

DAVID Y. IGE  
GOVERNOR



HAKIM OUANSAFI  
EXECUTIVE DIRECTOR

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## STATE OF HAWAII

HAWAII PUBLIC HOUSING AUTHORITY  
1002 NORTH SCHOOL STREET  
POST OFFICE BOX 17907  
HONOLULU, HAWAII 96817

Statement of

**Hakim Ouansafi**

Hawaii Public Housing Authority  
Before the

### HOUSE COMMITTEE ON HOUSING

**Tuesday, February 5, 2019**

**9:30 AM - Room 423, Hawaii State Capitol**

In consideration of

**HB 1224**

### **RELATING TO RENTAL DISCRIMINATION**

Honorable Chair Brower and Members of the House Committee on Housing, thank you for the opportunity to provide testimony concerning House Bill (HB) 1224, relating to rental discrimination.

The Hawaii Public Housing Authority (HPHA) **strongly supports** the enactment of HB 1244 which prohibits discrimination, including in advertisements for available rental units, based on receipt of income from a housing assistance program, or requirements related to participation in housing assistance programs, in rental transactions and requirements.

The Hawaii Public Housing Authority (HPHA) assists low-income families through the Housing Choice Voucher Program, also known as "Section 8". The Section 8 program is one of the federal government's major programs for assisting very low-income families, the elderly, and the disabled to afford decent, safe, and sanitary housing in the private market, including single-family homes, townhouses and apartments.

Because of the overwhelming need in our community to assist our low-income families, the passage of this measure will greatly assist our Section 8 participants in being considered as tenants. Due to the unfortunate stigma that Section 8 participants damage rental units, our Section 8 participants have a difficult time in finding landlords who will rent to them. In fact, as of the date of this testimony, over 200 families with voucher in hand are still looking for a landlord willing to accept the voucher. The Section 8 program is an important part of the State's efforts in addressing the affordable housing needs of our low-income families that would otherwise be homeless, and the HPHA is willing to work and assist all future landlords that participate in these projects.

The HPHA appreciates the opportunity to provide the Committee with the HPHA's testimony regarding HB 1224. We thank you very much for your dedicated support.



**EXECUTIVE CHAMBERS**  
HONOLULU

**DAVID Y. IGE**  
GOVERNOR

February 5, 2019

**TO:** The Honorable Representative Tom Brower, Chair  
House Committee on Housing

**FROM:** Scott Morishige, MSW, Governor's Coordinator on Homelessness

**SUBJECT: HB1244 – RELATING TO RENTAL DISCRIMINATION**

Hearing: Tuesday, February 5 2019, 9:30 a.m.  
Conference Room 423, State Capitol

**POSITION:** The Governor's Coordinator supports this measure, as it addresses a key barrier to housing faced by low-income and homeless individuals and families statewide.

**PURPOSE:** The purpose of the bill is to prohibit discrimination, including in advertisements for available rental units, based on receipt of income from a housing assistance program, or requirements related to participation in housing assistance programs, in rental transactions and requirements.

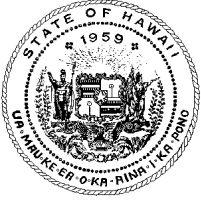
This measure will address a key barrier to housing for many low-income and homeless individuals and families throughout the state. The Coordinator notes that the states of Connecticut, Maine, Massachusetts, New Jersey, North Dakota, Oklahoma, Oregon, Utah, Vermont, Washington, and Washington, D.C., have adopted statutes that prohibit rental discrimination based on source of income, which includes the use of housing vouchers.

Homelessness remains one of the most pressing challenges facing Hawaii, and the State has adopted a comprehensive framework to address homelessness that focuses on three primary leverage points – affordable housing, health and human services, and public safety. The Coordinator works closely with multiple state agencies and homeless service providers to implement this framework through the delivery of housing-focused services like Housing First and Rapid Re-Housing, as well as outreach and treatment services for unsheltered homeless

individuals experiencing severe mental illness and/or addiction. The coordinated efforts to implement the State's framework to address homelessness have made progress in reducing the number of homeless individuals statewide. Between 2017 and 2018, the number of homeless individuals in Hawaii decreased by 690 individuals (9.6%). The decrease was one of the largest numeric decreases in homelessness in the country, only exceeded by decreases in California, Florida and Michigan.

Despite the progress in addressing homelessness, many homeless individuals continue to experience difficulties in locating permanent housing, despite being assigned a housing voucher through programs such as Housing First, the State Rent Supplement Program, the Section 8 Housing Choice Voucher Program, Tenant Based Rental Assistance (TBRA), or the U.S. Department of Housing and Urban Development Veterans Affairs Supportive Housing (HUD-VASH) program. According to feedback from service providers, many landlords are reluctant to rent to individuals who have a voucher or who report receiving case management through Housing First or a similar program. Providers have shared that a number of advertisements for housing specifically state "No Section 8" or "No Vouchers." The Coordinator's office has also received direct calls and e-mails from constituents who cite discrimination against individuals with a housing voucher as a key factor related to their homelessness.

Thank you for the opportunity to testify on this bill.



# HAWAI‘I CIVIL RIGHTS COMMISSION

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

February 5, 2019  
Rm. 423, 9:30 a.m.

To: The Honorable Tom Brower, Chair  
Members of the House Committee on Housing

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

**LATE**

Re: H.B. No. 1244

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 the intent of H.B. No. 1244, which would amend HRS chapter 515 to prohibit housing discrimination against persons based on their source of income, including participation in a housing assistance program or requirements related to participation in a housing assistance program.** While this new protection is different in kind from the protected bases under fair housing law, there is some 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 – many are people living with disabilities, families with children, single female heads of household, and members of racial minority groups.

In recent years a number of courts have held that other state discrimination laws which include protection for renters who have Section 8 vouchers as a source of income 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 supports the intent of H.B. No. 1244, but has concerns over this new protection being placed in Chapter 515 and under HCRC jurisdiction, because of the potential impact on complaint caseload and processing HRS Chapter 515. The Commission cannot predict the potential impact of adding source of income as a protected basis to the housing discrimination law.**

The HCRC suggests that the committee consider creating an individual direct cause of action for violations of this new protection, with remedies including injunctive relief, a fine of not more than \$500, and attorney's fees. Such limited remedies would be better suited to address the purpose of the new protection, more so than providing the full panoply of remedies available under HRS chapter 515, including compensatory and punitive damages; this also mitigates against placing the new protection under chapter 515, because the HCRC opposes the creation of "lesser" protections within the state fair housing statute.

**To this end, the HCRC suggests an amended H.D.1, amending Section 2 of the bill by creating a new chapter and adding a new section on remedies (and enforcement by direct civil action) at the end of the new chapter. A proposed H.D.1 follows.**

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THE SENATE  
THIRTY-FIRST LEGISLATURE, 2019  
STATE OF HAWAII

# A BILL FOR AN ACT

RELATING TO RENTAL DISCRIMINATION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

SECTION 1. The legislature finds that low-income individuals experience extreme difficulty in finding affordable rentals in Hawai'i. This situation becomes all the more frustrating when housing vacancy advertisements proclaim "no Section 8 accepted" or "Section 8 need not apply" in an effort to prevent low-income individuals with housing vouchers from being considered as tenants. News reports, locally and nationally, have documented that prospective tenants are often rejected by landlords due to their use of housing vouchers or other forms of housing assistance, or based on requirements for participation in a housing program.

The legislature further finds that studies have shown that when there are laws to prevent discrimination against renters with housing vouchers, such renters are twelve per cent more likely to find housing. Discrimination against voucher holders and recipients of other housing assistance programs, often termed "source of income" discrimination, is prohibited in twelve states and the District of Columbia, as well as numerous cities and counties throughout the

United States. Further, the American Bar Association adopted a resolution in 2017 calling for enactment of laws that ban housing discrimination based on lawful sources of income. Hawai'i law currently does not prohibit housing discrimination based on lawful sources of income.

The legislature notes that source of income laws do not alter or restrict the standard industry practices to vet prospective renters. Rather, these laws prohibit landlords from rejecting prospective renters who receive housing vouchers or other housing assistance simply because of the voucher or assistance. The legislature believes that renters who participate in housing assistance programs, such as the federal housing choice voucher program, also known as section 8 housing, should have an equal opportunity to find housing.

The purpose of this Act is to prohibit discrimination, including in advertisements for available rental units, based on receipt of income from a housing assistance program, or requirements related to participation in housing assistance programs, in rental transactions and requirements.

SECTION 2. The Hawaii Revised Statutes are amended by adding a new chapter to be appropriately designated and to read as follows:

**"CHAPTER . SOURCE OF INCOME DISCRIMINATION**

**§ -1 Definitions.** As used in this chapter, unless the context clearly requires otherwise:

"Rental transaction" means any part of the process or transaction for the rental or lease of a premises for residential purposes.

"Housing assistance program" means any government or private assistance, grant, loan, or rental assistance program, including low-income housing assistance certificates and vouchers under the United States Housing Act of 1937, as amended."

"Steer" means the practice of directing persons who seek to enter into a rental transaction toward or away from the premises to deprive them of the benefits of living in a discrimination-free environment.

**§ -2 Discriminatory practices in a rental transaction based on source of income.**

(a) It is a discriminatory practice for a person engaging in a rental transaction subject to this chapter, because of participation in a housing assistance program or requirements related to participation in a housing assistance program:

- (1) To refuse to engage in a rental transaction with a person;
- (2) To discriminate against a person in the terms, conditions, or privileges of a rental transaction or in the furnishing of facilities or services in connection with a rental transaction;
- (3) To refuse to receive or fail to transmit a bona fide offer to engage in a rental transaction from a person;
- (4) To refuse to negotiate for a rental transaction with a



person;

- (5) To represent to a person that a premises is not available for inspection, rental, or lease when in fact the premises is available; fail to bring a premises listing to the person's attention; refuse to permit the person to inspect the premises; or steer a person away from seeking to engage in a rental transaction;
- (6) To offer, solicit, accept, use, or retain a premises listing with the understanding that a person may be discriminated against in a rental transaction or in the furnishing of facilities or services in connection with a rental transaction; or
- (7) To discriminate against or deny a person access to, or membership or participation in any multiple listing service or other service, organization, or facility involved either directly or indirectly in rental transactions; or to discriminate against any person in the terms or conditions of access, membership, or participation.

(b) Nothing in this section shall be deemed to prohibit a person from determining the ability of a potential tenant to pay rent by:

(1) Verifying, in a commercially reasonable manner, the source and amount of income of the potential tenant;  
or

(2) Evaluating, in a commercially reasonable manner, the stability, security, and credit worthiness of the potential tenant or any source of income of the potential tenant.

§ -3 **Restrictive covenants and conditions.** (a) Every provision in an oral agreement or a written instrument relating to the premises that purports to forbid or restrict the occupancy or lease thereof to persons because of participation in a housing assistance program or requirements related to participation in a housing assistance program is void.

(b) Every condition, restriction, or prohibition, including a right of entry or possibility of reverter, that directly or indirectly limits the use or occupancy of the premises on the basis of participation in a housing assistance program or requirements related to participation in a housing assistance program is void.

(c) It is a discriminatory practice to insert in a written instrument relating to the premises a provision that is void

under this section or to honor or attempt to honor the provision in the chain of title.

§ -4 **Blockbusting.** It is a discriminatory practice for a person, for the purpose of inducing a rental transaction from which the person may benefit financially, because of participation in a housing assistance program or requirements related to participation in a housing assistance program:

- (1) To represent that a change has occurred, or will or may occur in the composition of the owners or occupants in the block, neighborhood, or area in which the premises is located; or
- (2) To represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the premises is located.

§ -5 **Other discriminatory practices in a rental transaction.** It is a discriminatory practice for a person, or for two or more persons to conspire:

- (1) To retaliate, threaten, or discriminate against a person because:

- (A) Of the exercise or enjoyment of any right granted or protected by this chapter;
  - (B) The person has opposed a discriminatory practice prohibited under this chapter; or
  - (C) The person has filed a complaint, testified, assisted, or participated in a proceeding under this chapter;
- (2) To aid, abet, incite, or coerce a person to engage in a discriminatory practice under this chapter;
  - (3) To interfere with any person in the exercise or enjoyment of any right granted or protected by this chapter;
  - (4) To obstruct or prevent a person from complying with this chapter or an order issued pursuant to this chapter;
  - (5) To intimidate or threaten any person engaging in activities designed to make other persons aware of, or encouraging other persons to exercise rights granted or protected by this chapter;

- (6) To threaten, intimidate, or interfere with persons in their enjoyment of the premises because of the source of income of the persons, or of visitors or associates of the persons; or
- (7) To print, circulate, post, or mail, or cause to be published a statement, advertisement, or sign; to use a form of application for a rental transaction; or to make a record or inquiry in connection with a prospective rental transaction that indicates, directly or indirectly, an intent to make a limitation or specification, or to discriminate because of participation in a housing assistance program or requirements related to participation in a housing assistance program.

**§ -6 Exception; untimely dwelling unit reinspection.** A landlord may discriminate on the basis of source of income when the dwelling unit the landlord and potential tenant desire to enter into a rental agreement fails the initial inspection required for participation in a low-income housing assistance certificate and voucher program under the United States Housing Act of 1937, as amended, and the program fails to reinspect the dwelling unit within three business days.

§ -7 Remedies for discrimination based on source of

**income.** (a) If a person engaging in a rental transaction engages in a discriminatory practice based participation in a housing assistance program or requirements related to participation in a housing assistance program prohibited under this chapter, any aggrieved renter may bring a civil action in district court for appropriate injunctive relief, within one year of the occurrence of the alleged violation.

(b) In an action brought pursuant to subsection (a), a district court may:

- (1) Issue an injunction to enjoin violation of this chapter.
- (2) In any case that it issues an injunction pursuant to paragraph (1), may also assess a fine not to exceed \$500.
- (3) In any case that it issues an injunction pursuant to paragraph (1), may also award reasonable attorney's fees incurred in the civil action.

SECTION 3. The department of commerce and consumer affairs, in consultation with the Hawai'i civil rights commission, shall produce materials related to this Act and publicize the prohibition against discrimination based on participation in housing assistance programs or requirements related to participation in housing assistance programs.

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

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

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February 5, 2019

**The Honorable Tom Brower, Chair**

Housing Committee on Housing  
State Capitol, Room 423  
Honolulu, Hawaii 96813

**RE: H.B. 1244, Relating to Rental Discrimination**

**HEARING: Tuesday, February 5, 2019, at 9:30 a.m.**

Aloha Chair Brower, Vice Chair Matayoshi, and Members of the Committee:

I am Ken Hiraki Government Affairs Director, testifying on behalf of the Hawai'i Association of REALTORS® (“HAR”), the voice of real estate in Hawai'i, and its over 9,500 members. HAR **strongly opposes** H.B. 820 which prohibits discrimination, including in advertisements for available rental units, based on receipt of income from a housing assistance program, or requirements related to participation in housing assistance programs, in rental transactions and requirements.

Under Hawai'i Revised Statutes Chapter 515, commonly referred to as the Fair Housing law, it prohibits a broad list of discriminatory practices to a list of protected classes, which include race, sex, including gender identity or expression, sexual orientation, color, religion, marital status, familial status, ancestry, disability, age or human immunodeficiency virus infection. This measure adds government housing assistance programs, such as section 8, to the list of protected classes. Additionally, HAR would note that the Fair Housing law applies to appraisals, mortgages, mortgage lending, real estate contracts, inspection, and real estate services.

HAR believes that government subsidized housing assistance programs, such as Section 8, are an important part of our community's social safety net. However, the section 8 process has additional paperwork, inspections and processes. It can often take 2 months or longer before a landlord receives their first rental check. While property managers may possess the experience and knowledge necessary to navigate safely through this process, it may be too complex, expensive and time consuming for the average landlord.

Additionally, the issue of whether a landlord is engaged in a discriminatory practice, simply by not choosing to participate in a housing assistance program, becomes subjective and ambiguous. As a result, even the most diligent landlord could find himself or herself the subject of a fair housing complaint. HAR believes that it is not a good practice to make government assistance housing programs, which are optional, a protected class. Instead, we should focus on solutions that encourage property owners to participate in these valuable programs.

Mahalo for the opportunity to testify.

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**HB-1244**

Submitted on: 2/1/2019 4:06:07 PM

Testimony for HSG on 2/5/2019 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Michael Golojuch Jr	LGBT Caucus of the Democratic Party of Hawaii	Support	Yes

Comments:

Aloha Representatives,

The LGBT Caucus of the Democratic Party of Hawaii supports the passage of HB 1244.

Mahalo for your consideration and for the opportunity to testify.

Mahalo,

Michael Golojuch, Jr.

Chair

LGBT Caucus of the Democratic Party of Hawaii



**From: David Smoot, House District 26**

HAWAII STATE HOUSE OF REPRESENTATIVES

COMMITTEE ON HOUSING

Testimony supporting House Bill 1244

Tuesday, February 5, 2019

9:30am

House Conference Room 423

Aloha Chairman Tom Brower, Vice-Chair Scot Z. Matayoshi and Committee members.

I'm David Smoot of District 26, and I'm testifying in strong support of HB1244 "Rental Discrimination; Housing Assistance Program".

First, I believe the public supports fair housing without discrimination.

If the primary opposition to this bill is the inaccurate belief that people who receive housing assistance are not good neighbors and tenants because of source of income, that opinion can evolve when informed by the experiences of landlords with good tenants. Under this bill, tenants will be vetted the same way regardless of source of income.

Other concerns may include extra paperwork and overhead, but these reasons don't justify discrimination.

I have been a good tenant who's source of income includes government housing assistance. I've lived in the same apartment for more than two years. But when I was looking for an apartment, I did find some rental advertisements saying "no Section 8 accepted".

I urge you to vote to advance HB1244 to the floor.

Thank you for the opportunity to show my support for HB1244.

Sincerely,  
David Smoot