



# HAWAI‘I CIVIL RIGHTS COMMISSION

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

Tuesday, March 1, 2022, 10:00 a.m.  
Room 229 and via Videoconference

To: The Honorable Rosalyn H. Baker, Chair  
The Honorable Stanley Chang, Vice Chair  
Members of the Senate Committee on Commerce and Consumer Protection

The Honorable Karl Rhoads, Chair  
The Honorable Jarrett Keohokalole, Vice Chair  
Members of the Senate Committee on Judiciary

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

Re: S.B. No. 2468

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. 2468**, which would allow the counties to prohibit discrimination against renters based on source of income.

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, its economic repercussions continue to affect income and housing. In the wake of this crisis, it is even more important to prohibit discrimination in rental housing based on source of income, especially in counties where renters who have housing assistance vouchers cannot find rental housing.

HCRC has supported bills in the past which prohibit rental discrimination based on participation in a housing assistance program, or receipt of other legal source of income, such as child support or maintenance. State legislation and county legislation prohibiting discrimination are not mutually exclusive. Allowing the counties to legislate on this topic would also allow this protection to be adopted incrementally county by county, since it has not been enacted into state law.

**The HCRC supports S.B. No. 2468.**

DAVID Y. IGE  
GOVERNOR OF HAWAII



ELIZABETH A. CHAR, M.D.  
DIRECTOR OF HEALTH

**STATE OF HAWAII**  
STATE COUNCIL  
ON DEVELOPMENTAL DISABILITIES  
PRINCESS VICTORIA KAMĀMALU BUILDING  
1010 RICHARDS STREET, Room 122  
HONOLULU, HAWAII 96813  
TELEPHONE: (808) 586-8100 FAX: (808) 586-7543  
March 1, 2022

The Honorable Senator Rosalyn H. Baker, Chair  
Senate Committee on Commerce and Consumer Protection  
The Honorable Senator Karl Rhoads, Chair  
Senate Committee on Judiciary  
The Thirty-First Legislature  
State Capitol  
State of Hawai'i  
Honolulu, Hawai'i 96813

Dear Senator Baker, Senator Rhoads, and Committee Members:

**SUBJECT: SB2468 Relating to Housing Discrimination**

The Hawaii State Council on Developmental Disabilities **SUPPORTS SB2468** which allows counties to prohibit discrimination against renters based on their source of income.

Many individuals with intellectual/developmental disabilities (I/DD) benefit from Section 8 Housing Choice Voucher Program. Section 8 is a federally funded housing program that assists individuals with low-income, elderly, and or homeless persons afford a home to live in. For our individuals with I/DD, the section 8 program is the only way many can live independently and helps integrate them into our communities. In recent years we have seen more and more advertisements on places like "Craigslist" and other rental listing locations use the words "No Section 8" or a phrase similar to this, which immediately removes our I/DD community from a chance at these rental units. Removing the option to place these barriers could help our Section 8 Housing Choice Voucher users.

Thank you for the opportunity to submit testimony in **support of SB2468**

Sincerely,

A handwritten signature in blue ink that reads "Daintry Bartoldus".

Daintry Bartoldus  
Executive Administrator



EXECUTIVE CHAMBERS  
HONOLULU

March 1, 2022

TO: The Honorable Senator Rosalyn H. Baker, Chair  
Senate Committee on Commerce and Consumer Protection

The Honorable Senator Karl Rhoads, Chair  
Senate Committee on Judiciary

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

SUBJECT: **SB 2468 – RELATING TO HOUSING DISCRIMINATION.**

Hearing: Tuesday, March 1, 2022, 10:00 a.m..  
VIA VIDEO CONFERENCE

**POSITION:** The Governor's Coordinator on Homelessness supports this measure.

The Coordinator notes that there are other measures in consideration that would similarly address discrimination against individuals participating in housing assistance programs at a statewide level, including [SB206 SD2](#) and [SB2399](#).

**PURPOSE:** The purpose of the bill is to allow counties to prohibit discrimination against renters based on their source of income.

This measure will enable the counties to address a key barrier to housing for many low-income and homeless individuals and families throughout the state. Nationally, Connecticut, Maine, Massachusetts, New Jersey, North Dakota, Oklahoma, Oregon, Utah, Vermont, Washington, and Washington, D.C., and numerous county jurisdictions have adopted policies that prohibit rental discrimination based on source of income, which includes the use of housing vouchers. In December 2021 the Hawaii Interagency Council on Homelessness prioritized addressing upfront barriers to accessing housing, such as source of income discrimination in rental housing, as a key priority for the 2022 legislative session.

According to feedback from service providers, many landlords are reluctant to rent to individuals who receive housing assistance through a Section 8 Housing Choice Voucher or other subsidies such as permanent supportive housing or 'Housing First' programs. Numerous advertisements for housing specifically state "No Section 8" or "No Vouchers." The stories and feedback related to source of income discrimination and challenges related to finding landlords open to housing assistance is captured online in interviews with landlords, service providers, and homeless individuals at: <https://homelessness.hawaii.gov/landlord-engagement>.

During the ongoing COVID-19 pandemic, reluctance to rent to clients in housing assistance programs has adversely impacted the utilization of new federal resources, such as U.S. Department of Housing and Urban Development Emergency Housing Vouchers (EHVs) and U.S. Department of Treasury Emergency Rental Assistance (ERA). For example, even though 708 EHVs have been allocated statewide in Hawaii since mid-2021, only 36 households have been leased up statewide as of January 20, 2022. In addition, providers have shared stories of homeless individuals who were approved for prospective rent through ERA after eviction from a prior unit and are unable to find a landlord open to accept this assistance in a new unit.

The Coordinator understands that addressing 'source of income' discrimination is just one piece of a more comprehensive effort to address homelessness and housing instability. In addition to prioritizing the reduction of upfront housing barriers, the HICH is prioritizing low-income housing development for individuals transitioning out of homelessness, as well as support for landlord incentive programs and for the expansion of programs that assist key homeless sub-populations (e.g., unsheltered youth, adults with severe mental illness, etc.). For more information about the 2022 HICH policy priorities, view: <https://homelessness.hawaii.gov/advocacy>.

Thank you for the opportunity to testify on this bill.

## TESTIMONY IN SUPPORT OF SB 2468

TO: Chair Baker, Vice Chair Chang, & CPN Committee Members  
Chair Rhoads, Vice Chair Keohokalole, & JDC Committee Members

FROM: Nikos Leverenz  
Grants & Advancement Manager

DATE: March 1, 2022 (10:00 AM)

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Hawai'i Health & Harm Reduction Center (HHRC) **supports** SB 2468, which allows county governments to prohibit discrimination against renters based on their source of income, including those receiving federal housing assistance under Section 8.

Ideally discrimination in real estate transactions based on source of income should be prohibited as a matter of state policy. 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 by HHRC staff.

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

HHRC Executive Director Heather Lusk currently serves as Board Chair of [Partners in Care O'ahu](#), a planning, coordinating, and advocacy alliance that develops recommendations for programs and services to fill needs within O'ahu's continuum of care for homeless persons. HHRC provides homeless outreach and housing placement navigation services in urban Honolulu and the Upper Windward Coast, including North Shore.

HHRC's mission is to reduce harm, promote health, create wellness, and fight stigma in Hawai'i and the Pacific. We work with many individuals impacted by poverty, housing instability, and other social determinants of health. Many have behavioral health problems, including those related to substance use and mental health conditions. Many of our program clients and participants have also been deeply impacted by trauma, including histories of physical, sexual, and psychological abuse.

Thank you for the opportunity to testify on this measure.



Hawai'i

Committees: Committee on Commerce and Consumer Protection and Committee on Judiciary  
Hearing Date/Time: 10:00am, March 1, 2022  
Place: Conference Room 229 & Videoconference  
Re: Testimony of the ACLU of Hawai'i with Comments on S.B. 2468, Relating to Housing Discrimination

Dear Chair Baker, Chair Rhoads, Vice Chair Chang, Vice Chair Keohokalole and members of the Joint Committees:

The American Civil Liberties Union of Hawai'i writes **with comments on S.B. 2468**. This bill allows counties to prohibit discrimination in rental transactions based on an individual's source of income. While the ACLU of Hawai'i supports the intent of this measure, we note there are several other more comprehensive measures in consideration that would address discrimination against individuals participating in housing assistance programs, including **S.B. 206, S.D. 2, S.B. 2399, and S.B. 1135, S.D.1**.<sup>1</sup> These preferred measures address the issue of source-of-income discrimination in a much more effective, detailed manner—including by, for example:

- 1) Prohibiting source-of-income discrimination on a state-wide level;
- 2) Delineating specific circumstances and conduct that is disallowed, such as discrimination in advertising, negotiation, representation, and retaliation against individuals for their exercise of the right; and
- 3) Creating a remedy for violations of the right, whereby individuals may bring a civil action in court with the potential for damages not to exceed \$5,000.

While the ACLU of Hawai'i strongly supports this issue and seeks to affirmatively stop source-of-income discrimination, we urge the Joint Committees to **focus support on one of the other preferred vehicles listed**.

The State of Hawai'i continues to struggle with one of the highest rates of homelessness in the country, at over 2.5 times the national average.<sup>2</sup> This is due, in large part, to the high cost of living and lack of affordable housing in the state.<sup>3</sup> 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

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<sup>1</sup> The ACLU of Hawai'i notes that of the three other bills being considered, **S.B. 206, S.D. 2** is the organization's preferred vehicle—it is the most comprehensive and includes protections against retaliation and various other discriminatory practices.

<sup>2</sup> *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).

<sup>3</sup> *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>.

subsidies that enabled families to offset the cost of a unit in the private market led to the **best outcomes for reducing family homelessness “by far.”**<sup>4</sup>

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.**<sup>5</sup> 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.

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.<sup>6</sup> 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.**<sup>7</sup> Given their success, it is time for Hawai‘i as a state 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.<sup>8</sup> 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.

For these reasons, the ACLU of Hawai‘i continues to advocate for legislation prohibiting source-of-income discrimination, and **urges the Joint Committees to focus support on the preferred measures S.B. 206, S.D. 2, S.B. 2399, and/or, S.B. 1135, S.D.1.**

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<sup>4</sup> *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).

<sup>5</sup> 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).

<sup>6</sup> Solomon Greene, Patrick Spauster, Martha Galvez, Daniel Teles, Philip Tegeler, *State and Local Voucher Protection Laws*, THE URBAN INST., at 3 (2020).

<sup>7</sup> 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).

<sup>8</sup> Gail Quets, Áine Duggan, Gail Cooper, *A Gender Lens on Affordable Housing*, RE:GENDER, at 7 (2016).



Chair Baker, Chair Rhoads, and members of the Joint Committees  
March 1, 2022  
Page 3 of 3

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.*

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March 1, 2022

**The Honorable Rosalyn H. Baker, Chair**

Senate Committee on Commerce and Consumer Protection

**The Honorable Karl Rhoads, Chair**

Senate Committee on Judiciary

Via Videoconference

**LATE**

**RE: Senate Bill 2468, Relating to Housing Discrimination**

**HEARING: Tuesday, March 1, 2022, at 10:00 a.m.**

Aloha Chair Baker, Chair Rhoads, and Members of the Joint Committees,

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 **opposes** Senate Bill 2468, which allows counties to prohibit discrimination against renters based on their source of income.

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.

Moreover, the issue of whether a property owner is engaged in a discriminatory practice, based on source of income, becomes subjective and ambiguous. As a result, even the most diligent housing provider could find themselves the subject of a discrimination complaint.

Additionally, HAR would note that government assistance housing programs are optional to participate in. As such, the focus should be on providing incentives or removing barriers to encourage housing providers to participate in these valuable programs.

Mahalo for the opportunity to testify.

# DAVID W.H. CHEE

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February 28, 2022

COMMITTEE ON JUDICIARY  
Senator Karl Rhoads, Chair  
Senator Jarrett Keohokalole, Vice Chair

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION  
Senator Rosalyn H. Baker, Chair  
Senator Stanley Chang, Vice Chair

RE: SB2468 - RELATING TO THE RESIDENTIAL LANDLORD-TENANT CODE

I am an attorney practicing in the field of landlord-tenant law. I am writing to oppose SB2468.

This bill appears to give the power to the individual counties to create new laws regarding discrimination in the field of rental housing.

We have long had uniform laws regarding discrimination throughout the State. Carving out an exception solely for allowing the counties to prohibit discrimination against renters based on source of income risks inconsistent laws throughout the State and inconsistent enforcement.

Legislation of such importance should be made on the State-wide level. Creating laws that require housing providers to participate in government housing programs is a significant departure from current law. If the legislature believes that such laws should be made, those laws should be made through the State legislative process so that everyone in the State can have an opportunity to participate in its creation.

Very truly yours,

/s/ David W. H. Chee

David W. H. Chee