

‘O kēia ‘ōlelo hō’ike no ke
Komikina Kūlana Olakino o Nā Wāhine

Testimony on behalf of the
**Hawai‘i State Commission on the Status of
Women**

IN SUPPORT OF SB36 SD2
March 16, 2021

Aloha Chair Nakamura, Vice Chair Hashimoto and Honorable Members,

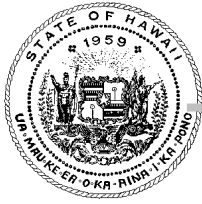
The Hawai‘i State Commission on the Status of Women supports SB36 SD2, which prohibits discrimination, including in advertisements for available real property, based on participation in a housing assistance program, or requirements related to participation in housing assistance programs, in rental transactions and requirements.

SB36 SD1 is urgent in this specific historical moment of crisis. The measure would create an individual direct cause of action to prohibit landlords from discriminating against renters based on their source of rent money such as emergency rental assistance during COVID-19 and Housing Choice Vouchers/Section 8, which are tenant-based vouchers awarded to low-income households that assume responsibility for finding themselves appropriate units to rent in the private market.

SB36 SD2 can bring about greater gender equality. Source of income discrimination is a veiled form of illegal forms of discrimination, especially sex and family discrimination. Discrimination against women and children can be hidden by using voucher discrimination as a pretext. [An astounding 83 percent of households participating in the Section 8 Housing Choice Voucher Program are led by women.](#) Section 8 blanket bans further limits access to housing during the economic shocks of COVID-19 pandemic.

Further, Honolulu is one of the largest cities in the United States that permits income discrimination in housing. Accordingly, the Commission asks that the Committee pass SB36 SD2.

Sincerely,
Khara Jabola-Carolus



HAWAI‘I CIVIL RIGHTS COMMISSION

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

March 18, 2021
Room 423
Videoconference, 9:15 a.m.

To: The Honorable Nadine K. Nakamura, Chair
The Honorable Troy N. Hashimoto, Vice Chair
Members of the House Committee on Housing

From: Liann Ebesugawa, Chair
and Commissioners of the Hawai‘i Civil Rights Commission

Re: S.B. No. 36, S.D.2

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 S.B. No. 36, S.D.2, which would amend the HRS to add a new chapter 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 states and municipalities have enacted laws prohibiting discrimination in housing based on lawful source of income, including Section 8 vouchers as a source of income. Courts have held that these state and local laws 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.

As the COVID-19 pandemic continues, the economic repercussions affect income and housing. In this crisis, it is even more important to prohibit discrimination based on source of income.

HCRC has both supported and raised concerns about similar bills in the past, and this bill addresses those concerns. S.B. No. 36, S.D.2, places the new prohibited practice in a new chapter of the HRS, with enforcement through direct civil action in district court and provision for appropriate remedies (injunctive relief, fine, and attorney's fees). This addresses concerns raised by the HCRC in 2019 on a similar bill.

The S.D.2 clarifies the definitions of "Housing assistance program" and "source of income;" clarifies that the new protection prohibits an owner or other person to expel or otherwise refuse to continue to rent to a current tenant based on their participation in a housing assistance program; sets the penalty for a violation as a fine not to exceed \$5000; and finds in section 1 of the bill that source of income housing discrimination is also a proxy for discrimination against women.

The HCRC supports S.B. No. 36, S.D.2.

DAVID Y. IGE
GOVERNOR



EXECUTIVE CHAMBERS
HONOLULU

March 18, 2021

TO: The Honorable Representative Nadine K. Nakamura, Chair
House Committee on Housing

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

SUBJECT: **SB 36 SD2 – RELATING TO RENTAL DISCRIMINATION**

Hearing: Thursday, March 18, 2021, 9:15 a.m.
VIA VIDEO CONFERENCE
Conference Room 423 State Capitol

POSITION: The Governor's Coordinator supports this measure.

PURPOSE: The purpose of the bill 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 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. 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. In December 2020, the Hawaii Interagency Council on Homelessness adopted addressing source of income discrimination in rental housing as a key priority for the 2021 legislative session.

In addition, the adoption of source of income legislation is aligned with 'The Framework for an [Equitable COVID-19 Homelessness Response](#)' supported by the Center on Budget & Policy Priorities, National Alliance to End Homelessness, National Innovation Service, National

Health Care for the Homeless Council, National Low Income Housing Coalition, Urban Institute, Barbara Poppe and associates, and Matthew Doherty Consulting.

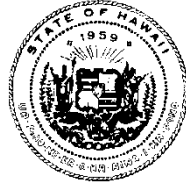
Homelessness remains one of the most pressing challenges facing Hawaii. Due to the pandemic related economic downturn, we anticipate the number of homeless individuals will significantly increase at a far greater magnitude than what followed the Great Recession. Previous statewide Point in Time counts showed an increase of over 2,100 homeless individuals between the 2009 economic recession and 2016. A steady focus on permanent housing, including maximized use of all available housing vouchers and programs, and rent and mortgage assistance or subsidies will be required to mitigate or reverse anticipated future increases in homelessness.

In response to the pandemic, the federal government has increased funding for housing subsidies available through the Emergency Solutions Grant (ESG) Rapid Rehousing, as well as similar long-term housing subsidies. However, many homeless individuals continue to experience difficulties in locating permanent housing, despite being assigned a housing voucher programs 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 Veteran 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

HOUSE COMMITTEE ON HOUSING

Thursday, March 18, 2021
9:15 AM – Room 423, Hawaii State Capitol

In consideration of

SB 36, SD2

RELATING TO RENTAL DISCRIMINATION

Honorable Chair Nakamura and Members of the House Committee on Housing, thank you for the opportunity to provide testimony concerning Senate Bill (SB) 36, SD2, relating to rental discrimination.

The Hawaii Public Housing Authority (HPHA) **supports** the enactment of SB 36, SD2, 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.

One of the programs in which the HPHA assists our low-income families is through the Section 8 Housing Choice Voucher Program, also known as "Section 8 HCV". The Section 8 HCV 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 \$38.45 million dollars a year primarily on the island of Oahu, supports over 2,800 families and over 8,400 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 HCV participants will be considered as tenants and given a chance to apply for vacant rental units in the private market.

In the last few years, the HPHA received feedback that many landlords advertise “No Section 8” and refuse to consider Section 8 participants because they believe that they will not be good tenants. Over the past several months, when the HPHA launched a “lease in place” preference, we were surprised to learn that many landlords did not want to participate in the Section 8 program even though their current renters had been with them for many years. We discovered that many landlords prefer cash payments for tax purposes.

The Section 8 HCV program is an important part of the State’s efforts in addressing the affordable housing needs of our low-income families. All families go through a criminal background, sex offender and Homeland Security screenings before being given a voucher to pursue a rental unit, 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. We thank you very much for your dedicated support.



SB36 SD2
RELATING TO RENTAL DISCRIMINATION
Ke Kōmike Hale o ke Kuleana Hale Noho
House Committee on Housing

Malaki 18, 2021

9:15 a.m.

Hālāwai Keleka‘a‘ike

The Office of Hawaiian Affairs (OHA) Beneficiary Advocacy & Empowerment Committee will recommend that the Board of Trustees **SUPPORT** SB36 SD2, which seeks to prohibit landlords from discriminating against potential tenants who receive rental assistance, such as Section 8 housing vouchers. OHA appreciates that the proposed prohibition against discrimination may increase access to housing for Native Hawaiians and others receiving governmental housing support, while enhancing the effectiveness of governmental investments in housing security for low-income residents – thereby mitigating the COVID-19 pandemic’s impacts on our economy and affordable housing crisis.

Landlords often discriminate against potential tenants who participate in rental assistance programs. Studies have found that landlords are more likely to discriminate against, and deny housing to, people with rental assistance vouchers.¹ Anecdotally, housing listing sites such as Craigslist are rife with examples of landlords who explicitly seek to prevent Section 8 voucher holders from even submitting a rental application. **Such discriminatory practices significantly limit housing opportunities for those who receive rental housing support, and further limit the impact of government investments in housing security for low-income individuals and families.**

In contrast, studies have shown that individuals who rely on rental assistance vouchers are more likely to succeed in leasing a unit when they live in areas with voucher non-discrimination protections. A recent large-scale, multi-site HUD study that examined landlord acceptance rates of vouchers as a way to measure differential treatment found a lower rate of voucher denial in jurisdictions with voucher non-discrimination protections.² Another study found that the probability of successfully using a voucher was more likely in jurisdictions with an anti-discrimination law such as that proposed in this bill.³ **With anti-discrimination protections in place, people who receive**

¹ U.S. DEP’T OF HOUSING AND URBAN DEVELOPMENT, A PILOT STUDY OF LANDLORD ACCEPTANCE OF HOUSING CHOICE VOUCHERS 69 (2018).

² *Id.* at 66 (2018).

³ See Lance Freeman, *The Impact of Source of Income Laws on Voucher Utilization*, 22 HOUSING POL’Y DEBATE 297 (2012) available at <https://www.tandfonline.com/doi/abs/10.1080/10511482.2011.648210>.

housing assistance will be more likely to find stable housing, thereby increasing the impact of governmental investments in housing security, and better enabling recipients of housing assistance to achieve eventual financial self-sufficiency.

OHA notes that Native Hawaiians may particularly benefit from the discrimination protections proposed by this measure. A recent study prepared for the Hawai'i Housing Finance and Development Corporation found that Native Hawaiians receive more rental assistance compared to non-Native Hawaiians.⁴ By creating a statutory prohibition against discrimination based on rental assistance, Native Hawaiians and other marginalized individuals and families would likely receive greater access to stable housing, which is increasingly vital in light of COVID-19's likely economic impacts to the Native Hawaiian community.⁵

Stable and affordable housing is necessary for struggling individuals to attain better health, access education, and apply to better job opportunities. By increasing the likelihood of obtaining the housing they need and are qualified for, this measure may help to ensure better lifestyle outcomes for Native Hawaiians and other marginalized people, especially those experiencing poverty.

Therefore, OHA urges the Committee to **PASS** SB36 SD2. Mahalo nui for the opportunity to testify.

⁴ SMS MARKETING RESEARCH & MARKETING SERVICES INC., HAWAI'I HOUSING PLANNING STUDY, 2019 74 (2019) available at https://dbedt.hawaii.gov/hhfdc/files/2020/01/FINAL-State_Hawaii-Housing-Planning-Study.pdf.

⁵ See Office of HAWAIIAN AFFAIRS, ISSUE BRIEF: COVID-19 AND NATIVE HAWAIIAN COMMUNITIES: NATIVE HAWAIIANS OVER-REPRESENTED IN COVID-19 AT-RISK POPULATIONS 2-3 (2020).

TESTIMONY IN SUPPORT OF SB 36, SD 2

TO: Chair Nakamura, Vice-Chair Hashimoto, and Housing Committee Members

FROM: Nikos Leverenz
Grants, Development & Policy Manager

DATE: March 18, 2021 (9:15 AM)

Hawai'i Health & Harm Reduction Center (HHRC) **supports** SB 36, SD 2, which would prohibit discrimination in real estate advertisements, transactions, and requirements based on or related to participation in a housing assistance program. This measure recognizes that many low-income persons and families who obtain needed assistance have great difficulty in finding and securing rentals in a perennially high-cost, low-supply housing landscape. This includes people living with HIV who receive federal housing assistance and are provided medical case management services from HHRC.

[Hawai'i should join the states of California, Connecticut, Colorado, Maryland, Massachusetts, New Jersey, New York, North Dakota, Oklahoma, Oregon, Utah, Vermont, Virginia, and Washington, and the District of Columbia, in prohibiting rental discrimination based on income sources.](#)

The absence of this kind of legal prohibition contributes to high levels of housing insecurity, which has been exacerbated by the COVID-19 pandemic. [“The Framework for an Equitable COVID-19 Homelessness Response”](#) identified removing the ability of landlords to reject tenants solely based on housing program participation as an important way to make government investments more effective. Local homeless service providers who are members of [Partners in Care O'ahu](#) can confirm the obstacles faced by those who receive housing assistance.

HHRC works with many individuals who are impacted poverty, housing instability, and other social determinants of health. Many have behavioral health problems, including those relating to substance use and underlying mental health conditions. [As noted by the Corporation for Supportive Housing](#), “Access to safe, quality, affordable housing – and the supports necessary to maintain that housing – constitute one of the most basic and powerful social determinants of health. ***[For] individuals and families trapped in a cycle of crisis and housing instability due to extreme poverty, trauma, violence, mental illness, addiction or other chronic health conditions, housing can entirely dictate their health and health trajectory. For these populations, housing is a necessary precursor of health.***”

Thank you for the opportunity to testify on this measure.

SB-36-SD-2

Submitted on: 3/16/2021 3:11:48 PM

Testimony for HSG on 3/18/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Laurie Field	Planned Parenthood Votes Northwest and Hawaii	Support	No

Comments:

Planned Parenthood Votes Northwest and Hawaii supports SB 36, SD2. Thank you!



CATHOLIC CHARITIES HAWAI'I

TESTIMONY IN SUPPORT OF SB 36, SD2: RELATING TO RENTAL DISCRIMINATION

TO: House Committee on Housing
FROM: Rob Van Tassell, President and CEO, Catholic Charities Hawai'i
Hearing: **Thursday, 3/18/21; 9:15 am; via videoconference**

Chair Nakamura, Vice Chair Hashimoto, and Members, Committee on Housing:

Thank you for the opportunity to provide testimony **in support** of **SB 36, SD2**, which prohibits discrimination based on participation in a housing assistance program. I am Rob Van Tassell, with Catholic Charities Hawai'i. We are also a member of Partners in Care (PIC). **This bill is a critical step forward in enabling Hawaii residents to have a fair chance to obtain very affordable long-term housing.**

Catholic Charities Hawai'i (CCH) is a tax exempt, non-profit agency that has been providing social services in Hawai'i for over 70 years. CCH has programs serving elders, children, families, homeless, and immigrants. Our mission is to provide services and advocacy for the most vulnerable in Hawai'i. Catholic Charities Hawai'i has a long history of working in the areas of affordable housing and homelessness.

Catholic Charities Hawai'i helps many struggling families, elders, veterans and people who are homeless to find housing. When our clients obtain a Section 8 voucher it is like winning the lottery! Finally, they have hope to live in housing where they only have to pay 30% of their income on rent. Now they would have enough money for food, or medications, or helping their children to be educated and live a stable live. Unfortunately, many landlords will not accept Section 8 or other forms of subsidy which pay the landlord a monthly stipend. Not only are these tenants hit by the lack of affordable rentals, now they are told they cannot use the rental subsidy which could give them safe and decent housing. **Honolulu is one of the largest metropolitan areas in the US that does not prohibit this practice.**

We urge your committee to put renters who participate in a rental assistance program on the same footing as other rental applicants. This bill can also have a direct impact on single parents, especially the many lower income women with children. Source of income discrimination is sometimes a veiled form of sex and family/children discrimination.

This bill is especially critical now. The American Rescue Plan just passed includes \$5 Billion for emergency Section 8 vouchers to help homeless, at risk or recently homeless families as well as those fleeing from domestic violence. Think of how many struggling families or DV survivors would gain stable housing with these vouchers. How many people would be saved from homeless caused by loss of jobs and inability to pay rent in the pandemic? However, if landlords will not consider them, our State and communities who want to end homelessness and provide stable housing for DV survivors will suffer. **The State will lose these emergency vouchers if housing agencies are unable to lease up units within timeframes to be set by**



HUD. In the future, **President Biden's housing initiatives also propose appropriating \$28 Billion for 500,000 long term vouchers.**

In areas that prohibit this type of discrimination, renters with housing vouchers are 12% more likely to obtain housing than in areas that do not prohibit this discrimination. Hawai'i needs all the help it can get to stably house our lower income families and to end homelessness! Hawai'i residents must not be shut off from these extremely valuable resources if approved by Congress.

We urge your support for this bill which is so critical to help house our vulnerable populations and struggling families. Please contact our Legislative Liaison, Betty Lou Larson at (808) 373-0356 or bettylou.larson@catholiccharitieshawaii.org if you have any questions.



COMMUNITY ALLIANCE PARTNERS (CAP)

A coalition of Hawaii Island's homeless service providers, government representatives and community stakeholders working together in partnership to end homelessness.

March 16, 2021

Representative Nadine K. Nakamura, Chair
Representative Troy N. Hashimoto, Vice Chair
Members of the House Committee on Housing

RE: SB36 SUPPORT

On behalf of Community Alliance Partners, a coalition of Hawaii Island's homeless service providers, government representatives, and community stakeholders working together in partnership to end homelessness, **I urge you to support SB36.**

SB 36 amends the Hawaii Code with a new chapter on "source of income" discrimination in rental transactions, adds definitions, and enforcement remedies by direct civil action.

A source of income that the federal government provides struggling families is the Section 8 HCV program. It 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. Allowing landlords to deny a family a decent place to live just because they have a Section 8 voucher denies the extra help given by this federal program allows a single mother to afford housing. There is no indication that federal assistance makes a family bad tenants.

In recent years, our non-profit housing navigators who help find housing for our low income families experiencing homelessness, have found an increasing number of landlords who advertise "no Section 8" or who refuse to accept section 8 vouchers. The result is fewer housing options and more clients sleeping on couches and in cars. Community Alliance Partners members' case managers provide supportive services when needed so that their clients seeking housing are successful and respectful tenants. These clients are particularly low risks for the landlords.

We have a major housing crisis in our state and it is our most vulnerable who suffer the most when safe rentals are not available to them. Help struggling families move off friends' couches and out of their cars by voting yes on SB36.

Sincerely,

A handwritten signature in cursive script that reads "Shirley H. David".

Shirley H. David
Community Alliance Partners



SB 36, SD 2, RELATING TO RENTAL DISCRIMINATION

MARCH 18, 2021 · HOUSE HOUSING COMMITTEE ·
CHAIR REP. NADINE K. NAKAMURA

POSITION: Support.

RATIONALE: Imua Alliance supports SB 36, SD 2, relating to rental discrimination, 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 rental transactions and requirements.

Hawai'i is facing a looming eviction crisis. During COVID-19, unemployment skyrocketed to levels not seen since the Great Depression. A recent study found that our state is experiencing the slowest unemployment rate recovery in the nation, moreover, with our rate hovering at approximately 9 percent in December. Thousands of people who haven't lost their jobs have instead seen their employment hours and earnings slashed, as the economic downturn lingered throughout 2020 and into the new year.

Financial precarity has become the norm for many families, who are unable to pay their full rent and have accumulated rental debts. Currently, the state's eviction moratorium protects these families from being removed from their homes. Yet, the eviction moratorium will eventually expire as the public health emergency passes, leaving thousands of people at risk of losing their housing.

Rental assistance discrimination will only make their plight worse as they try to navigate a path back to financial and housing security, especially for low-income families who already do or soon will be forced to rely on government assistance to survive.

Today, **our state’s ongoing lack of affordable housing exacerbates the economic insecurity suffered by local families, which sex traffickers use to prey upon potential victims with false promises of financial stability and prosperity.** Hawai’i residents face the highest housing costs in the nation, at more than twice the national average. Researchers who authored the National Low Income Housing Coalition’s *Out of Reach 2020* report found that a full-time worker would need to earn \$38.76/hour to afford a two-bedroom apartment at fair market value in our state, with Honolulu experiencing a 67 percent increase in fair market rent between 2005 and 2015. Average rent for a two-bedroom unit surpassed \$2,000 in recent years, with minimum wage workers needing to log 117 hours per week to afford a modest one-bedroom apartment at fair market value and 153 hours per week to afford a two-bedroom—a number that is equivalent to working over 20 hours a day with no days off year-round. In the past five years alone, Honolulu rent has increased by more than 25 percent. While 42 percent of Hawai’i residents are renters (a number that does not include individuals and families renting outside of the regulated rental market), they earn an average wage of \$17.17/hour, according to NLIHC, scarcely enough to meet their basic needs.

One out of every four households in Hawai’i report that they are “doubling up” or are three paychecks or less away from being homeless, per the Hawai’i Appleseed Center for Law and Economic Justice. Additionally, over 60 percent of households are severely cost-burdened, following NLIHC data, meaning that they pay more than 30 percent of their income for housing costs, a number that rises to over 80 percent of extremely low-income households, with only 74 homes available for every 100 households earning 80 percent of their respective area’s median income.

Unsurprisingly, our state is now experiencing population decline. Hawai’i saw domestic out-migration increase for a third consecutive year in 2019, as the state’s high cost of living continued to push people to the mainland. Census estimates show that our state’s population dropped by 8,866 people from July 2019 to July 2020, when births, deaths, and migration were accounted for. That population drop is nearly double the loss seen in 201, when Hawai’i one of just ten states in the country to lose population, according to the U.S. Census Bureau. People are simply being priced out of paradise.

Without question, Hawai'i's lack of affordable housing exacerbates our state's homelessness crisis. In a recently released report, Chief Medical Examiner Dr. Masahiko Kobayashi said that 127 people who were considered homeless at the time of their deaths died on O'ahu in 2019, up from 120 deaths in 2018 and an increase of 46 percent from 2017 (87 deaths).

Furthermore, over 30 percent of juvenile arrests in Hawai'i are for running away from home, the highest proportion in the nation. Nationally, one in seven young people between the ages of 10 and 18 will run away. Approximately 75 percent of runaways are female, while 46 percent of runaway and homeless youth report being physically abused, 38 percent report being emotionally abused, and 17 percent report being forced into unwanted sexual activity by a family or household member, according to the National Conference of State Legislatures.

Roughly 30 percent of runaway children will be approached for sexual exploitation within 48 hours of being on the run, according to the National Center for Missing and Exploited Children, with over 80 percent being approached for the commercial sex trade during the course of their time on streets. A federal study found that an estimated 38,600 runaway youth have been sexually assaulted, in the company of someone known to be sexually abusive, or engaged in sexual activity in exchange for money, food, or shelter.

Runaways are perceived as easy targets for sex traffickers because they lack stable shelter, a supportive environment, and financial resources, placing them at greater risk of forced prostitution and sexual servitude. Traffickers exploit our limited number of available shelter beds to lure young people into exploitation. As the homeless childcare provider Covenant House observes, traffickers tell homeless youth that shelters are full and ask, "Where are you going to go? Why don't you come with me? I'll take care of you." Coupled with threats of and actual physical and sexual violence against the victims or their families, these coercive techniques compel runaway youth to remain enslaved.

LGBTQ youth, who comprise an estimated 40 percent of the runaway and homeless youth population in the United States, are exponentially more likely to fall prey to human traffickers because of discrimination, family and community trauma, and a longing for comfort and acceptance (an estimated 26 percent of LGBTQ adolescents are rejected by their families and

put out of their homes simply for being open and honest about who they are). In providing care for victims of human trafficking, we have heard their stories hundreds of times.

We cannot continue to allow the islands to be used as a private Monopoly board for real estate speculators. To ensure that our islands are affordable for ourselves and future generations, we must take bold action **now** to increase our affordable housing supply for working families and ensure that low-income families who are participating in our state's rental market—and who are often Native Hawaiian, Micronesian, Pacific Islander, or other people of color—are not discriminated against simply for being poor.



Medical-Legal Partnership Hawai'i

A Project of the William S. Richardson School of Law
2515 Dole Street, Honolulu, Hawai'i 96822

SB36 SD2: RELATING TO RENTAL DISCRIMINATION

House Committee on Housing

March 18, 2021; 9:15am

The Medical-Legal Partnership represents patients at a community health center with their legal needs. Most of our clients are from communities disproportionately impacted by the coronavirus pandemic. We often assist clients facing illegal housing discrimination. We testify in **SUPPORT** of **SB36 SD2**. This bill represents an opportunity to strengthen landlord-tenant laws to support local people particularly during the pandemic, by removing legal barriers that can limit the effectiveness of our housing assistance programs.

Amending laws that limit the ability of service providers to place individuals in housing is an important revenue neutral way for government to support housing security, particularly during the pandemic.

Unfortunately, we have seen that landlords often use participation in a governmental assistance program as a way deny tenants they see as less than desirable, hiding illegal housing discrimination. For example, landlords refuse to rent to a single Micronesian mother with three children because of they are receiving a Housing First voucher, only to turn around and accept a couple of another nationality, who also receives governmental assistance because they 'may be better renters.' By providing a private right of action for tenants who believe they have been discriminated against, this bill ensures that tenants are not turned away because of stereotyping. This bill also allows landlords the ability to screen their tenants, but not make rental decisions based on stereotypes of those receiving governmental assistance rather than on ability to pay.

Honolulu remains one of the largest metropolitan areas in the United States that does not have a state or local prohibition on this practice, which may inadvertently be contributing to our high levels of housing insecurity.

Our providers in Hawai'i face barriers to placing families and individuals in permanent housing that other jurisdictions have removed. "The Framework for an Equitable COVID-19 Homelessness Response"¹ identifies implementation of source of income rental discrimination as a best practice to strengthen the effectiveness of housing programs.

Mahalo for the opportunity to testify in support of this bill.

¹ The Framework for and Equitable COVID-19 Homelessness Responses page 19 available at <https://endhomelessness.org/wp-content/uploads/2020/04/COVID-Framework-4.29.2020-1.pdf>

March 18, 2021

The Honorable Nadine Nakamura, Chair

House Committee on Housing

Via Videoconference

RE: Senate Bill 36, SD2, Relating to Rental Discrimination

HEARING: Thursday, March 18, 2021, at 9:15 a.m.

Aloha Chair Nakamura, Vice Chair Hashimoto, and Members of the Committee,

I am Ken Hiraki, Director of Government Affairs, testifying on behalf of the Hawai'i Association of REALTORS® (“HAR”), the voice of real estate in Hawai'i, and its over 10,000 members. HAR **opposes** Senate Bill 36, SD2, 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.

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 mandates additional paperwork, inspections and processes, which is not required by other applicants. As a result, housing providers participating in section 8 often forfeit their first month's rent in addition to having to wait 3 months or longer for a subsequent 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 housing provider.

Additionally, the issue of whether a property owner 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 property owner could find himself or herself the subject of a discrimination complaint.

HAR believes that it is not a good practice to make government assistance housing programs, which are optional to participate in, to be considered a discriminatory practice. Instead, we should focus on providing incentives or removing barriers to encourage property owners to participate in these valuable programs.

Mahalo for the opportunity to testify.



Hawai'i

Committees: Committee on Housing
Hearing Date/Time: 9:15am, March 18, 2021
Place: Via Videoconference
Re: *Testimony of the ACLU of Hawai'i in Support of S.B. 36, S.D. 2 Relating to Rental Discrimination*

Dear Chair Nakamura, Vice Chair Hashimoto, and members of the Committee:

The American Civil Liberties Union of Hawai'i writes **in support of S.B. 36, S.D. 2**. This bill prohibits discrimination in rental transactions based on an individual's participation in a housing assistance program or requirements related to such programs.

The State of Hawai'i continues to struggle with one of the highest rates of houselessness in the country, at over 2.5 times the national average.¹ This is due, in large part, to the high cost of living and lack of affordable housing in the state.² Housing assistance programs like the federal Housing Choice Voucher program ("Section 8") are an essential means of alleviating high rental costs for struggling families—and in turn fighting our state's housing crisis. In 2016, a federal Department of Housing and Urban Development ("HUD") study found that compared to other means of intervention, long-term rental subsidies that enabled families to offset the cost of a unit in the private market led to the **best outcomes for reducing family houselessness "by far."**³

However, programs like Section 8 depend on private landlords' willingness to rent to participating individuals. Unfortunately, discrimination based on "source of income" is well-documented in housing markets across the country—and **there is no general federal law that protects against it.**⁴ As a result, many landlords flat out refuse, often including declarations that say "No Section 8" in their advertisements for available rentals. This prolongs the housing search for many renters, makes it extremely difficult to find habitable, safe housing, and can ultimately lead to the expiration of a voucher if certain time limits run out.

¹ *State of Homelessness: 2020 Edition*, NAT'L ALL. TO END HOMELESSNESS, available at <https://endhomelessness.org/homelessness-in-america/homelessness-statistics/state-of-homelessness-2020/> (HUD's 2019 Annual Point-in-Time Count found a national average of 17 homeless individuals per 10,000 people in the general population; Hawai'i had a rate of 45.1 homeless individuals per 10,000).

² *Hawaii's Affordable Housing Crisis*, HAWAI'I APPLESEED CTR. FOR LAW & ECON. JUSTICE, at 3–4 (July 2014), available at <http://www.hiappleseed.org/sites/default/files/Hi%20Appleseed%20Housing%20Crisis%20Report.pdf>.

³ *Family Options Study: 3-Year Impacts of Housing and Services Interventions for Homeless Families, Summary Report*, U.S. DEP'T OF HOUS. & URBAN DEV., OFFICE OF POLICY DEV. & RESEARCH, at 4 (2016).

⁴ Mary K. Cunningham, Martha Galvez, Claudia L. Aranda, Robert Santos, Doug Wissoker, Alyse Oneto, Rob Pitingolo, James Crawford, *A Pilot Study of Landlord Acceptance of Housing Choice Vouchers: Executive Summary*, U.S. DEP'T OF HOUS. & URBAN DEV., OFFICE OF POLICY DEV. & RESEARCH, at 3–4 (2018); Alison Bell, Barbara Sard, Becky Koepnick, *Prohibiting Discrimination Against Renters Using Housing Vouchers Improves Results: Lessons From Cities and States That Have Enacted Source of Income Laws*, CTR. ON BUDGET & POLICY PRIORITIES, at 1–2 (2018).

Chair Nakamura and Members of the Committee on Housing
March 18, 2021
Page 2 of 2

To combat this problem and allow housing assistance programs to serve their intended function, numerous states, cities, and counties have already adopted laws prohibiting source of income discrimination.⁵ Several studies have found that people living in areas with these non-discrimination laws are **more likely to succeed in securing a unit using a housing voucher**.⁶ Given their success, it is time for Hawai‘i to join this growing list of locales as they break down a critical barrier to affordable housing and improve geographic mobility for low-income families.

Importantly, discrimination based on source of income **often also functions as discrimination against women and children** in reality. One 2016 report noted that 83% of households participating in the Section 8 voucher program were led by women, and 43% of participating households contained children.⁷ Property owners and landlords in Hawai‘i should not be permitted to engage in behavior that is tantamount to sex or familial status discrimination under the pretense that they do not accept certain sources of income.

S.B. 36, S.D. 2 provides a remedy for violations of the law by enabling an individual to bring a direct cause of action in district court. For these reasons, the ACLU of Hawai‘i **requests that the Committee support this measure**. Thank you for the opportunity to testify.

Sincerely,



Hope Kerpelman
Legal and Legislative Fellow
ACLU of Hawai‘i

The mission of the ACLU of Hawai‘i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai‘i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai‘i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai‘i has been serving Hawai‘i for over 50 years.

⁵ Solomon Greene, Patrick Spauster, Martha Galvez, Daniel Teles, Philip Tegeler, *State and Local Voucher Protection Laws*, THE URBAN INST., at 3 (2020).

⁶ Alison Bell, Barbara Sard, Becky Koepnick, *Prohibiting Discrimination Against Renters Using Housing Vouchers Improves Results: Lessons From Cities and States That Have Enacted Source of Income Laws*, CTR. ON BUDGET & POLICY PRIORITIES, at 1, 5–6 (2018).

⁷ Gail Quets, Áine Duggan, Gail Cooper, *A Gender Lens on Affordable Housing*, RE:GENDER, at 7 (2016).

American Civil Liberties Union of Hawai‘i
P.O. Box 3410
Honolulu, Hawai‘i 96801
T: 808.522-5900
F: 808.522-5909
E: office@acluhawaii.org
www.acluhawaii.org

SB-36-SD-2

Submitted on: 3/17/2021 9:09:06 AM

Testimony for HSG on 3/18/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mari Ebersole	Hope Services Hawaii	Support	No

Comments:

I support this measure to prohibit source of income discrimination within rental housing.

SB-36-SD-2

Submitted on: 3/17/2021 9:14:44 AM

Testimony for HSG on 3/18/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kaikea K. Blakemore	Neighborhood Place of Puna	Support	No

Comments:

Income discrimination for local renters is unconscionable during a mass housing crisis. The ALICE Aloha United Way report found that a large share of Hawai'i residents struggle with paying for basics like food, gas and shelter. Section 8 does not mean a family is irresponsible or necessarily a risk to rent to. Help Hawai'i families by allowing individuals to accept the assistance they need to be safely housed.

SB-36-SD-2

Submitted on: 3/17/2021 9:31:20 AM

Testimony for HSG on 3/18/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kristen Alice	HOPE Services Hawai'i	Support	No

Comments:

Hope Services Hawai'i strongly supports this measure.



49 South Hotel Street, Room 314 | Honolulu, HI 96813
www.lwv-hawaii.com | 808.531.7448 | voters@lwv-hawaii.com

COMMITTEE ON HOUSING
THURSDAY, 3/18/21, 9:15 AM, Room No. 423

SB36 SD2 RELATING TO RENTAL DISCRIMINATION
TESTIMONY

Beppie Shapiro, Legislative Committee, League of Women Voters of Hawaii

Chair Nakamura, Vice-Chair Hashimoto, and Committee Members:

The League of Women Voters of Hawaii supports this bill, which prohibits discrimination based on participation in, or eligibility for, housing assistance programs, in rental transactions and requirements.

It is widely accepted that landlords often resist renting to applicants who will use, for example, Section 8 vouchers to pay their rent. This discrimination, based presumably in many cases on assumptions about the responsibility and trustworthiness of individuals with incomes low enough to qualify for public assistance, unjustly deprives those individuals of an affordable residence. SB36 SD2 allows landlords to use all the screening methods they normally use to choose desirable tenants – the only requirement under this bill is that they do not refuse tenants on the basis of their eligibility for or participation in, public housing assistance.

The League of Women Voters of Hawaii supports fair and equitable public policies in all arenas; SB36 SD2 provides such a policy in the rental housing market.

Thank you for the opportunity to submit testimony.

SB-36-SD-2

Submitted on: 3/16/2021 10:25:11 AM

Testimony for HSG on 3/18/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Christy MacPherson	Individual	Support	No

Comments:

I am in strong support of SB36, SD2. When I was the program manager for a homeless shelter, the discrimination our families experienced when looking for a rental was so disheartening and frustrating, to say the least. Passing this bill would help to change that.

DAVID W.H. CHEE

Attorney at Law
1001 Bishop Street
ASB Tower, Suite 585
Honolulu, Hawaii 96813
Facsimile No. 808-208-8689

David W.H. Chee
Telephone:808-539-1150
Email: dchee@dcheelaw.com

Christine S. Prepose-Kamihara
Telephone:808-784-4963
Email: cprepose@dcheelaw.com

March 16, 2021

HOUSE COMMITTEE ON HOUSING
Rep. Nadine K. Nakamura, Chair
Rep. Troy N. Hashimoto, Vice Chair

Re: S.B. No. 36, SD 2 - RELATING TO RENTAL DISCRIMINATION

Dear Representatives:

I am an attorney who practices in the field of landlord/tenant law, including residential matters. I have over 28 years' experience in the area. I am writing regarding the above-referenced bill.

This proposed legislation 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 what a landlord must do to comply with the law, I am writing in opposition to S.B. 36.

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

Finally, passing this legislation will make it illegal for landlords who operate low-income housing to reject tenants whose income exceeds their limits. This will make it much more difficult for low-income tenants to access low-income housing.

A. Income Limits for Low Income Housing Will Be Illegal

Section 2 at page 4 line 10 makes it a discriminatory practice for a landlord, "because of requirements related to participation in a housing assistance program" to refuse to engage in rental agreements.

In Hawaii there are many low-income properties that will only rent to tenants whose income is either within a particular range or below a particular threshold. It is normally the landlord's responsibility to make sure that the tenant's income is within their program's requirements. These income limitations are "requirements related to participation in a housing assistance program" that the landlord is required to observe.

This legislation will now make it illegal for landlords to respect those income limitations. If a higher-income tenant applies for low-income housing, it will be illegal for the landlord, "because of...requirements related to participation in a housing assistance program to"...refuse to engage

in a rental transaction.” In other words, this legislation will make it illegal for landlords to reject tenants who make more than the landlord’s program allows.

B. 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, gender, familial status, etc.

It is not clear, however, 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.

The law also can be read to require that all landlords participate in the Section 8 program and all other Federal programs that involve housing. If that is the intent of the law, then the legislation should plainly say that.

However, if that is the intent, the Legislature should recognize that this bill will reduce the number of rental units available. 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, especially during troubling economic times. Some landlords who want to participate in the Section 8 program cannot because the condition of their properties do not meet Section 8’s standards. Other landlords choose not to participate in the program because the Section 8 program’s requirements are unattractive to them.

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 entered into 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 and cell phones. 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.

Additionally, participating in Federal rental assistance programs requires a significant amount of sophistication on the part of landlords. Renting to tenants that receive Section 8 assistance or other Federal programs places different notice requirements on landlords that attach to virtually all communications. How, when and the form of these communications are not intuitive. There are people that specialize in advising large landlords concerning the notice requirements that become applicable once a landlord rents to a tenant that receives assistance. These requirements are complicated and change as HUD decrees.

Since a landlord would be required by this bill to participate in all government housing assistance programs, they would need to become specialists in the requirements of every available program since requirements may differ between programs. This is not just a matter of accepting Section 8 and getting part of the rent from the housing assistance program – this bill creates a whole new complicated framework under which a landlord is required to operate.

Small mom and pop landlords – who make up the majority of landlords in Hawaii, many of whom do not speak English as a first language - do not generally have the luxury to hire someone to help them navigate through Federal requirements. And for them, making a mistake could have a huge financial impact. There are lawyers who make their money suing landlords who violate Federal law, even inadvertently. This law will turn mom and pop landlords into targets.

Additionally, the Legal Aid Society of Hawaii has argued that participating in some of the Federal housing assistance programs requires a landlord to keep a tenant as long as the tenant does not violate the rental agreement. Even when there are violations of a rental agreement, Legal Aid has taken the position that the violations need to be substantial and repeated before a landlord can end the tenancy. This means that if the tenant consistently pays their rent late causing financial issues for a landlord, or has repeated nuisance violations- noise, unauthorized guests, parking violations, habitability issues, etc., a landlord may not be able to end the tenancy. In many Federal programs, Legal Aid argues that these are not considered good cause to end a tenancy and a landlord would be required to continue to rent to the tenant for the rest of their life.

Requiring landlords to participate in all government programs would mean that, in some instances, the law will require a landlord to enter into a rental agreement in perpetuity with a tenant. This would be a radical departure from the legal traditions of Hawaii. Ultimately, this will deprive owners of control over their properties. For example, a parent who wants to allow their child to move into a rental unit may be precluded by law from doing so.

Lawmakers should consider all the implications of this bill before passing the legislation. If it is the intention that all landlords be required to agree to any condition imposed by all government programs, without regard to whether the landlord wants to, or even can, participate, the legislation should plainly say this. However, if you do require it, this will drive many landlords out of the business and deprive the community of rental units - a resource that is scarce. So, if you do require this, you should also make the law take effect in the future so that landlords can have the opportunity to either plan to comply get out of the business before facing the hardships this bill will impose.

C. Pandemic Stimulus Considerations

Additionally, in the context of a pandemic and stimulus funds being released by various government entities to assist with rent, this law would make prudent business decisions in selecting tenants illegal. For example, if one prospective tenant has a steady job and income, and another is unemployed but has been approved to receive three months' rent from government stimulus funds, this legislation will make it illegal for a landlord to choose the tenant with the steady income.¹ That would be an absurd result.

In conclusion, the goals of this bill are not clear. More importantly, this bill may be very disruptive to existing low-income housing programs. It will also be very disruptive in the landlord-tenant community in general since landlords will not know how to comply with the law.

Very truly yours,

/s/ David Chee

David W.H. Chee

¹ Of note – section (b) (page 6, line 5) makes it explicitly proper for a landlord to determine the ability of a prospective renter to pay the rent, but section (a) (page 4, line 10) makes it illegal to choose a prospective tenant who has a steady income over one who may only receive temporary stimulus funds.

SB-36-SD-2

Submitted on: 3/16/2021 5:23:29 PM

Testimony for HSG on 3/18/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Matthew Ua	Individual	Support	No

Comments:

I support SB36 Relating to Discrimination.

Mahalo

Matthew Ua

Housing Locator

Hope Services Hawaii

mua@hopeserviceshawaii.org

808-430-3971

SB-36-SD-2

Submitted on: 3/17/2021 9:26:42 AM

Testimony for HSG on 3/18/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ellen Godbey Carson	Individual	Support	No

Comments:

This bill deserves support and can help address current problems of discrimination in rental housing. Receiving public assistance should not be a grounds for discrimination against renters.

SB-36-SD-2

Submitted on: 3/17/2021 1:45:36 PM

Testimony for HSG on 3/18/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Patricia Bilyk	Individual	Support	No

Comments:

I support SB 36 SD 2 Relating to Renter Discrimination

Patricia L. Bilyk