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# A BILL FOR AN ACT

RELATING TO RENTAL DISCRIMINATION.

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

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

12           The legislature further finds that studies have shown that  
13 when there are laws to prevent discrimination against renters  
14 with housing vouchers, such renters are twelve per cent more  
15 likely to find housing. Discrimination against voucher holders  
16 and recipients of other housing assistance programs, often  
17 termed "source of income" discrimination, is prohibited in



1 twelve states and the District of Columbia, as well as numerous  
2 cities and counties throughout the United States. Further, the  
3 American Bar Association adopted a resolution in 2017 calling  
4 for enactment of laws that ban housing discrimination based on  
5 lawful sources of income. Hawai'i law currently does not  
6 prohibit housing discrimination based on lawful sources of  
7 income.

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

17 The purpose of this Act is to prohibit discrimination,  
18 including in advertisements for available real property, based  
19 on participation in a housing assistance program, or  
20 requirements related to participation in housing assistance  
21 programs, in real estate transactions and requirements.



1 SECTION 2. Chapter 515, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§515- Remedies for discrimination based on  
5 participation in a housing assistance program. (a) If a person  
6 engaging in a real estate transaction engages in a  
7 discriminatory practice based on participation in a housing  
8 assistance program or requirements related to participation in a  
9 housing assistance program pursuant to section 515-3, any  
10 aggrieved person may bring a civil action in district court for  
11 appropriate injunctive relief within one year of the occurrence  
12 of the discriminatory violation.

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

15 (1) May issue an injunction to enjoin violation of this  
16 chapter in regard to discriminatory practices based on  
17 participation in a housing assistance program or  
18 requirements related to participation in a housing  
19 assistance program; and

20 (2) In any case in which it issues an injunction pursuant  
21 to paragraph (1), may also assess a fine not to exceed



1           \$500 and award reasonable attorney's fees incurred in  
2           the civil action."

3           SECTION 3. Section 515-2, Hawaii Revised Statutes, is  
4 amended by adding a new definition to be appropriately inserted  
5 and to read as follows:

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

11          SECTION 4. Section 515-3, Hawaii Revised Statutes, is  
12 amended to read as follows:

13          "**§515-3 Discriminatory practices.** It is a discriminatory  
14 practice for an owner or any other person engaging in a real  
15 estate transaction, or for a real estate broker or salesperson,  
16 because of race, sex, including gender identity or expression,  
17 sexual orientation, color, religion, marital status, familial  
18 status, ancestry, disability, age, participation in a housing  
19 assistance program or requirements related to participation in a  
20 housing assistance program, or human immunodeficiency virus  
21 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 a  
9 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



1 housing accommodation; provided that if reasonable  
2 accommodations include the use of an animal,  
3 reasonable restrictions may be imposed;

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

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

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

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

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

20 (iii) All premises within covered multifamily  
21 housing accommodations contain an accessible



1 route into and through the housing  
2 accommodations; light switches, electrical  
3 outlets, thermostats, and other  
4 environmental controls are in accessible  
5 locations; reinforcements in the bathroom  
6 walls allow installation of grab bars; and  
7 kitchens and bathrooms are accessible by  
8 wheelchair; or

9 [+](11)[+]To discriminate against or deny a person access to, or  
10 membership or participation in any multiple listing  
11 service, real estate broker's organization, or other  
12 service, organization, or facility involved either  
13 directly or indirectly in real estate transactions, or  
14 to discriminate against any person in the terms or  
15 conditions of access, membership, or participation[-];

16 provided that remedies for discriminatory practices based on  
17 participation in a housing assistance program or requirements  
18 related to participation in a housing assistance program shall  
19 be determined pursuant to section 515- ."

20 SECTION 5. Section 515-4, Hawaii Revised Statutes, is  
21 amended to read as follows:





1       "§515-4 Exemptions. (a) Section 515-3 does not apply:  
2       (1) To the rental of a housing accommodation in a building  
3             which contains housing accommodations for not more  
4             than two families living independently of each other  
5             if the owner or lessor resides in one of the housing  
6             accommodations; or  
7       (2) To the rental of a room or up to four rooms in a  
8             housing accommodation by an owner or lessor if the  
9             owner or lessor resides in the housing accommodation.  
10       (b) Nothing in section 515-3 shall be deemed to prohibit  
11 refusal, because of sex, including gender identity or  
12 expression, sexual orientation, or marital status, to rent or  
13 lease housing accommodations:  
14       (1) Owned or operated by a religious institution and used  
15             for church purposes as that term is used in applying  
16             exemptions for real property taxes; or  
17       (2) Which are part of a religiously affiliated institution  
18             of higher education housing program which is operated  
19             on property that the institution owns or controls, or  
20             which is operated for its students pursuant to Title  
21             IX of the Higher Education Act of 1972.



1 (c) Nothing in this chapter regarding familial status or  
2 age shall apply to housing for older persons as defined by title  
3 42 United States Code section 3607(b)(2).

4 (d) Nothing in section 515-3 shall be deemed to prohibit a  
5 person from determining the ability of a potential buyer or  
6 renter to pay a purchase price or rent by:

7 (1) Verifying, in a commercially reasonable manner, the  
8 source and amount of income of the potential buyer or  
9 renter; or

10 (2) Evaluating, in a commercially reasonable manner, the  
11 stability, security, and credit worthiness of the  
12 potential buyer or renter or any source of income of  
13 the potential buyer or renter."

14 SECTION 6. Section 515-5, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 **"§515-5 Discriminatory financial practices.** It is a  
17 discriminatory practice for a person, a representative of such  
18 person, or a real estate broker or salesperson, to whom an  
19 inquiry or application is made for financial assistance in  
20 connection with a real estate transaction or for the  
21 construction, rehabilitation, repair, maintenance, or



1 improvement of real property, because of race, sex, including  
2 gender identity or expression, sexual orientation, color,  
3 religion, marital status, familial status, ancestry, disability,  
4 age, participation in a housing assistance program or  
5 requirements related to participation in a housing assistance  
6 program, or human immunodeficiency virus infection:

- 7 (1) To discriminate against the applicant;
- 8 (2) To use a form of application for financial assistance  
9 or to make or keep a record or inquiry in connection  
10 with applications for financial assistance that  
11 indicates, directly or indirectly, an intent to make a  
12 limitation, specification, or discrimination unless  
13 the records are required by federal law;
- 14 (3) To discriminate in the making or purchasing of loans  
15 or the provision of other financial assistance for  
16 purchasing, constructing, improving, repairing, or  
17 maintaining a dwelling, or the making or purchasing of  
18 loans or the provision of other financial assistance  
19 secured by residential real estate; or
- 20 (4) To discriminate in the selling, brokering, or  
21 appraising of residential real property."



1 SECTION 7. Section 515-6, Hawaii Revised Statutes, is  
2 amended by amending subsections (a) and (b) to read as follows:

3 "(a) Every provision in an oral agreement or a written  
4 instrument relating to real property that purports to forbid or  
5 restrict the conveyance, encumbrance, occupancy, or lease  
6 thereof to individuals because of race, sex, including gender  
7 identity or expression, sexual orientation, color, religion,  
8 marital status, familial status, ancestry, disability, age,  
9 participation in a housing assistance program or requirements  
10 related to participation in a housing assistance program, or  
11 human immunodeficiency virus infection, is void.

12 (b) Every condition, restriction, or prohibition,  
13 including a right of entry or possibility of reverter, that  
14 directly or indirectly limits the use or occupancy of real  
15 property on the basis of race, sex, including gender identity or  
16 expression, sexual orientation, color, religion, marital status,  
17 familial status, ancestry, disability, age, participation in a  
18 housing assistance program or requirements related to  
19 participation in a housing assistance program, or human  
20 immunodeficiency virus infection is void, except a limitation,  
21 on the basis of religion, on the use of real property held by a



1 religious institution or organization or by a religious or  
2 charitable organization operated, supervised, or controlled by a  
3 religious institution or organization, and used for religious or  
4 charitable purposes."

5 SECTION 8. Section 515-7, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "§515-7 **Blockbusting.** It is a discriminatory practice for  
8 a person, representative of a person, or a real estate broker or  
9 salesperson, for the purpose of inducing a real estate  
10 transaction from which the person, representative, or real  
11 estate broker or salesperson may benefit financially, because of  
12 race, sex, including gender identity or expression, sexual  
13 orientation, color, religion, marital status, familial status,  
14 ancestry, disability, age, participation in a housing assistance  
15 program or requirements related to participation in a housing  
16 assistance program, or human immunodeficiency virus infection:

17 (1) To represent that a change has occurred or will or may  
18 occur in the composition of the owners or occupants in  
19 the block, neighborhood, or area in which the real  
20 property is located; or



1           (2) To represent that this change will or may result in  
 2           the lowering of property values, an increase in  
 3           criminal or antisocial behavior, or a decline in the  
 4           quality of schools in the block, neighborhood, or area  
 5           in which the real property is located."

6           SECTION 9. Section 515-16, Hawaii Revised Statutes, is  
 7 amended to read as follows:

8           "**§515-16 Other discriminatory practices.** It is a  
 9 discriminatory practice for a person, or for two or more persons  
 10 to conspire:

11           (1) To retaliate, threaten, or discriminate against a  
 12           person because of the exercise or enjoyment of any  
 13           right granted or protected by this chapter, or because  
 14           the person has opposed a discriminatory practice, or  
 15           because the person has made a charge, filed a  
 16           complaint, testified, assisted, or participated in an  
 17           investigation, proceeding, or hearing under this  
 18           chapter;

19           (2) To aid, abet, incite, or coerce a person to engage in  
 20           a discriminatory practice;



- 1 (3) To interfere with any person in the exercise or  
2 enjoyment of any right granted or protected by this  
3 chapter or with the performance of a duty or the  
4 exercise of a power by the commission;
- 5 (4) To obstruct or prevent a person from complying with  
6 this chapter or an order issued pursuant to this  
7 chapter;
- 8 (5) To intimidate or threaten any person engaging in  
9 activities designed to make other persons aware of, or  
10 encouraging such other persons to exercise rights  
11 granted or protected by this chapter;
- 12 (6) To threaten, intimidate or interfere with persons in  
13 their enjoyment of a housing accommodation because of  
14 the race, sex, including gender identity or  
15 expression, sexual orientation, color, religion,  
16 marital status, familial status, ancestry, disability,  
17 age, participation in a housing assistance program or  
18 requirements related to participation in a housing  
19 assistance program, or human immunodeficiency virus  
20 infection of the persons, or of visitors or associates  
21 of the persons; or



1 (7) To print, circulate, post, or mail, or cause to be  
2 published a statement, advertisement, or sign, or to  
3 use a form of application for a real estate  
4 transaction, or to make a record or inquiry in  
5 connection with a prospective real estate transaction,  
6 that indicates, directly or indirectly, an intent to  
7 make a limitation or specification, or to discriminate  
8 because of race, sex, including gender identity or  
9 expression, sexual orientation, color, religion,  
10 marital status, familial status, ancestry, disability,  
11 age, participation in a housing assistance program or  
12 requirements related to participation in a housing  
13 assistance program, or human immunodeficiency virus  
14 infection."

15 SECTION 10. The Hawai'i civil rights commission shall  
16 produce materials related to this Act and publicize the  
17 prohibition against discrimination based on participation in  
18 housing assistance programs or requirements related to  
19 participation in housing assistance programs.





1 SECTION 11. This Act does not affect rights and duties  
2 that matured, penalties that were incurred, and proceedings that  
3 were begun before its effective date.

4 SECTION 12. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 13. This Act shall take effect upon its approval.

7



**Report Title:**

Real Property Discrimination; Housing Assistance Program

**Description:**

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. (SD1)

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