



# HAWAI'I CIVIL RIGHTS COMMISSION

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February 1, 2002  
Via Videoconference, 3:00 p.m.  
Conference Room 225

To: The Honorable Joy A. San Buenaventura, Chair  
The Honorable Les Ihara, Jr., Vice Chair  
Members of the Senate Committee on Human Services

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

Re: S.B. No. 2002

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. 2002**, which codifies the administrative rule definition of "assistance animal," and clarifies the type of verification an individual may provide to substantiate a reasonable accommodation request for an assistance animal when the need is not readily apparent. **However, the HCRC has concerns regarding the verification provisions in Section 3 of the bill, where they do not track and codify the verification provisions of the administrative rule.**

The Hawaii Administrative Rules (HAR) have the full force and effect of law, so a

codification of one of the definitions within HAR § 12-46-302 is not necessary. *State v. Kimball*, 54 Haw. 83 at 89 (1972). However, the HCRC does not object to the codification of the rule definition, which is substantially equivalent to the standard under the federal Fair Housing Act.

S.B. No. 2002 also allows a person engaging in the real estate transaction to request that a person claiming a disability provide verification to establish the disability-related need for a specific assistance animal as a reasonable accommodation, and lists who may provide such verification. The statutory language in the bill, amending HRS § 515-3, does not track the language in the HCRC rule, HAR § 12-46-306(a)(1), which reflects current state and federal fair housing law standards. As with the rule definition of “assistance animal” discussed above, HAR § 12—46-306(a)(1) has the full force and effect of law, and codification of the rule in statute is not necessary.

The proposed amendment to HRS § 515-3(9) differs substantively from the HAR § 12-46-306(a)(1) verification provision. The bill provides that “an owner or other person engaging in the real estate transaction may request that a person claiming a disability *provide verification to establish the disability-related need for a specific assistance animal as a reasonable accommodation ...*,” where the rule provides that “an owner or other person engaging in a real estate transaction may request *verification that the assistance animal is needed to alleviate one or more symptoms of the person’s disability.*”

The proposed amended statute is much different from the rule, which incorporates the fair housing law definition of an assistance animal as an animal “that is needed to perform disability-related work, services or tasks for the benefit of a person with a disability, or is needed to provide emotional support that alleviates one or more identified symptoms or effects of a person’s disability.” The proposed statute arguably requires a more narrowly defined verification, requiring a conclusory verification that the animal is needed as a *reasonable accommodation* – a

legal conclusion that those authorized to provide verification upon request may not be qualified to reach. A change in the statute, ostensibly to codify the rule, could have the effect of undermining the legal effect of the rule, raising an issue of what the legislature's intent is in making this change.

There has been much discussion over the past several legislative sessions about the issuance of dog vests and registration documents for a fee or purchase online, in the absence of a national registry or certification for assistance animals. S.B. No. 2002 expressly clarifies that possession of a dog vest or registration documents that are commonly purchased online and purporting to identify an animal as a service animal or assistance animal will not constitute valid verification. The HCRC supports such clarification.

**The HCRC supports S.B. No. 2002, but only if Section 3 of the bill is amended to track and codify the rule verification provision, addressing the concerns discussed above.**

February 1, 2022

**The Honorable Joy San Buenaventura, Chair**

Senate Committee on Human Services

Via Videoconference

**RE: S.B. 2002, Relating to Fair Housing Reasonable Accommodations**

**HEARING: Tuesday, February 1, 2022, at 3:00 p.m.**

Aloha Chair San Buenaventura, Vice Chair Les Ihara, Jr., 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 10,800 members. HAR **supports** Senate Bill 2002, which codifies the administrative rule definition of "assistance animal". Clarifies the type of verification an individual may provide to substantiate a reasonable accommodation request for a specific assistance animal. 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.

Hawai'i REALTORS® are committed to upholding fair housing law and believes that this measure will provide clarity to the assistance animal provisions. These provisions often remains the most difficult process for those seeking to follow fair housing law properly.

Additionally, websites that sell service animal vests, registration documents or other items could confuse a consumer into thinking that qualifies their animal as an assistance animal. As such, HAR believes this will provide added clarity that these items are not a valid verification.

If the Committee is inclined to pass this measure, we would respectfully request a **November 1<sup>st</sup> effective date**. This would allow us to update the Service and/or Support Animal Addendum to the Rental Agreement and educate our members on the changes.

Mahalo for the opportunity to testify.

**SB-2002**

Submitted on: 1/31/2022 3:23:14 PM

Testimony for HMS on 2/1/2022 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Na Lan	Testifying for Community Associations Institute LAC	Support	No

Comments:

The Community Association Institute Legislative Action Committee is in support of this bill.