



EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

February 22, 2019

TO: The Honorable Senator Karl Rhoads, Chair
Senate Committee on Judiciary

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

SUBJECT: SB 122 SD1 – RELATING TO RENTAL DISCRIMINATION

Hearing: Friday, February 22, 2019, 9:00 a.m.
Conference Room 016, 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.

DAVID Y. IGE
GOVERNOR



HAKIM OUANSAFI
EXECUTIVE DIRECTOR

BARBARA E. ARASHIRO
EXECUTIVE ASSISTANT

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

SENATE COMMITTEE ON JUDICIARY

Friday, February 22, 2019

9:00 AM - Room 016, Hawaii State Capitol

In consideration of

SB 122, SD1

RELATING TO RENTAL DISCRIMINATION

Honorable Chair Rhoads and Members of the Senate Committee on Judiciary, thank you for the opportunity to provide testimony concerning Senate Bill (SB) 122, SD1, relating to rental discrimination.

The Hawaii Public Housing Authority (HPHA) supports the enactment of SB 122, SD1, which prohibits discrimination, including in advertisements for available real property, based on participation in a housing assistance program, or requirements related to participation in housing assistance programs, in real estate transactions and requirements

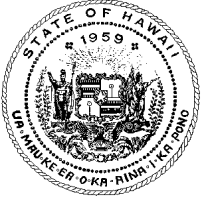
The HPHA's mission is to promote adequate and affordable housing, economic opportunity and a suitable living environment free from discrimination through its public housing and rental assistance programs. The HPHA serves the State's most vulnerable populations, including those earning less than thirty percent of the Area Median Income (AMI), the disabled and the elderly.

One of the programs in which the HPHA assists our low-income families is 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. This program currently brings approximately 20 million dollars a year on the island of Oahu, supports over 1,900 families and over 6,000 individuals.

Because of the overwhelming need in our community to assist our low-income families, we are hopeful that with the passage of this measure, our Section 8 participants will be considered as tenants and given a chance to apply for vacant units. The Section 8 program is an important part of the State's efforts in addressing the affordable housing needs of our low-income families,

and the HPHA is willing to work and assist all landlords that would like to participate in the program.

The HPHA appreciates the opportunity to provide the Committee with the HPHA's testimony regarding SB 122, SD1. We thank you very much for your dedicated support.



HAWAI‘I CIVIL RIGHTS COMMISSION

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

February 22, 2019
Rm. 016, 9:00 a.m.

To: The Honorable Karl Rhoads, Chair
Members of the Senate Committee on Judiciary

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

Re: S.B. No. 122, S.D.1

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 S.B. No. 122, S.D. 1, 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 S.B. No. 122, S.D. 1, but has concerns over this new protection being placed in HRS chapter 515 and under HCRC jurisdiction, because of the potential impact on complaint caseload and processing. The Commission cannot predict the potential impact of adding source of income as a protected basis to the housing discrimination law.

In Section 2 of S.B. No. 122, S.D. 1, the Committee on Housing amended HRS chapter 515 to provide 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 are 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, and because the new direct cause of action does not require exhaustion of HCRC administrative remedies.**

To this end, the HCRC suggests an amended S.D.2, amending Sections 2, 3, and 4 of the bill to place this new protection in a stand-alone new HRS chapter 515A, that does not fall under HCRC jurisdiction.

DATE: February 21, 2019

TO: Hon. Karl Rhoads
Chair, Senate Committee on Judiciary
Email: JDCtestimony@capitol.hawaii.gov

LATE

FROM: Bill Hoshijo
Executive Director
Hawai'i Civil Rights Commission
Email: William.D.Hoshijo@hawaii.gov
Ph. 586-8636

RE: S.B. No. 122, S.D. 1

TRANSMITTAL MEMO

HCRC Proposed S.D. 2

REMARKS:

The HCRC's timely submitted testimony suggested an amended S.D. 2, placing the new protection in a new chapter of HRS. The HCRC's proposed S.D. 2 is attached.
Thank you for your consideration.

By: William Hoshijo
Executive Director

SB NO. 122, S.D. 2 (HCRC PROPOSED 2/22/19)

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 real property, based on participation in a housing assistance program, or requirements related to participation in housing assistance programs, in real estate 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. (a) It is a discriminatory practice for an owner or any other person engaging in a real estate transaction, or for a real estate broker or salesperson, 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 real estate transaction with a person;
- (2) To discriminate against a person in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection with a real estate transaction;

- (3) To refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction from a person;
- (4) To refuse to negotiate for a real estate transaction with a person;
- (5) To represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is available, or to fail to bring a property listing to the person's attention, or to refuse to permit the person to inspect real property, or to steer a person seeking to engage in a real estate transaction;
- (6) To offer, solicit, accept, use, or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection with a real estate transaction; or
- (7) To discriminate against or deny a person access to, or membership or participation in any multiple listing service, real estate broker's organization, or other service, organization, or facility involved either directly or indirectly in real estate 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 buyer or renter to pay a purchase price or rent by:

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

§ ____-3 Blockbusting. It is a discriminatory practice for a person, representative of a person, or a real estate broker or salesperson, for the purpose of inducing a real estate transaction from which the person, representative, or real estate broker or salesperson 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 real property 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 real property is located.

§ ____-4 Other discriminatory practices. 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 of the exercise or enjoyment of any right granted or protected by this chapter, or because the person has opposed a discriminatory practice, or because the person has made a charge, filed a complaint, testified, assisted, or participated in a civil action brought under this chapter;
- (2) To aid, abet, incite, or coerce a person to engage in a discriminatory practice;
- (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 such other persons to exercise rights granted or protected by this chapter;

- (6) To threaten, intimidate or interfere with persons in their enjoyment of a housing accommodation because of participation in a housing assistance program or requirements related to participation in a housing assistance program; or
- (7) To print, circulate, post, or mail, or cause to be published a statement, advertisement, or sign, or to use a form of application for a real estate transaction, or to make a record or inquiry in connection with a prospective real estate 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, .

§ ____-4 Remedies for discrimination based on participation in a housing assistance program. (a) If a person engaging in a real estate transaction engages in a discriminatory practice based on participation in a housing assistance program or requirements related to participation in a housing assistance program pursuant to this chapter, any aggrieved person may bring a civil action in district court for appropriate injunctive relief within one year of the occurrence of the discriminatory violation.

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

- (1) May issue an injunction to enjoin violation of this chapter in regard to discriminatory practices based on participation in a housing assistance program or requirements related to participation in a housing assistance program; and
- (2) In any case in which it issues an injunction pursuant to paragraph (1), may also assess a fine not to exceed \$500 and award reasonable attorney's fees incurred in the civil action."

SECTION 3. The Hawaii 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 5. This Act shall take effect upon its approval.

SB-122-SD-1

Submitted on: 2/16/2019 4:07:14 PM

Testimony for JDC on 2/22/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Golojuch Jr	Testifying for LGBT Caucus of the Democratic Party of Hawaii	Support	No

Comments:

Aloha Senators,

The LGBT Caucus of the Democratic Party of Hawaii supports the passage of SB 122.

Mahalo for your consideration and for the opportunity to testify.

Mahalo,

Michael Golojuch, Jr.

Chair

LGBT Caucus of the Democratic Party of Hawaii

February 22, 2019

The Honorable Karl Rhoads, Chair

Senate Committee on Judiciary
State Capitol, Room 016
Honolulu, Hawaii 96813

RE: S.B. 122, SD1, Relating to Rental Discrimination

HEARING: Friday, February 22, 2019, at 9:00 a.m.

Aloha Chair Rhoads, Vice Chair Wakai, 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** Senate Bill 122, SD1, which prohibits discrimination, including in advertisements for available real property, based on participation in a housing assistance program, or requirements related to participation in housing assistance programs, in real estate 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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SB-122-SD-1

Submitted on: 2/21/2019 7:36:15 AM

Testimony for JDC on 2/22/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments:

SB-122-SD-1

Submitted on: 2/21/2019 8:16:36 AM

Testimony for JDC on 2/22/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Brian I. Hauser	Testifying for Aloha Independent Living Hawai'i	Support	No

Comments:

Aloha Independent Living Hawaii (AILH) supports SB 122. As a statewide agency serving the disability community, we find that our clients who are seeking housing are often hindered by the lack of such anti-discrimination legislation. Our clients are individuals with legitimate and significant disabilities, who are often adversely impacted by discriminatory advertising and practices that this legislation seeks to rectify.

Many of our consumers have additional barriers in finding accessible apartments. AILH observed that after the significant work to obtain a voucher, persons with disabilities are then faced with discouraging ads and listings such as “No Section 8 accepted”. This further limits the already scarce inventory of available, accessible apartments.

AILH understands that the bill does not require a landlord to rent to a voucher holder but rather to give a person a fair chance to apply as stated “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.” As it stands now, our clients are not even given the opportunity to present themselves to prospective landlords.

Therefore, we urge the Judiciary Committee to vote to move this bill forward to the full senate for a vote. Our hope is that this bill gets signed into law during this legislative session so that the people with all types of disabilities, throughout the state, who utilize rental subsidies can have the same opportunities as other renters when seeking suitable apartments to fit their individual needs.

Mahalo for the opportunity to testify.

DAVID W.H. CHEE

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February 20, 2019

COMMITTEE ON JUDICIARY
Kenekoa/Senator Karl Rhoads
Kenekoa/Senator Glenn Wakai

Re: SB 122, SD1 - RELATING TO RENTAL DISCRIMINATION

Dear Representatives:

I am an attorney who practices in the field of landlord/tenant law, including residential matters.

In Hawaii, too few landlords participate in the Section 8 program, so I generally agree with the intent of the legislation – to create opportunities for those with Section 8 vouchers to be able to find housing.

This proposed legislation, however, is not clear in what it will require of landlords in order to comply with its terms and can be read to cause absurd results. Because it is unclear how a landlord can comply with the law, I am writing in opposition to SB 122, SD1.

Additionally, while the law seems aimed towards rental transactions, the law does not limit its scope to residential landlord-tenant transactions. It applies to sales, long-term leases, agreements of sale, and any other real estate transaction in the State. The law will make normal and prudent business decisions in the transaction of real estate discriminatory.

A. What is required by this law for landlords?

It seems that the law seeks to prevent landlords from considering whether a prospective tenant is on a “housing assistance program” when considering them as a tenant – similar to how a landlord is not supposed to consider race. It is important to note that “housing assistance program” is defined to include not just Section 8 or any other government-sponsored formal program, but also “any...private assistance” or loans. “Private assistance” is not defined. As a result, the law requires landlords to disregard a tenant’s source of income as long as the tenant can claim to be receiving “private assistance” or claim that they will obtain a loan to cover the rent.

The inclusion of “any private assistance” in the law will make it practically impossible for landlords to screen tenants for financial ability to pay the rent. For example, if a prospective tenant says that they have no job, but that they will pay the rent with gifts from friends, this law would make it a discriminatory act for the landlord to consider the prospect’s lack of financial stability in choosing a tenant. As such, this law would make it a discriminatory act for a landlord to select as a tenant a prospect who works and has a regular income instead of someone who relies on gifts from friends. This law would make it illegal to choose a responsible, hard-working person as a tenant over someone who gets by on gifts.

It is also not clear whether this law would require every landlord to participate in every kind of “housing assistance program” and to what extent that participation is required. The proposed law would make it a discriminatory act to consider “requirements related to participation in a housing assistance program” in selecting tenants. It is not clear what this means. However, it implies that a landlord must accept the conditions of “any private assistance,” whatever those conditions might be. For example, if a private assistance program will only pay the rent at the end of the month instead of the beginning of the month, this law would make consideration of that fact discriminatory. That could be a real problem for many landlords who depend on rent payments at the beginning of the month to pay their mortgages on-time. So, if a landlord selected a tenant who could pay the rent at the beginning of the month instead of a tenant whose housing assistance program paid the rent at the end of the month, that would be a discriminatory act.

Additionally, the proposed law is written so broadly that arguably a landlord is required to accept any condition that any private assistance program might require. If, for example, a private assistance program required a landlord to forego evicting the tenant even if the tenant and the assistance program do not pay the rent, consideration of this condition by the landlord would be a discriminatory act.

The law also can be read to require that all landlords participate in the Section 8 program. Presently, participation by landlords in the Section 8 program is completely voluntary. Many landlords choose to participate in the Section 8 program since the program provides a reliable source of income. Some landlords who want to participate in the Section 8 program cannot because of the condition of their properties do not meet Section 8’s standards. Other landlords choose not to participate in the program because it is unattractive to them.

What could be unattractive about a secure stream of rent? For many landlords, the requirements of the Section 8 agreement are too burdensome. As you can see from the City and County of Honolulu’s website, Section 8 housing assistance can only happen after a landlord has made a contract with the government. See, <http://www.honolulu.gov/cms-dcs-menu/site-dcs-sitearticles/1338-cad-section-8.html> (“Eligible participants receive a Housing Choice Voucher which entitles them to search for a rental unit. A contract to pay subsidies is signed between the City and the owner once the rental unit and the lease are approved.”)

A copy of a recent contract form can be found at <http://www.honolulu.gov/rep/site/dcs/onlineforms/dcs-2013landlordinformationpacket.pdf>. A review of the contract reveals that, in exchange for payment, landlords must accept 12 pages of strict obligations presented in dense, small-font, legalese.

Many of the terms are unattractive and one-sided. For example, by entering into the agreement, a landlord agrees to allow the government to audit his or her records, and must allow the government “full and free” access to any computers, equipment or facilities containing records related to the rental. For most private landlords in Hawaii, this would mean allowing the government full and free access to their home and giving the government full and free access to

all information on their computers. See, paragraph 11 on “Page 6 of 12” of the Sample HAP Contract.

In addition to giving up fundamental rights of privacy, a landlord that enters into the HAP contract also gives up the fundamental right to evict a tenant if rent is not paid. See, paragraph 5.c. on Page 9 of 12 of the Sample HAP Contract, which says, “(a) PHA failure to pay the housing assistance payment to the owner is not a violation of the lease. The owner may not terminate the tenancy for nonpayment of the PHA housing assistance payment.” So, when Section 8 does not pay, a landlord cannot take his or her property back.

As it is presently written, this legislation can be read to require all landlords to agree to any condition imposed by any government or private housing assistance program, without regard to whether the landlord wants to, or even can, participate.

B. What is required by this law for real estate sales?

Most buyers in Hawaii purchase homes with a loan from a mortgage lender. Sellers of homes want to make sure that the buyer will have the funds to pay when the sale is scheduled to close.

The language of this proposed law requires a home seller to disregard the purchaser’s ability to actually pay for the property the purchaser is getting. Under the proposed law considering whether a buyer is participating in a “housing assistance program” is discriminatory. Since “housing assistance program” includes any loan, it becomes discriminatory for a seller to choose to sell to an all-cash purchaser instead of a purchaser who needs a loan to close.

More importantly, it does not allow a seller to differentiate between purchasers that have actual financing and people who claim to have loans from friends. This law will make it illegal for a seller to consider that one prospective purchaser has secured financing from First Hawaiian Bank while another has only informal financing from friends, since the loan from friends is a “housing assistance program.”

So, while I agree that Section 8 recipients should have more options to find housing, this proposed legislation does not seem well-designed to achieve that end and will cause much disruption to real-estate transactions in Hawaii. Please pass something that is better tailored to achieve your goal.

Very truly yours,

David W.H. Chee, Esq.