

JAN 18 2013

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



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

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

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

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

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

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

(iii) All premises within covered multifamily
housing accommodations contain an accessible
route into and through the housing
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 [f](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.

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INTRODUCED BY: *Shiranne Chun Caldwell*



Report Title:

Discrimination in Real Property Transactions; Source of Income

Description:

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

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

