
A BILL FOR AN ACT

RELATING TO FAIR HOUSING REASONABLE ACCOMMODATIONS.

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

1 SECTION 1. The legislature finds that recent legislation
2 prohibits the misrepresentation of animals as service animals.
3 Act 217, Session Laws of Hawaii 2018 (Act 217), amends the
4 definition of "service animal" to mean "any dog that is
5 individually trained to do work or perform tasks for the benefit
6 of an individual with a disability, including a physical,
7 sensory, psychiatric, intellectual, or other mental disability"
8 and requires that the work or tasks performed by the service
9 animal relate directly to the individual's disability. Act 217
10 also excludes other species of animals and the provision of
11 emotional support, comfort, or companionship.

12 The legislature further finds that the term "service
13 animal" applies in the general context of the Americans with
14 Disabilities Act, while the broader term "assistance animal",
15 which is used under the federal and state fair housing laws,
16 includes a wider category of animals that provide support,
17 including emotional support animals and service animals. When a



1 person with a disability requests the use of an assistance
2 animal as a reasonable housing accommodation, the housing
3 provider may ask for information, including verification from a
4 treating health care professional, that the person has a
5 disability, and the requested assistance animal is needed to
6 alleviate one or more symptoms of the person's disability.

7 "Assistance animal" is defined in the State's administrative
8 rules, but not in statute.

9 To assist individuals requiring assistance animals and
10 housing providers who are requested to make reasonable
11 accommodations for assistance animals, the purpose of this Act
12 is to:

13 (1) Define "assistance animal" in the context of existing
14 state law prohibiting discrimination in real property
15 transactions;

16 (2) Codify the administrative process to verify that a
17 person requesting a reasonable accommodation that
18 include the use of an assistance animal, has a
19 disability and the assistance animal is needed to
20 alleviate one or more symptoms of the person's
21 disability; and



1 (3) Specify that possession of a vest or other
2 distinguishing animal garment, tag, or registration
3 document commonly purchased online and purporting to
4 identify an animal as a service animal or assistance
5 animal does not constitute valid verification of a
6 disability-related need for an assistance animal.

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

10 "Assistance animal" means an animal that is needed to
11 perform disability-related work, services, or tasks for the
12 benefit of a person with a disability or provides emotional
13 support that alleviates one or more identified symptoms or
14 effects of a person's disability. "Assistance animals" may
15 include but are not limited to service animals, therapy animals,
16 comfort animals, or emotional support animals that may have
17 formal training or may be untrained and may include species
18 other than dogs."

19 SECTION 3. Section 515-3, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "§515-3 Discriminatory practices. It is a discriminatory
2 practice for an owner or any other person engaging in a real
3 estate transaction, or for a real estate broker or salesperson,
4 because of race[]; sex, including gender identity or
5 expression[]; sexual orientation[]; color[]; religion[];
6 marital status[]; familial status[]; ancestry[];
7 disability[]; age[]; or human immunodeficiency virus
8 infection:

- 9 (1) To refuse to engage in a real estate transaction with
10 a person;
- 11 (2) To discriminate against a person in the terms,
12 conditions, or privileges of a real estate transaction
13 or in the furnishing of facilities or services in
14 connection with a real estate transaction;
- 15 (3) To refuse to receive or to fail to transmit a bona
16 fide offer to engage in a real estate transaction from
17 a person;
- 18 (4) To refuse to negotiate for a real estate transaction
19 with a person;
- 20 (5) To represent to a person that real property is not
21 available for inspection, sale, rental, or lease when



1 in fact it is available, or to fail to bring a
2 property listing to the person's attention, or to
3 refuse to permit the person to inspect real property,
4 or to steer a person seeking to engage in a real
5 estate transaction;

6 (6) To offer, solicit, accept, use, or retain a listing of
7 real property with the understanding that a person may
8 be discriminated against in a real estate transaction
9 or in the furnishing of facilities or services in
10 connection with a real estate transaction;

11 [+] (7) [+] To solicit or require as a condition of engaging in a
12 real estate transaction that the buyer, renter, or
13 lessee be tested for human immunodeficiency virus
14 infection, the causative agent of acquired
15 immunodeficiency syndrome;

16 [+] (8) [+] To refuse to permit, at the expense of a person with a
17 disability, reasonable modifications to existing
18 premises occupied or to be occupied by the person if
19 modifications may be necessary to afford the person
20 full enjoyment of the premises; provided that a real
21 estate broker or salesperson, where it is reasonable



1 to do so, may condition permission for a modification
2 on the person agreeing to restore the interior of the
3 premises to the condition that existed before the
4 modification, reasonable wear and tear excepted;

5 [+] (9) [+] To refuse to make reasonable accommodations in rules,
6 policies, practices, or services, when the
7 accommodations may be necessary to afford a person
8 with a disability equal opportunity to use and enjoy a
9 housing accommodation; provided that if reasonable
10 accommodations include the use of an assistance
11 animal, reasonable restrictions may be imposed;
12 provided further that if the disability is not readily
13 apparent, an owner or other person engaging in a real
14 estate transaction may request information that
15 verifies that the person has a disability, defined as
16 a physical or mental impairment that substantially
17 limits a major life activity. However, an owner or
18 other person engaging in a real estate transaction may
19 not request medical records or access to health care
20 providers, and may not inquire as to the diagnosis,
21 nature, or severity of the person's disability. If



1 the disability-related need for an assistance animal
2 is not readily apparent, an owner or other person
3 engaging in a real estate transaction may request
4 verification that the assistance animal is needed to
5 alleviate one or more symptoms of the person's
6 disability. Verification may be provided by a letter
7 or other communication from the person's treating
8 health care professional, mental health professional,
9 or social worker;

10 [+] (10) [+] In connection with the design and construction of
11 covered multifamily housing accommodations for first
12 occupancy after March 13, 1991, to fail to design and
13 construct housing accommodations in such a manner
14 that:

15 (A) The housing accommodations have at least one
16 accessible entrance, unless it is impractical to
17 do so because of the terrain or unusual
18 characteristics of the site; and

19 (B) With respect to housing accommodations with an
20 accessible building entrance:



- 1 (i) The public use and common use portions of
- 2 the housing accommodations are accessible to
- 3 and usable by persons with disabilities;
- 4 (ii) Doors allow passage by persons in
- 5 wheelchairs; and
- 6 (iii) All premises within covered multifamily
- 7 housing accommodations contain an accessible
- 8 route into and through the housing
- 9 accommodations; light switches, electrical
- 10 outlets, thermostats, and other
- 11 environmental controls are in accessible
- 12 locations; reinforcements in the bathroom
- 13 walls allow installation of grab bars; and
- 14 kitchens and bathrooms are accessible by
- 15 wheelchair; or

16 [§] (11) [§] To discriminate against or deny a person access to, or
17 membership or participation in any multiple listing
18 service, real estate broker's organization, or other
19 service, organization, or facility involved either
20 directly or indirectly in real estate transactions, or



1 to discriminate against any person in the terms or
2 conditions of access, membership, or participation."

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

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



Report Title:

Assistance Animals; Real Estate Transactions; Disability;
Reasonable Accommodation; Verification

Description:

Defines "assistance animal" in the context of Hawaii law prohibiting discrimination in real property transactions. Codifies the administrative process in verifying that a person requesting a reasonable accommodation that include the use of an assistance animal has a disability and the assistance animal is needed to alleviate one or more symptoms of the person's disability. Specifies that possession of a vest or other distinguishing animal garment, tag, or registration document commonly purchased online and purporting to identify an animal as a service animal or assistance animal does not constitute valid verification of a disability-related need for an assistance animal. (SD1)

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

