

JAN 22 2021

S.B. NO. 778

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# A BILL FOR AN ACT

RELATING TO HOUSING.

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

1       SECTION 1. The legislature finds that there is a critical  
2 shortage in the number of rental housing units in the State that  
3 are affordable for families with low to moderate incomes. The  
4 legislature also finds that many planned community and  
5 homeowners' associations have imposed restrictions that prohibit  
6 or limit their members from renting out their units.

7       The purpose of this Act is to ensure that more affordable  
8 rental housing units are made available in the State by  
9 prohibiting planned community and homeowners' associations from  
10 preventing their members from renting out their single-family  
11 detached dwelling units when the tenant is a family with a low  
12 to moderate income and the duration of the tenancy is for six  
13 months or longer.

14       SECTION 2. Chapter 421J, Hawaii Revised Statutes, is  
15 amended by adding a new section to be appropriately designated  
16 and to read as follows:



1        "§421J-       Prohibition on use restrictions; affordable  
2 rental housing.   (a)   Notwithstanding any law to the contrary,  
3 no association shall prevent by any covenant, declaration,  
4 bylaws, restriction, deed, lease, term, provision, condition,  
5 codicil, contract, rule, or similar binding agreement, however  
6 worded, its members from renting their units; provided that:

7        (1)   The unit is a single-family detached dwelling unit;

8        (2)   The tenant is a family with an annual income of not  
9        more than one hundred forty per cent of the area  
10       median family income for a family of the same size;

11       (3)   The tenancy is for a duration of six months or longer;

12       (4)   There is a written rental agreement;

13       (5)   The premises that is subject to the tenant's exclusive  
14       use and occupancy under the rental agreement includes  
15       the entire unit and the tenant is not a roomer or

16       boarder; and

17       (6)   The monthly rent for the unit excluding utility  
18       expenses does not exceed thirty per cent of the  
19       tenant's monthly income.



1       Any provision in any agreement, lease, instrument, or  
2       contract contrary to the intent of this section shall be void  
3       and unenforceable.

4       (b) Every association may adopt rules that place  
5       reasonable conditions under which its members may rent their  
6       units; provided that those conditions do not prohibit the  
7       renting of any member's unit under this section. No association  
8       shall assess or charge any member any fees for a member's  
9       renting of their units under this section.

10       (c) For purposes of this section:

11       "Area median family income" means the most current median  
12       family income for an area as estimated and adjusted for family  
13       size by the United States Department of Housing and Urban  
14       Development.

15       "Dwelling unit" means a structure or part of a structure  
16       that is used as a home, residence, or sleeping place by one  
17       person or by two or more persons maintaining a common household,  
18       to the exclusion of all others.

19       "Family" includes a family of one individual.

20       "Premises" means a dwelling unit, appurtenances thereto,  
21       grounds, and facilities held out for the use of tenants



1 generally and any other area or facility whose use is promised  
2 to the tenant.

3 "Rental agreement" means all written agreements that  
4 establish or modify the terms, conditions, rules, regulations,  
5 or any other provisions concerning the use and occupancy of a  
6 dwelling unit and premises.

7 "Roomer" or "boarder" means a tenant occupying a dwelling  
8 unit:

9 (1) That lacks at least one major bathroom or kitchen  
10 facility, such as a toilet, refrigerator, or stove;

11 (2) In a building where one or more such major facilities  
12 are supplied to be used in common by the occupants of  
13 the tenant's dwelling unit and by the occupants of one  
14 or more other dwelling units; and

15 (3) In a building in which the landlord resides.

16 "Single-family detached dwelling unit" means an individual,  
17 freestanding, unattached dwelling unit, typically built on a lot  
18 larger than the structure itself, resulting in an area  
19 surrounding the dwelling.

20 "Tenant" means any person who occupies a dwelling unit for  
21 dwelling purposes under a rental agreement."



1       SECTION 3. If any provision of this Act, or the  
2 application thereof to any person or circumstance, is held  
3 invalid, the invalidity does not affect other provisions or  
4 applications of the Act that can be given effect without the  
5 invalid provision or application, and to this end the provisions  
6 of this Act are severable.

7       SECTION 4. New statutory material is underscored.

8       SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: 



# S.B. NO. 778

**Report Title:**

Affordable Rental Housing; Homeowners' Associations; Rental Restrictions

**Description:**

Prohibits planned community and homeowners' associations from preventing its members from renting out their single-family dwelling units when the tenant is a family with low to moderate income and the duration of the tenancy is for six months or longer.

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

