

JAN 21 2022

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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 federal housing choice voucher program,  
2 also known as Section 8, provides federally funded, tenant-based  
3 vouchers to low-income households that are responsible for  
4 finding appropriate rental units in the private market. A  
5 challenge once a household receives a Section 8 voucher is  
6 finding a landlord willing to accept it. The legislature  
7 believes that renters who participate in housing assistance  
8 programs, such as Section 8, should have an equal opportunity to  
9 find housing and should not be discriminated against because  
10 their source of income includes funds from housing assistance  
11 programs.

12       Studies have shown that when there are laws to prevent  
13 discrimination against renters with housing assistant vouchers,  
14 the renters are twelve per cent more likely to find housing.  
15 The American Bar Association adopted a resolution in 2017  
16 calling for enactment of laws that ban housing discrimination  
17 based on lawful sources of income. The legislature notes that



1 source of income discrimination laws do not alter or restrict  
2 the standard industry practices to vet prospective renters.  
3 Rather, these laws prohibit landlords from rejecting prospective  
4 renters who receive Section 8 vouchers or other housing  
5 assistance simply because of the voucher or assistance.

6 The legislature finds that ten states, the District of  
7 Columbia, fourteen counties, and fifty-six major cities across  
8 the country have laws that prohibit source of income  
9 discrimination in housing. Honolulu is one of the largest  
10 cities in the United States that does not prohibit source of  
11 income discrimination in housing.

12 The legislature finds that low-income individuals  
13 experience extreme difficulty in finding affordable rentals in  
14 Hawaii. Prior to the coronavirus disease 2019 (COVID-19)  
15 pandemic, news reports, locally and nationally, documented that  
16 prospective tenants are often rejected by landlords due to their  
17 use of Section 8 vouchers or other forms of housing assistance,  
18 or based on requirements for participation in a housing  
19 assistance program. This situation becomes all the more  
20 frustrating when housing vacancy advertisements state "no  
21 Section 8 accepted" or "Section 8 need not apply" in an effort



1 to prevent low-income individuals receiving housing assistance  
2 from being considered as tenants.

3 The COVID-19 pandemic and resulting economic conditions  
4 have impacted many residents' ability to pay their rent. An  
5 August 2020 survey of two hundred seventy-one landlords and  
6 property managers statewide conducted by the economic research  
7 organization at the University of Hawaii indicated that more  
8 than nine thousand households were two months or more behind in  
9 rent, and that more tenants were thirty days behind in rent than  
10 prior to the pandemic.

11 Prior to the pandemic, nationally, eighty-three per cent of  
12 households participating in Section 8, were led by women.  
13 Currently, there are more than twenty-two thousand single  
14 mothers in Hawaii, and ninety-two per cent of fifty-five single  
15 mothers surveyed in Hawaii during the COVID-19 pandemic reported  
16 that they have lost financial independence due to the economic  
17 crisis. Allowing landlords to consider a rental applicant's  
18 source of income can also function as a proxy for discrimination  
19 against single mothers.

20 The purpose of this Act is to prohibit discrimination in  
21 rental transactions based on participation in any government



1 rental assistance program, including low-income housing  
2 assistance under the United States Housing Act of 1937, title 42  
3 United States Code section 1437f, as amended.

4 SECTION 2. The Hawaii Revised Statutes is amended by  
5 adding a new chapter to be appropriately designated and to read  
6 as follows:

7 **"CHAPTER**

8 **RENTAL DISCRIMINATION BASED ON SOURCE OF INCOME**

9 **§ -1 Definitions.** As used in this chapter:

10 "Housing assistance program" means any government rental  
11 assistance program, including low-income housing assistance  
12 under the United States Housing Act of 1937, 42 U.S.C. § 1437f,  
13 as amended.

14 "Rental transaction" means any part of the process for the  
15 rental or lease of a premises for residential purposes.

16 "Steer" means the practice of directing persons who seek to  
17 enter into a rental transaction toward or away from the premises  
18 to deprive them of the benefits of living in a discrimination-  
19 free environment.



1           §   -2 Discriminatory practices in a rental transaction  
2 based on source of income. (a) It shall be a discriminatory  
3 practice for a landlord to:

4           (1) Indicate in any manner used to advertise the  
5               availability of a rental property that the landlord  
6               will not rent a property to a person participating in  
7               a housing assistance program;

8           (2) Discourage in any manner a person from seeking to  
9               engage in a rental transaction based on the person's  
10              participation in a housing assistance program;

11          (3) Refuse to engage in a rental transaction with a person  
12               because of the person's participation in a housing  
13               assistance program or requirements related to  
14               participation in a housing assistance program;

15          (4) Require rental conditions that are different from  
16               those required for a person not participating in a  
17               housing assistance program; or

18          (5) Represent to a person that real property is not  
19               available for inspection, sale, rental, or lease when  
20               in fact it is available, or to fail to bring a  
21               property listing to the person's attention, or to



1           refuse to permit the person to inspect real property,  
2           or to steer a person seeking to engage in a rental  
3           transaction.

4           (b) Nothing in this section shall be deemed to prohibit a  
5   landlord from determining in a commercially reasonable manner  
6   the ability of a potential tenant to pay rent by:

7           (1) Verifying the source and amount of income of the  
8           potential tenant; or

9           (2) Evaluating the stability, security, and  
10          creditworthiness of the potential tenant or any source  
11          of income of the potential tenant;

12   provided that if a landlord requires that a potential tenant  
13   have a certain minimum level of income, the standard for  
14   assessing eligibility shall be based only on the portion of the  
15   rent to be paid by the tenant, taking into account the value of  
16   any federal, state, or local rental assistance or housing  
17   subsidy.

18          §   -3   **Remedies.** (a) Any individual claiming to be  
19   aggrieved by an alleged unlawful discriminatory practice by a  
20   landlord may bring a civil action in district court within one



1 year of the occurrence of the alleged violation for appropriate  
2 injunctive relief and damages.

3 (b) In an action brought pursuant to subsection (a), a  
4 district court may issue an injunction to enjoin violation of  
5 this chapter. If the court issues an injunction, the court may  
6 also award damages not to exceed \$5,000 to the person bringing  
7 the action, and reasonable attorney's fees and costs incurred in  
8 the civil action."

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

12 SECTION 4. This Act shall take effect upon its approval.  
13

INTRODUCED BY: 



# S.B. NO. 2399

**Report Title:**

Rental Discrimination; Source of Income; Prohibited Practices;  
Housing Assistance Programs

**Description:**

Prohibits discrimination in rental transactions based on participation in any government rental assistance program, including low-income housing assistance under the United States Housing Act of 1937, 42 U.S.C. § 1437f, as amended.

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