

SB805

Measure Title: RELATING TO DISCRIMINATION.
Report Title: Discrimination in Real Property Transactions; Source of Income
Description: Prohibits discrimination in real property transactions based on lawful source of income.
Companion:
Package: None
Current Referral: CPN, JDL
Introducer(s): CHUN OAKLAND

<u>Sort by</u> <u>Date</u>		Status Text
1/18/2013	S	Introduced.
1/22/2013	S	Passed First Reading.
1/22/2013	S	Referred to CPN, JDL.
1/24/2013	S	The committee(s) on CPN has scheduled a public hearing on 01-30-13 8:30AM in conference room 229.



NEIL ABERCROMBIE
GOVERNOR

SHAN S. TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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KEALI'I S. LOPEZ
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

TO THE
SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION
THE TWENTY-SEVENTH STATE LEGISLATURE
REGULAR SESSION OF 2013

Wednesday, January 30, 2013
8:30 a.m.

TESTIMONY ON S.B. NO. 805
RELATING TO DISCRIMINATION

THE HONORABLE ROSALYN H. BAKER, CHAIR;
AND MEMBERS OF THE COMMITTEE:

My name is Iris Ikeda Catalani, Commissioner of Financial Institutions
("Commissioner"), providing written comments on S.B. No. 805, Relating to Discrimination,
on behalf of the Department of Commerce and Consumer Affairs ("DCCA" or the
"Department").

The Department does not have objections to this measure, and provides these
comments regarding the federal standard used by financial institutions that have FDIC

insurance. The Dodd-Frank Wall Street Reform and Consumer Protection Act provides that financial institutions must take into account the borrower's ability to repay the credit request. The financial institutions must also take into account the Equal Credit Opportunities Act ("ECOA") which provides that a lender may not discriminate based race, color, religion, national origin, sex, marital status, or age (provided that the applicant has the capacity to enter into a binding contract); the fact that all or part of the applicant's income derives from any public assistance program; or the fact that the applicant has in good faith exercised any right under the Consumer Credit Protection Act or any state law upon which an exemption has been granted by the Bureau. Any federal, state, or local governmental assistance program that provides a continuing, periodic income supplement, whether premised on entitlement or need, is "public assistance" for purposes of the regulation. The term includes (but is not limited to) Temporary Aid to Needy Families, food stamps, rent and mortgage supplement or assistance programs, social security and supplemental security income, and unemployment compensation.

Consequently, financial institutions must consider the items identified in the definition of "source of income" on page 2 lines 5-10. The financial institutions consider and analyze the items identified in subsection (2) and (3) which include the length of time of the assistance or gift and the length of the credit requested. For instance, if the government assistance will terminate in 5 years, and the request for

credit is 30 years, the financial institution will request additional forms of income in order to approve the credit requested.

The source of income items identified on page two, subsection (1) and (4) are not prohibited bases for discrimination in federal law. However, these items are considered in determining the borrower's ability to repay the credit requested.

The Department submits that financial institutions are considering the sources of income identified in Section 2 of the proposed measure as they are subject to federal laws which prohibit discrimination. As such, the Department does not find that there is harm in enacting this law insofar as financial institutions are concerned; however, it does not provide additional consumer protection to consumers.

Thank you for the opportunity to provide written comments. I would be pleased to respond to any questions you may have.



HAWAI‘I CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 · PHONE: 586-8636 FAX: 586-8655 TDD: 568-8692

January 30, 2013
Rm. 229, 8:30 a.m.

To: The Honorable Rosalyn Baker, Chair
Members of the Senate Committee on Commerce and Consumer Protection

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

Re: SB 805

The Hawai‘i Civil Rights Commission (HCRC) has enforcement jurisdiction over Hawai‘i’s 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. Art. I, Sec. 5.

The HCRC supports SB 805 which amends HRS Chapter 515 to prohibit housing discrimination against persons based on their source of income, including government or private assistance. There is a correlation between the protected bases under federal and state fair housing law and those who receive rental assistance and other sources of income from government programs – a majority are people living with disabilities, families with children, single female heads of household, and members of racial minority groups.

Recently, several courts have held that other state statutes which include Section 8 vouchers as a source of income in their discrimination laws are not preempted by federal Section 8 law (which states that participation in the Section 8 program is voluntary), and that the burden of participating in the Section 8 program is not onerous.

The HCRC cannot predict the potential impact of adding source of income as a protected basis to the

housing discrimination law. Initially, it should be noted that this new protected basis is different in kind from the others covered under Chapter 515 and federal fair housing law. On its face, the added protected class would include not only recipients of welfare or AFDC, but also recipients of Social Security, Supplemental Security Income and other government and non-government benefits or income. While the HCRC has taken inquiries from people complaining of discrimination based on source of income, these claims are presently not within HCRC's jurisdiction.

If the legislature decides to expand HCRC jurisdiction by adding this protected basis to Chapter 515, it should be cognizant of the impact it will have on HCRC investigation and enforcement resources. Pursuant to Chapter 515 and federal fair housing law, fair housing discrimination cases are subject to shorter processing deadlines, including cases that are difficult to investigate and resolve. Therefore the HCRC requests that it be given additional investigation and staff attorney resources to process the increased number of cases that will result.

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The Honorable Rosalyn H. Baker, Chair
Senate Committee on Consumer Protection & Commerce
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: S.B. 805, Relating to Discrimination
HEARING: Wednesday, January 30, 2013 @ 8:30 a.m.

Aloha Chair Baker, Vice Chair Galuteria, and Members of the Committee:

I am Catherine Matthews (B). I have been professionally managing properties for others for almost 30 years. I am active in our local Board of Realtors. I have also served as a past president and board member for the National Association of Residential Property Managers – Oahu Chapter (NARPM), with over 230 members on island.

I oppose H.B. 676, Relating to discrimination. Although the Section 8 Housing program is important; the process is very cumbersome. When renting to a non- Section 8 tenant, when an application is received, reviewed and verified. A lease is signed and Landlord can do the inspection with the tenant and they can move in within a couple of days.

With an application for a Section 8 tenant coming in on the same day, it can often take up to two months for the Landlord to begin receiving rent. The Section 8 tenant once approved must bring the paperwork to the office for completion, the next day the tenant brings the paperwork back to the Landlord and the tenant submits it to Section 8. Then, Section 8 begins processing the paperwork which can take up to two weeks. When the paperwork is accepted an inspection is scheduled within 1-3 days. The inspector submits the results to Section 8; if there are no discrepancies found during the inspection, Section 8 advises the Landlord that the rental agreement is accepted and the tenant may be checked into the unit.

An average Section 8 application takes 12-24 days. I represent many clients (owners) who cannot afford this length of vacancy. They are relying on me to keep their properties occupied to help avoid them going into financial distress. Many would like to sell but owe more than the property is worth, their mortgage payment exceeds the rental amount and they should not have to be forced to endure the lack of income during this lengthy process.

Individual owners who manage their own properties have a very difficult time trying to get through this process, it is too complex time consuming and confusing for the average Landlord. I have heard this time and time again at the Annual Seminar that NARPM hosts to

help teach, provide forms and educate individual owners who manage their own properties (we have sold out with over 200 individuals every year since we have been doing this, I believe 5 years).

Even Professional Property Managers who accept Section 8 on a regular basis have trouble with the procedure. There are many inconsistencies from case worker to case worker and inspector to inspector. There have been instances where a repair was deemed necessary and when a different inspector comes out he approves the repair but adds other things to the list, very minor items, window cranks too hard to turn in a 25 year old unit; the windows open and close, just too hard to turn. This further delays the owner from collecting income, pushing him further into financial hardship. As we are trying to help one group of people we are pushing another group into distress.

Determining whether a person is discriminating based on source of income is very subjective and ambiguous. This being the case, one's innocence or guilt would be very hard to prove. Landlords, whether individuals or professionals, who try are diligent and honest may find themselves involved in an expensive fair housing complaint.

Source of income is a much different category than any other protected class. Financial information and length of forced vacancy while one navigates the Section 8 process has a legitimate place in a Landlords right to make a business decision with whom to place within their property. I strongly feel that a streamlining of the Section 8 process would make many more Landlords welcome the recipients; but until that time, this bill is not the solution to the problem.

I appreciate your time and the opportunity to testify.

Very Respectfully,

Catherine Matthews (B) GRI

January 30, 2013

The Honorable Rosalyn H. Baker, Chair

Senate Committee on Commerce and Consumer Protection
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: S.B. 805, Relating to Discrimination

HEARING: Wednesday, January 30, 2013 at 8:30 a.m.

Aloha Chair Baker, Vice Chair Galuteria, and Members of the Committee:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS[®] ("HAR"), the voice of real estate in Hawai'i, and its 8,000 members. HAR **opposes** S.B. 805 which prohibits discrimination in real property transactions based on lawful source of income.

Reviewing a rental applicant's financial background is an essential element of a landlord's decision making process when selecting a new tenant. S.B. 805 elevates "source of income" to that of a "protected class" under Hawaii's fair housing law thus exposing landlords and their property managers to liability for engaging in normal business practices.

While we agree that the Section 8 Housing program is an important part of Hawaii's social safety net, S.B 805 is likely to create more problems than it solves. When you compare the procedure for renting a unit to a non-Section 8 tenant, to a Section 8 tenant, the added cost, time, and liability exposure can be seen. If both tenants review the property, and submit applications on the same day, the following is an example of the additional time and complexity a Section 8 tenant adds to the process:

If a non-Section 8 tenant's application is cleared and accepted, the tenant is contacted and a meeting is scheduled to sign the rental agreement, conduct the inspection of the unit and for the tenant to pay the prorated rent and security deposit. The landlord then has a rent paying tenant in the unit within days.

With a Section 8 tenant, the following process ensues, and it often takes 2 months or longer prior to the landlord receiving the first rental check:

1. The Section 8 tenant's application is cleared, and if accepted, the tenant is contacted and advised to bring the Section 8 paperwork to the office for completion;





2. The next day the tenant comes in and delivers the paperwork. The Landlord completes the rental agreement and Section 8 paperwork and the tenant submits it to Section 8;
3. Section 8 then processes the paper work which takes approximately one to two weeks;
4. Section 8 then contacts the Landlord to advise the Landlord of their acceptance and to schedule an inspection by a Section 8 inspector which takes 1 to 3 days before inspection takes place;
5. The inspector does the inspection and submits it to Section 8;
6. If there are no discrepancies found during the inspection, Section 8 advises the Landlord that the rental agreement is accepted and the tenant may be checked in the unit;
7. At the inspection and check-in the tenant pays the security deposit;
8. The tenant's rental agreement goes into effect after the property is inspected by the Section 8 inspector and when they are given occupancy;
9. The average Section 8 application usually takes a minimum of 12 days, and more often takes 18 to 24 days; and
10. In addition, the Landlord normally must wait from 30 to 45 days to receive the prorated rent and first months full rent from Section 8.


While professional property managers may possess the experience and knowledge necessary to navigate safely through this process, this process is likely too complex, expensive and time-consuming for the average landlord.

Property managers who accept Section 8 housing applicants on a regular basis often express their frustration with the program's procedures and implementation. There is inconsistent application of paperwork requirements. Successful completion of forms may depend on which case worker is reviewing them and property inspection requirements are applied differently by different inspectors. At times, defects are reported by the inspector and corrected by the landlord, only to have a different inspector sent to check on the corrections who finds others, not noted by the first inspector. These defects are sometimes as small as a dining room ceiling light hanging three inches too low or the space under a bedroom door being ¼ inch too high or louver cranks too hard to turn.



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Another issue with this measure is that determining whether someone is engaged in a discriminatory practice based on source of income is very subjective and ambiguous. This makes it very difficult to enforce. As a result, even the most diligent and scrupulous landlord could find himself or herself the subject of a fair housing complaint. In such cases, the difficult task of proving one's "innocence" and the time, expense and distraction associated with defending a discrimination claim can easily overwhelm the typical law abiding landlord.

Finally, "source of income" is clearly in a different category from the protected classes of race, color, religion, national origin, familial status, handicap or gender identification. Each of the current protected classes was adopted to address a particular history of discrimination which we as a country and a state could no longer tolerate and claim to be just. However, financial information clearly has a legitimate place in business decisions, such as that of a landlord-tenant relationship.

Mahalo for the opportunity to testify.





OAHU CHAPTER

National Association of Residential Property Managers

January 30, 2013

The Honorable Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection
State Capitol, Room 229
Honolulu, Hawaii. 96813

Re: S.B. 805, Relating to Discrimination

HEARING: Wednesday, January 30, 2013 @ 8:30 a.m.

Good Morning Chair Baker, Vice Chair Galuteria, and Members of the Committee:

My name is Scherry Webb, President of NARPM (National Association of Residential Property Managers) We are the largest chapter in the nation with 237 members. As an organization, NARPM does not support Act SB805 which prohibits discrimination in real property transactions based on lawful source of income.

Many professional property managers rent to Section 8 tenants. However, time and costs involved in getting Section 8 approval makes it difficult to make a profit on some of the units.

S.B. 805 elevates "source of income" to that of a "protected class" under Hawaii's fair housing law thus exposing landlords and their property managers to liability for engaging in normal business practices.

The Section 8 process is time consuming:

1. After the application is approved, the tenant makes an appointment with their case worker, and then brings the paperwork to be completed. After the Landlord completes the paperwork, which is quite comprehensive, the tenant picks it up and must make an appointment to deliver it to the Section 8 office. This can take up to 1 to 2 weeks.
2. Next, an inspection is scheduled, and if the property does not pass inspection, repairs have to be made and the property scheduled for another inspection. The Property Manager must sometimes go to the property each time the Inspector is scheduled to come. We all want our units to be safe and a healthy place for our tenants, but at times the requirements are unreasonable. (Inspectors have required a wall to be cut out to fit a window when a skylight allowed plenty of air and light in the room.)
3. After the unit passes inspection, the tenant can schedule a check in date and pay the security deposit. Some tenants wait until the unit passes inspection before they make plans to move in. This could take another few days up to a few weeks. By contrast, a non-Section 8 tenant could be in the unit and paying rent within 1-2 days.
4. The entire process can take 20 to 30 days or longer, depending on the Case Worker and Inspector. The Landlord will not have rental income for those several weeks. In addition, the Landlord must then wait another few weeks to receive the first month's rent.

Determining whether a Landlord engaged in a discriminatory process based on source of income would be very subjective. They will probably not pass the customary credit check performed by most Landlords.

Even for professional property managers, the Section 8 process is complicated and frustrating. It would be very difficult for small landlords to navigate the Section 8 complexities, Depending on when the tenant finally moves in, the first rent payment may not arrive for 4-6 weeks, making it difficult for some Landlords to meet monthly payments.

Once again I urge you to oppose S.B.805.

Thank you for your time and consideration.

Scherry Webb
2013 NARPM-Oahu Chapter President
(808) 371-8458

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The Honorable Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: S.B. 805, Relating to Discrimination

HEARING: Wednesday, January 30, 2013 @ 8:30 a.m.

Aloha Chair Baker, Vice Chair Galuteria, and Members of the Committee:

My name is Laurene Young and I am a property manager for Lui & Young Realty, Inc. I am also a member and past President of NARPM (National Association of Residential Property Managers)-Oahu Chapter. The Oahu Chapter is currently the largest chapter in the nation with 236 members.

I am writing in opposition to SB 805 which prohibits discrimination in real property transactions based on lawful source of income.

While our company rents to Section 8 tenants occasionally, there are some situations where it is not possible to consider a Section 8 tenant. The Section 8 process is very time-consuming and there are many owners who cannot wait a couple weeks or months for the first rent check. They may not be able to spend the money to fix all the minor problems that the Section 8 inspector requires. It also takes at least 3-4 weeks for a Section 8 tenant to get all the paperwork done, have the inspection done and finally move in. That is 3-4 weeks of lost rent.

In order to avoid discrimination allegations, our company runs credit checks on all applicants. Even if a Section 8 tenant does not pass the credit criteria, we would be forced to rent to them. We run the risk that other applicants with bad credit will allege discrimination since we did not rent to them even if they have paystubs to prove they make enough money to pay the rent. As a rental business, financial information is vital to our ability to find the best tenant for our owners, who we have a fiduciary duty to.

I believe that many landlords will have trouble negotiating the Section 8 process. It is too complicated, time-consuming and expensive. The paperwork alone may take a new Section 8 landlord several hours to complete.

All other protected classes prevent discrimination against groups of people that should not be prevented from renting housing of their choice. Financial ability to pay is a vital part of our business decision in selecting a new tenant.

Once again, I urge you to oppose SB 805. Thank you for your time and consideration.

Respectfully,

Laurene H. Young, (B), MPM } RMP }

Presentation To
Committee on Commerce and Consumer Protection
January 30, 2013 at 8:30am
State Capitol Conference Room 229

Testimony on Bill S.B. 805

In Opposition

TO: The Honorable Rosalyn H. Baker, Chair
The Honorable Brickwood Galuteria, Vice Chair
Members of the Committee

The Hawaii Bankers Association (HBA) is opposed to SB 805, in its present form. HBA is the trade association representing all FDIC insured depository institutions operating branches in the State of Hawaii.

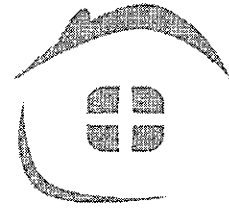
It appears that SB 805 is intended to prohibit discrimination to assure all individuals with sufficient income, regardless of the source of income, are properly considered in the pursuit of rental housing units. HBA has no opposition to this measure if it is intended solely for rental housing. However, we are concerned that the bill expands this prohibition to include all real estate transactions, including purchases.

Recently enacted rules from the Consumer Financial Protection Bureau (CFPB) have mandated that financial institutions determine with great certainty that a borrower has the "ability to pay" in order to qualify for a mortgage loan. While financial institutions will consider all valid stated income in determining this "ability to pay", they also must consider the stability and sustainability of each source of income. Income from public assistance programs is often temporary or not sustained over a long period of time, or the life of a long term mortgage loan. Therefore, unless we can substantiate that the source of income is likely to extend through the anticipated life of the loan, we may not be able to include that income in our credit underwriting process.

Our recommendation is that this bill be amended to cover only rental real estate transactions. We would be happy to provide the language for the amended bill. Thank you for your consideration and please let us know if we can provide any further information for the disposition of this measure.

Edward Y. W. Pei
Executive Director
Hawaii Bankers Association
(808) 524-5161

CORNERSTONE PROPERTIES



January 28, 2013

The Honorable Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: S.B. 805, Relating to Discrimination

HEARING: Wednesday, January 30, 2013 @ 8:30 a.m.

Aloha Chair Baker, Vice Chair Galuteria, and Members of the Committee:

I am **Amanda Frazier, Property Manager**, here to testify on behalf of Cornerstone Properties, the Hawai'i Association of REALTORS® ("HAR"), and the National Association of Residential Property Managers ("NARPM"). HAR and NARPM **opposes** S.B. 805 which prohibits discrimination in real property transactions based on lawful source of income.

While the Section 8 Housing program is great program helping many families in difficult situations with the task of paying for a rental property, S.B 805 would cause more problems than it would solve. S.B. 805 elevates "source of income" to that of a "protected class" under Hawaii's fair housing law thus exposing landlords and/or their property managers to liability for engaging in normal business practices.

When reviewing a rental application, we consider many factors. Financial background, including when they would be able to pay security deposit and first month's rent is an essential element of a landlord's decision making process when selecting a new tenant. At Cornerstone Properties, and for most other Property Managers and home owners, we require the security deposit and first month's rent at the time of the signing of the Rental Agreement. With Section 8, we will not receive the first month's rent for several weeks, sometimes well into the second month of the rental contract. Many owners cannot afford this wait.

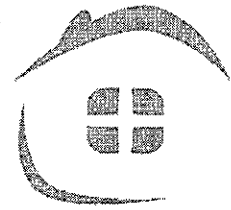
Another reason why a home owner may not want to accept Section 8 is the extensive work involved in the process:

1. The Section 8 tenant's application is cleared, if accepted, the tenant is contacted and advised to bring the Section 8 paperwork to the office for completion;
2. The next day the tenant comes in and delivers the paperwork. The Landlord completes the rental agreement and Section 8 paperwork and the tenant submits it to Section 8;
3. Section 8 then processes the paper work which takes approximately one to two weeks;

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CORNERSTONE PROPERTIES



4. Section 8 then contacts the Landlord to advise the Landlord of their acceptance and to schedule an inspection by a Section 8 inspector which takes 1 to 3 days before inspection takes place;
5. The inspector does the inspection and submits it to Section 8;
6. If there are no discrepancies found during the inspection, Section 8 advises the Landlord that the rental agreement is accepted and the tenant may be checked in the unit;
7. At the inspection and check-in the tenant pays the security deposit;
8. The tenant's rental agreement goes into effect after the property is inspected by the Section 8 inspector and when they are given occupancy;
9. Discussions with Landlords accepting Section 8 on a regular basis indicate 12 days is the minimum and often takes 18 to 24 days; and
10. In addition, the Landlord normally must wait from 30 to 45 days to receive the prorated rent and first months full rent from Section 8.

While you may think all Section 8 applications would be uniform with a system in place, in our experience, no two application processes are the same. There are many inconsistencies with the system – how they come up with rental comparisons – different case workers/inspectors have different standards, etc.

Finally, “source of income” is clearly in a different category from the protected classes of race, color, religion, national origin, familial status, handicap or gender identification. Each of the current protected classes was adopted to address a particular history of discrimination which we as a country and a state could no longer tolerate and claim to be just. However, financial information clearly has a legitimate place in business decisions.

Mahalo for the opportunity to testify.

Amanda Frazier, RA
Property Manager

SB805

Submitted on: 1/25/2013

Testimony for CPN on Jan 30, 2013 08:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Ian Bigelow	Prudential Locations LLC	Oppose	No

Comments: Having worked with housing assistance programs in Hawaii as a property manager for many years, I see the benefits and drawbacks of the program. I won't cover all of these as I have seen many testimonies that cover them in great detail, however I strongly believe that landlords should continue to be given the choice on whether or not they would like to work with housing assistance programs. While these programs may make sense for some landlords that have the financial means to wait for the initial payment and deal with administrative errors causing delays in payments, many landlords do not. To force a landlord to work with a certain program in some cases could cause them great financial hardships in the form of delinquent mortgage and association due payments. While this is only a small reason for our opposition to the bill, many other testimonies that I reviewed touched on other areas which I didn't feel needed to be restated.

January 29, 2013

The Honorable Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: S.B. 805, Relating to Discrimination

HEARING: Wednesday, January 30, 2013 at 8:30 a.m.

Aloha Chair Baker, Vice Chair Galuteria, and Members of the Committee:

I am Sheri R.Y. Marquina, R, ABR a member of the National Association of Residential Property Managers (NARPM) Hawaii Chapter submitting testimony to oppose S.B. 805 which prohibits discrimination in real property transactions based on lawful source of income.

Reviewing a rental applicant's financial background is an essential element of a landlord's decision making process when selecting a new tenant. S.B. 805 elevates "source of income" to that of a "protected class" under Hawaii's fair housing law thus exposing landlords and their property managers to liability for engaging in normal business practices. While we agree that the Section 8 Housing program is an important part of Hawaii's social safety net, S.B 805 is likely to create more problems than it solves. When you compare the procedure for renting a unit to a non-Section 8 tenant, to a Section 8 tenant, the added cost, time, and liability exposure can be seen. If both tenants review the property, and submit applications on the same day, the following is an example of the additional time and complexity a Section 8 tenant adds to the process:

If a non-Section 8 tenant's application is cleared and accepted, the tenant is contacted and a meeting is scheduled to sign the rental agreement, conduct the inspection of the unit and for the tenant to pay the prorated rent and security deposit. The landlord then has a rent paying tenant in the unit within days.

With a Section 8 tenant, the following process ensues, and it often takes 2 months or longer prior to the landlord receiving the first rental check:

1. The Section 8 tenant's application is cleared, and if accepted, the tenant is contacted and advised to bring the Section 8 paperwork to the office for completion;
2. The next day the tenant comes in and delivers the paperwork. The Landlord completes the rental agreement and Section 8 paperwork and the tenant submits it to Section 8;
3. Section 8 then processes the paper work which takes approximately one to two weeks;
4. Section 8 then contacts the Landlord to advise the Landlord of their acceptance and to schedule an inspection by a Section 8 inspector which takes 1 to 3 days before inspection takes place;

5. The inspector does the inspection and submits it to Section 8;
6. If there are no discrepancies found during the inspection, Section 8 advises the Landlord that the rental agreement is accepted and the tenant may be checked in the unit;
7. At the inspection and check-in the tenant pays the security deposit;
8. The tenant's rental agreement goes into effect after the property is inspected by the Section 8 inspector and when they are given occupancy;
9. The average Section 8 application usually takes a minimum of 12 days, and more often takes 18 to 24 days; and
10. In addition, the Landlord normally must wait from 30 to 45 days to receive the prorated rent and first months full rent from Section 8.

While professional property managers may possess the experience and knowledge necessary to navigate safely through this process, this process is likely too complex, expensive and time-consuming for the average landlord.

Property managers who accept Section 8 housing applicants on a regular basis often express their frustration with the program's procedures and implementation. There is inconsistent application of paperwork requirements. Successful completion of forms may depend on which case worker is reviewing them and property inspection requirements are applied differently by different inspectors. At times, defects are reported by the inspector and corrected by the landlord, only to have a different inspector sent to check on the corrections who finds others, not noted by the first inspector. These defects are sometimes as small as a dining room ceiling light hanging three inches too low or the space under a bedroom door being ¼ inch too high or louver cranks too hard to turn. Another issue with this measure is that determining whether someone is engaged in a discriminatory practice based on source of income is very subjective and ambiguous. This makes it very difficult to enforce. As a result, even the most diligent and scrupulous landlord could find himself or herself the subject of a fair housing complaint. In such cases, the difficult task of proving one's "innocence" and the time, expense and distraction associated with defending a discrimination claim can easily overwhelm the typical law abiding landlord.

Finally, "source of income" is clearly in a different category from the protected classes of race, color, religion, national origin, familial status, handicap or gender identification. Each of the current protected classes was adopted to address a particular history of discrimination which we as a country and a state could no longer tolerate and claim to be just. However, financial information clearly has a legitimate place in business decisions, such as that of a landlord-tenant relationship.

Mahalo for the opportunity to submit testimony

Sheri R.Y. Marquina, R, ABR

January 29, 2013

The Honorable Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: S.B. 805, Relating to Discrimination

HEARING: Wednesday, January 30, 2013 at 8:30 a.m.

Aloha Chair Baker, Vice Chair Galuteria, and Members of the Committee:

I am Lurline R. Johnson (B), a member of the National Association of Residential Property Managers (NARPM) Hawaii Chapter submitting testimony to oppose S.B. 805 which prohibits discrimination in real property transactions based on lawful source of income.

Reviewing a rental applicant's financial background is an essential element of a landlord's decision making process when selecting a new tenant. S.B. 805 elevates "source of income" to that of a "protected class" under Hawaii's fair housing law thus exposing landlords and their property managers to liability for engaging in normal business practices. While we agree that the Section 8 Housing program is an important part of Hawaii's social safety net, S.B 805 is likely to create more problems than it solves. When you compare the procedure for renting a unit to a non-Section 8 tenant, to a Section 8 tenant, the added cost, time, and liability exposure can be seen. If both tenants review the property, and submit applications on the same day, the following is an example of the additional time and complexity a Section 8 tenant adds to the process:

If a non-Section 8 tenant's application is cleared and accepted, the tenant is contacted and a meeting is scheduled to sign the rental agreement, conduct the inspection of the unit and for the tenant to pay the prorated rent and security deposit. The landlord then has a rent paying tenant in the unit within days.

With a Section 8 tenant, the following process ensues, and it often takes 2 months or longer prior to the landlord receiving the first rental check:

1. The Section 8 tenant's application is cleared, and if accepted, the tenant is contacted and advised to bring the Section 8 paperwork to the office for completion;
2. The next day the tenant comes in and delivers the paperwork. The Landlord completes the rental agreement and Section 8 paperwork and the tenant submits it to Section 8;
3. Section 8 then processes the paper work which takes approximately one to two weeks;
4. Section 8 then contacts the Landlord to advise the Landlord of their acceptance and to schedule an inspection by a Section 8 inspector which takes 1 to 3 days before inspection takes place;

5. The inspector does the inspection and submits it to Section 8;
6. If there are no discrepancies found during the inspection, Section 8 advises the Landlord that the rental agreement is accepted and the tenant may be checked in the unit;
7. At the inspection and check-in the tenant pays the security deposit;
8. The tenant's rental agreement goes into effect after the property is inspected by the Section 8 inspector and when they are given occupancy;
9. The average Section 8 application usually takes a minimum of 12 days, and more often takes 18 to 24 days; and
10. In addition, the Landlord normally must wait from 30 to 45 days to receive the prorated rent and first months full rent from Section 8.

While professional property managers may possess the experience and knowledge necessary to navigate safely through this process, this process is likely too complex, expensive and time-consuming for the average landlord.

Property managers who accept Section 8 housing applicants on a regular basis often express their frustration with the program's procedures and implementation. There is inconsistent application of paperwork requirements. Successful completion of forms may depend on which case worker is reviewing them and property inspection requirements are applied differently by different inspectors. At times, defects are reported by the inspector and corrected by the landlord, only to have a different inspector sent to check on the corrections who finds others, not noted by the first inspector. These defects are sometimes as small as a dining room ceiling light hanging three inches too low or the space under a bedroom door being ¼ inch too high or louver cranks too hard to turn. Another issue with this measure is that determining whether someone is engaged in a discriminatory practice based on source of income is very subjective and ambiguous. This makes it very difficult to enforce. As a result, even the most diligent and scrupulous landlord could find himself or herself the subject of a fair housing complaint. In such cases, the difficult task of proving one's "innocence" and the time, expense and distraction associated with defending a discrimination claim can easily overwhelm the typical law abiding landlord.

Finally, "source of income" is clearly in a different category from the protected classes of race, color, religion, national origin, familial status, handicap or gender identification. Each of the current protected classes was adopted to address a particular history of discrimination which we as a country and a state could no longer tolerate and claim to be just. However, financial information clearly has a legitimate place in business decisions, such as that of a landlord-tenant relationship.

Mahalo for the opportunity to submit testimony

Lurline R. Johnson (B)

January 29, 2013

The Honorable Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: S.B. 805, Relating to Discrimination

HEARING: Wednesday, January 30, 2013 at 8:30 a.m.

Aloha Chair Baker, Vice Chair Galuteria, and Members of the Committee:

I am Sheri R.Y. Marquina, R, ABR a member of the National Association of Residential Property Managers (NARPM) Hawaii Chapter submitting testimony to oppose S.B. 805 which prohibits discrimination in real property transactions based on lawful source of income.

Reviewing a rental applicant's financial background is an essential element of a landlord's decision making process when selecting a new tenant. S.B. 805 elevates "source of income" to that of a "protected class" under Hawaii's fair housing law thus exposing landlords and their property managers to liability for engaging in normal business practices. While we agree that the Section 8 Housing program is an important part of Hawaii's social safety net, S.B 805 is likely to create more problems than it solves. When you compare the procedure for renting a unit to a non-Section 8 tenant, to a Section 8 tenant, the added cost, time, and liability exposure can be seen. If both tenants review the property, and submit applications on the same day, the following is an example of the additional time and complexity a Section 8 tenant adds to the process:

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Mahalo for the opportunity to submit testimony

Darcie Y. Kaneshiro (B) ABR, CRB, CRS, GRI

January 29, 2013

The Honorable Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: S.B. 805, Relating to Discrimination

HEARING: Wednesday, January 30, 2013 at 8:30 a.m.

Aloha Chair Baker, Vice Chair Galuteria, and Members of the Committee:

I am Brandi K.W. Oshiro, RA, ABR, GRI a member of the National Association of Residential Property Managers (NARPM) Hawaii Chapter submitting testimony to oppose S.B. 805 which prohibits discrimination in real property transactions based on lawful source of income.

Reviewing a rental applicant's financial background is an essential element of a landlord's decision making process when selecting a new tenant. S.B. 805 elevates "source of income" to that of a "protected class" under Hawaii's fair housing law thus exposing landlords and their property managers to liability for engaging in normal business practices. While we agree that the Section 8 Housing program is an important part of Hawaii's social safety net, S.B. 805 is likely to create more problems than it solves. When you compare the procedure for renting a unit to a non-Section 8 tenant, to a Section 8 tenant, the added cost, time, and liability exposure can be seen. If both tenants review the property, and submit applications on the same day, the following is an example of the additional time and complexity a Section 8 tenant adds to the process:

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Mahalo for the opportunity to submit testimony

Brandi K.W. Oshiro, RA, ABR, GRI

January 29, 2013

The Honorable Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: S.B. 805, Relating to Discrimination

HEARING: Wednesday, January 30, 2013 at 8:30 a.m.

Aloha Chair Baker, Vice Chair Galuteria, and Members of the Committee:

I am Joan K.Y. Kashimoto, RA, ABR, SRES a member of the National Association of Residential Property Managers (NARPM) Hawaii Chapter submitting testimony to oppose S.B. 805 which prohibits discrimination in real property transactions based on lawful source of income.

Reviewing a rental applicant's financial background is an essential element of a landlord's decision making process when selecting a new tenant. S.B. 805 elevates "source of income" to that of a "protected class" under Hawaii's fair housing law thus exposing landlords and their property managers to liability for engaging in normal business practices. While we agree that the Section 8 Housing program is an important part of Hawaii's social safety net, S.B 805 is likely to create more problems than it solves. When you compare the procedure for renting a unit to a non-Section 8 tenant, to a Section 8 tenant, the added cost, time, and liability exposure can be seen. If both tenants review the property, and submit applications on the same day, the following is an example of the additional time and complexity a Section 8 tenant adds to the process:

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Mahalo for the opportunity to submit testimony

Joan K.Y. Kashimoto, RA, ABR, SRES, Property Manager

January 29, 2013

The Honorable Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: S.B. 805, Relating to Discrimination

HEARING: Wednesday, January 30, 2013 at 8:30 a.m.

Aloha Chair Baker, Vice Chair Galuteria, and Members of the Committee:

I am Robert Nakagawa, RA, a member of the National Association of Residential Property Managers (NARPM) Hawaii Chapter submitting testimony to oppose S.B. 805 which prohibits discrimination in real property transactions based on lawful source of income.

Reviewing a rental applicant's financial background is an essential element of a landlord's decision making process when selecting a new tenant. S.B. 805 elevates "source of income" to that of a "protected class" under Hawaii's fair housing law thus exposing landlords and their property managers to liability for engaging in normal business practices. While we agree that the Section 8 Housing program is an important part of Hawaii's social safety net, S.B 805 is likely to create more problems than it solves. When you compare the procedure for renting a unit to a non-Section 8 tenant, to a Section 8 tenant, the added cost, time, and liability exposure can be seen. If both tenants review the property, and submit applications on the same day, the following is an example of the additional time and complexity a Section 8 tenant adds to the process:

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Mahalo for the opportunity to submit testimony

Robert Nakagawa, RA

January 29, 2013

The Honorable Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: S.B. 805, Relating to Discrimination

HEARING: Wednesday, January 30, 2013 at 8:30 a.m.

Aloha Chair Baker, Vice Chair Galuteria, and Members of the Committee:

I am Shannon M. Heaven, R, ABR, CRS, GRI, SFR a member of the National Association of Residential Property Managers (NARPM) Hawaii Chapter submitting testimony to oppose S.B. 805 which prohibits discrimination in real property transactions based on lawful source of income.

Reviewing a rental applicant's financial background is an essential element of a landlord's decision making process when selecting a new tenant. S.B. 805 elevates "source of income" to that of a "protected class" under Hawaii's fair housing law thus exposing landlords and their property managers to liability for engaging in normal business practices. While we agree that the Section 8 Housing program is an important part of Hawaii's social safety net, S.B 805 is likely to create more problems than it solves. When you compare the procedure for renting a unit to a non-Section 8 tenant, to a Section 8 tenant, the added cost, time, and liability exposure can be seen. If both tenants review the property, and submit applications on the same day, the following is an example of the additional time and complexity a Section 8 tenant adds to the process:

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Mahalo for the opportunity to submit testimony

Shannon M. Heaven, R, ABR, CRS, GRI, SFR, Property Manager

January 29, 2013

The Honorable Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: S.B. 805, Relating to Discrimination

HEARING: Wednesday, January 30, 2013 at 8:30 a.m.

Aloha Chair Baker, Vice Chair Galuteria, and Members of the Committee:

I am Faye Ichimasa, RA a Realtor Associate submitting testimony to oppose S.B. 805 which prohibits discrimination in real property transactions based on lawful source of income.

Reviewing a rental applicant's financial background is an essential element of a landlord's decision making process when selecting a new tenant. S.B. 805 elevates "source of income" to that of a "protected class" under Hawaii's fair housing law thus exposing landlords and their property managers to liability for engaging in normal business practices. While we agree that the Section 8 Housing program is an important part of Hawaii's social safety net, S.B 805 is likely to create more problems than it solves. When you compare the procedure for renting a unit to a non-Section 8 tenant, to a Section 8 tenant, the added cost, time, and liability exposure can be seen. If both tenants review the property, and submit applications on the same day, the following is an example of the additional time and complexity a Section 8 tenant adds to the process:

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Mahalo for the opportunity to submit testimony

Faye Ichimasa, RA

January 29, 2013

The Honorable Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: S.B. 805, Relating to Discrimination

HEARING: Wednesday, January 30, 2013 at 8:30 a.m.

Aloha Chair Baker, Vice Chair Galuteria, and Members of the Committee:

I am Berton Hamamoto, R, ABR, CRB, CRS a member of National Association of Residential Property Managers (NARPM) Hawaii Chapter submitting testimony to **oppose** S.B. 805 which prohibits discrimination in real property transactions based on lawful source of income.

Reviewing a rental applicant's financial background is an essential element of a landlord's decision making process when selecting a new tenant. S.B. 805 elevates "source of income" to that of a "protected class" under Hawaii's fair housing law thus exposing landlords and their property managers to liability for engaging in normal business practices. While we agree that the Section 8 Housing program is an important part of Hawaii's social safety net, S.B 805 is likely to create more problems than it solves. When you compare the procedure for renting a unit to a non-Section 8 tenant, to a Section 8 tenant, the added cost, time, and liability exposure can be seen. If both tenants review the property, and submit applications on the same day, the following is an example of the additional time and complexity a Section 8 tenant adds to the process:

If a non-Section 8 tenant's application is cleared and accepted, the tenant is contacted and a meeting is scheduled to sign the rental agreement, conduct the inspection of the unit and for the tenant to pay the prorated rent and security deposit. The landlord then has a rent paying tenant in the unit within days.

With a Section 8 tenant, the following process ensues, and it often takes 2 months or longer prior to the landlord receiving the first rental check:

1. The Section 8 tenant's application is cleared, and if accepted, the tenant is contacted and advised to bring the Section 8 paperwork to the office for completion;
2. The next day the tenant comes in and delivers the paperwork. The Landlord completes the rental agreement and Section 8 paperwork and the tenant submits it to Section 8;
3. Section 8 then processes the paper work which takes approximately one to two weeks;
4. Section 8 then contacts the Landlord to advise the Landlord of their acceptance and to schedule an inspection by a Section 8 inspector which takes 1 to 3 days before inspection takes place;

5. The inspector does the inspection and submits it to Section 8;
6. If there are no discrepancies found during the inspection, Section 8 advises the Landlord that the rental agreement is accepted and the tenant may be checked in the unit;
7. At the inspection and check-in the tenant pays the security deposit;
8. The tenant's rental agreement goes into effect after the property is inspected by the Section 8 inspector and when they are given occupancy;
9. The average Section 8 application usually takes a minimum of 12 days, and more often takes 18 to 24 days; and
10. In addition, the Landlord normally must wait from 30 to 45 days to receive the prorated rent and first months full rent from Section 8.

While professional property managers may possess the experience and knowledge necessary to navigate safely through this process, this process is likely too complex, expensive and time-consuming for the average landlord.

Property managers who accept Section 8 housing applicants on a regular basis often express their frustration with the program's procedures and implementation. There is inconsistent application of paperwork requirements. Successful completion of forms may depend on which case worker is reviewing them and property inspection requirements are applied differently by different inspectors. At times, defects are reported by the inspector and corrected by the landlord, only to have a different inspector sent to check on the corrections who finds others, not noted by the first inspector. These defects are sometimes as small as a dining room ceiling light hanging three inches too low or the space under a bedroom door being ¼ inch too high or louver cranks too hard to turn. Another issue with this measure is that determining whether someone is engaged in a discriminatory practice based on source of income is very subjective and ambiguous. This makes it very difficult to enforce. As a result, even the most diligent and scrupulous landlord could find himself or herself the subject of a fair housing complaint. In such cases, the difficult task of proving one's "innocence" and the time, expense and distraction associated with defending a discrimination claim can easily overwhelm the typical law abiding landlord.

Finally, "source of income" is clearly in a different category from the protected classes of race, color, religion, national origin, familial status, handicap or gender identification. Each of the current protected classes was adopted to address a particular history of discrimination which we as a country and a state could no longer tolerate and claim to be just. However, financial information clearly has a legitimate place in business decisions, such as that of a landlord-tenant relationship.

Mahalo for the opportunity to submit testimony

Berton Hamamoto, R, ABR, CRB, CRS

SB805

Submitted on: 1/28/2013

Testimony for CPN on Jan 30, 2013 08:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Trina Martin	Individual	Oppose	No

Comments: I am NOT in support of SB805. As a professional property manager, I represent very discerning clients, who expect financially-sound & strong APPLICANTS to be placed in their rental units, which I manage for them. One important qualifying criteria (in the lengthy, selection process), is an APPLICANTS' income. If the APPLICANTS don't make 3 x the monthly rental rate, for example, then the INVESTOR may risk losing their property, because the TENANT may not pay rent on-time, or at all. * * *It may take months before the eviction process is completed (officially). In the mean time, the INVESTOR could go into foreclosure, or have their exemplary FICO score & credit ruined. It will be unconscionably irresponsible if the Senate passes this bill (SB805).