

STAND. COM. REP. NO.

467

Honolulu, Hawaii

FEB 17 2017

RE: S.B. No. 127
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred S.B. No. 127 entitled:

"A BILL FOR AN ACT RELATING TO DISCRIMINATION,"

begs leave to report as follows:

The purpose and intent of this measure is to amend the
Landlord-Tenant Code to prohibit discrimination based on lawful
source of income in rental transactions, including advertisements
for available rental dwelling units.

Your Committee received testimony in support of this measure
from the Hawai'i Civil Rights Commission. Your Committee received
testimony in opposition to this measure from the Hawai'i
Association of REALTORS and Kaua'i Board of REALTORS. Your
Committee received comments on this measure from the Office of
Consumer Protection of the Department of Commerce and Consumer
Affairs, Office of Hawaiian Affairs, and Hawaii Public Housing
Authority.

Your Committee finds that low-income individuals and families
often have a difficult time finding affordable housing rentals in
Hawaii. These difficulties are exacerbated when landlords or
advertisements for dwelling units refuse to accept the federal
Housing Choice Voucher Program, otherwise known as Section 8
housing vouchers. Your Committee further finds that other states,
and several large metropolitan areas in the country, have adopted



laws to prohibit landlords from refusing to rent to those who participate in federal housing voucher programs. According to testimony received by your Committee, in recent years, a number of courts have held that state discrimination laws that protect against source of income discrimination are not preempted by federal Section 8 law and that the burden of participating in the Section 8 program is not onerous. This measure amends the State's Landlord-Tenant Code to prohibit discrimination in rental transactions, including advertisements for available rental dwelling units, based on lawful source of income and ensures that low-income individuals and families are able to access housing opportunities that may otherwise be unavailable to them.

Your Committee has heard the concerns raised in testimony regarding the appropriate location for the anti-discrimination provisions proposed by this measure. Your Committee understands that neither the Landlord-Tenant Code nor the chapter relating to discrimination in real property transactions is the most appropriate location for source-of-income discrimination provisions. However, it is your Committee's intent that the Office of Consumer Protection and the Hawaii Civil Rights Commission be the agencies responsible for acting on complaints based on source-of-income discrimination.

Your Committee has also heard the concerns raised in testimony regarding inspections of dwelling units by the Hawaii Public Housing Authority, who noted that the Authority may not always need to schedule a re-inspection and that the re-inspection requirements proposed by this measure may be overly burdensome.

Accordingly, your Committee has amended this measure by:

- (1) Adding the prohibitions against discrimination in rental transactions based on source of income into a new chapter of the Hawaii Revised Statutes, rather than as a new part in the Landlord-Tenant Code;
- (2) Clarifying the definition of "rental transaction";
- (3) Clarifying other prohibited discriminatory practices in a rental transaction;



- (4) Removing language that would have permitted a landlord to discriminate following a failed initial inspection and the dwelling unit was not re-inspected within three business days;
- (5) Specifying the remedies, including enforcement by civil action, which may be brought by an aggrieved renter;
- (6) Clarifying that the Office of Consumer Protection or the Hawaii Civil Rights Commission are the agencies that shall receive, investigate, and resolve disputes;
- (7) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (8) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 127, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 127, S.D. 1, and be referred to your Committee on Judiciary and Labor.

Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Health,



ROSALYN H. BAKER, Chair



The Senate
 Twenty-Ninth Legislature
 State of Hawai'i

Record of Votes
Committee on Commerce, Consumer Protection, and Health
CPH

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|--|--|-------------------------|-----|----------|
| Bill / Resolution No.:* <i>SB 127</i> | Committee Referral: <i>CPH, JDL</i> | Date: <i>2/14/17</i> | | |
| <input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____ | | | | |
| The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313 | | | | |
| Members | Aye | Aye (WR) | Nay | Excused |
| BAKER, Rosalyn H. (C) | / | | | |
| NISHIHARA, Clarence K. (VC) | / | | | |
| CHANG, Stanley | / | | | |
| ESPERO, Will | | | | / |
| IHARA, Jr., Les | / | | | |
| KIDANI, Michelle N. | / | | | |
| RUDERMAN, Russell E. | / | | | |
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| TOTAL | <i>6</i> | | | <i>1</i> |
| Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted | | | | |
| Chair's or Designee's Signature: <div style="text-align:center;"><i>Clarence K Nishihara</i></div> | | | | |
| Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy | | | | |

*Only one measure per Record of Votes