It is a discriminatory practice for  
22 a person, representative of a person, or a real estate broker or



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

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

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

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

19 "§515-16 **Other discriminatory practices.** It is a  
20 discriminatory practice for a person, or for two or more persons  
21 to conspire:



- 1           (1) To retaliate, threaten, or discriminate against a  
2           person because of the exercise or enjoyment of any  
3           right granted or protected by this chapter, or because  
4           the person has opposed a discriminatory practice, or  
5           because the person has made a charge, filed a  
6           complaint, testified, assisted, or participated in an  
7           investigation, proceeding, or hearing under this  
8           chapter;
- 9           (2) To aid, abet, incite, or coerce a person to engage in  
10          a discriminatory practice;
- 11          (3) To interfere with any person in the exercise or  
12          enjoyment of any right granted or protected by this  
13          chapter or with the performance of a duty or the  
14          exercise of a power by the commission;
- 15          (4) To obstruct or prevent a person from complying with  
16          this chapter or an order issued pursuant to this  
17          chapter;
- 18          (5) To intimidate or threaten any person engaging in  
19          activities designed to make other persons aware of, or  
20          encouraging [~~such~~] other persons to exercise rights  
21          granted or protected by this chapter;



- 1           (6) To threaten, intimidate or interfere with persons in  
2           their enjoyment of a housing accommodation because of  
3           the race, sex, including gender identity or  
4           expression, sexual orientation, color, religion,  
5           marital status, familial status, ancestry, disability,  
6           age, source of income, or human immunodeficiency virus  
7           infection of the persons, or of visitors or associates  
8           of the persons; or
- 9           (7) To print, circulate, post, or mail, or cause to be  
10          published a statement, advertisement, or sign, or to  
11          use a form of application for a real estate  
12          transaction, or to make a record or inquiry in  
13          connection with a prospective real estate transaction,  
14          that indicates, directly or indirectly, an intent to  
15          make a limitation or specification, or to discriminate  
16          because of race, sex, including gender identity or  
17          expression, sexual orientation, color, religion,  
18          marital status, familial status, ancestry, disability,  
19          age, source of income, or human immunodeficiency virus  
20          infection."



1           SECTION 9. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun before its effective date.

4           SECTION 10. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

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

7

INTRODUCED BY:           *Karl Rhoads*          

JAN 22 2013



# H.B. NO. 676

**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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