



EXECUTIVE CHAMBERS
HONOLULU

February 2, 2021

TO: The Honorable Senator Stanley Chang, Chair
Senate Committee on Housing

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

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

Hearing: Tuesday, February 2, 2021, 1:00 p.m.
VIA VIDEO CONFERENCE
Conference Room 225, State Capitol

POSITION: The Governor's Coordinator supports this measure with amendments. The Coordinator prefers the language in Senate Bill 1135 and House Bill 981, which propose remedies for violation that include an award of damages not to exceed \$5,000.

PURPOSE: The purpose of the bill is to prohibit discrimination, including in advertisements for available rental units, based on receipt of income from 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 prioritized 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 &

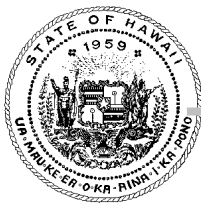
Policy Priorities, National Alliance to End Homelessness, National Innovation Service, National Health Care for the Homeless Council, National Low Income Housing Coalition, Urban Institute, Barbara Poppe and associates, and Matthew Doherty Consulting.

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.



HAWAI‘I CIVIL RIGHTS COMMISSION

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

February 2, 2021
Rm. 225, 1:00 p.m.

To: The Honorable Stanley Chang, Chair
The Honorable Dru Mamo Kanuha, Vice Chair
Members of the Senate Committee on Housing

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

Re: S.B. No. 36

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.

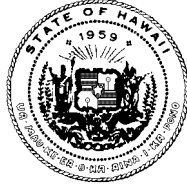
The HCRC supports S.B. No. 36, which would amend the HRS to add a new chapter to prohibit housing discrimination against persons based on their source of income, including participation in a housing assistance program or requirements related to participation in a housing assistance program. While this 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. 206 places the new prohibited practice in a new chapter of the HRS, with enforcement through direct civil action and provision for appropriate remedies. This addresses concerns raised by the HCRC in 2019 on a similar bill.

The HCRC supports S.B. No. 36.



‘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
January 31, 2021

Aloha Chair Chang, Vice Chair Kanuha and Honorable Members,

The Hawai‘i State Commission on the Status of Women supports SB36, 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 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 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.

The Commission submits the following friendly amendments:

- Add the following paragraph to Section 1:

Allowing landlords to consider a rental applicant's source of income also functions as a proxy for discrimination against women. Prior to the pandemic, nationally eighty-three per cent of households participating in the federal housing choice voucher program, also known as Section 8, are led by women. Currently, there are more than 22,000 single mothers in Hawaii, and ninety-two per cent of single mothers surveyed during the COVID-19 pandemic reported that they have lost financial independence due to the economic crisis.

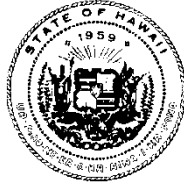
- Amend Section 5(b)(2):

(2) In any case in which it issues an injunction pursuant to paragraph (1), may also assess a fine not to exceed ~~\$500~~ \$5000 and award reasonable attorney's fees incurred in the civil action."

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 with the requested friendly amendments.

Sincerely,
Khara

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

SENATE COMMITTEE ON HOUSING

Tuesday, February 2, 2021
1:00 PM – Room 225, Hawaii State Capitol

In consideration of
SB 36
RELATING TO RENTAL DISCRIMINATION

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

The Hawaii Public Housing Authority (HPHA) **supports** the enactment of SB 36, 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 regarding SB 36. We thank you very much for your dedicated support.



Hawai'i

Committees: Committee on Housing
Hearing Date/Time: 1:00pm, February 2, 2021
Place: Conference Room 225
Re: Testimony of the ACLU of Hawai'i in Support of S.B. 36, Relating to Rental Discrimination

Dear Chair Chang, Vice Chair Kanuha, and members of the Committee:

The American Civil Liberties Union of Hawai'i writes **in support of S.B. 36 with one proposed amendment**: to raise the maximum penalty for a violation from \$500 to \$5,000 (§5(b)(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 homelessness 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 or cover the cost of a unit in the private market led to the **best outcomes for reducing family homelessness "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).

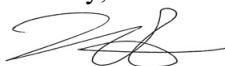
To combat this problem and allow housing assistance programs to serve their intended function, numerous states, cities, and counties have already adopted laws prohibiting source of income discrimination.⁵ Several studies have found that people living in areas with these non-discrimination laws are **more 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.

Finally, S.B. 36 provides a remedy for violations of the law by enabling an individual to bring a direct cause of action in district court. To increase the deterrent effect of this law, however, we respectfully request that the Committee **amend** S.B. 36 to increase the maximum penalty for a violation from \$500 to \$5,000 (§5(b)(2)).

For these reasons, the ACLU of Hawai'i **requests that the Committee support this measure, with the amendment discussed above**. 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).



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

COMMITTEE ON HOUSING
TUESDAY, 2/2/2021, 1 PM, Room No. 225

SB36 RELATING TO RENTAL DISCRIMINATION
TESTIMONY

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

Chair Chang, Vice-Chair Kanuha, 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 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 provides such a policy in the rental housing market.

Thank you for the opportunity to submit testimony.

February 2, 2021

The Honorable Stanley Chang, Chair
Senate Committee on Housing
Via Videoconference

RE: Senate Bill 36, Relating to Rental Discrimination

HEARING: Tuesday, February 2, 2021, at 1:00 p.m.

Aloha Chair Chang, Vice Chair Kanuha, 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, 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.



HAWAII APPLESEED

CENTER FOR LAW & ECONOMIC JUSTICE

Testimony of the Hawai‘i Appleseed Center for Law & Economic Justice
In Support of SB 36 – Relating to Rental Discrimination
Senate Committee on Housing
Tuesday, February 2, 2021, 1:00 PM, conference room 225

Dear Chair Chang and members of the Committee:

Thank you for the opportunity to provide testimony in **SUPPORT** of **SB 36**, which would prohibit discrimination against tenants based on the tenants’ source of income.

Non-discrimination protections such as what SB 36 proposes are effective in helping ensure that tenants with income assistance are able to secure a rental unit. In the Section 8 Housing Choice Voucher context, studies have shown a lower rate of voucher denial in jurisdictions where such protections exist.¹ As of November 2020, 17 states had some form of protection for discrimination against HCV holders.²

While SB 36 would represent progress toward ensuring that households are not harmfully denied housing in spite of having access to resources to pay the rent, we recommend strengthening the bill to ensure it has its intended impact. The state of Washington’s source of income discrimination bill provides a good example of the ways SB 36 could be improved, including the following:³

- Including a more detailed explanation of the sources of income covered, including “programs administered by any federal, state, local or nonprofit entity”
- Creating civil liability for up to “four and one-half times the monthly rent of the property at issue” rather than the proposed fine of up to \$500, which is unlikely to lead to private enforcement of the law
- Clarifying that it is unlawful to, not only “refuse to engage in a rental transaction,” but also to refuse to continue the rental by, for example, expelling the tenant.

We appreciate your consideration of this testimony.

¹ Alison Bell *et al.*, “Prohibiting Discrimination Against Renters Using Housing Vouchers Improves Results Lessons From Cities and States That Have Enacted Source of Income Laws,” Center on Budget and Policy Priorities, December 20, 2018, <https://www.cbpp.org/sites/default/files/atoms/files/10-10-18hous.pdf>.

² Poverty & Race Research Action Council, “Expanding Choice: Practical Strategies for Building a Successful Housing Mobility Program—Appendix B: State, Local, and Federal Laws Barring Source-of-Income Discrimination,” November 2020, <https://www.prrac.org/pdf/AppendixB.pdf>.

³ Revised Code of Washington, Section 59.18.255, <https://app.leg.wa.gov/RCW/default.aspx?cite=59.18.255>.

The Hawai‘i Appleseed Center for Law and Economic Justice is committed to a more socially just Hawai‘i, where everyone has genuine opportunities to achieve economic security and fulfill their potential. We change systems that perpetuate inequality and injustice through policy development, advocacy, and coalition building.

SB-36

Submitted on: 1/31/2021 8:38:52 PM

Testimony for HOU on 2/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Golojuch Jr	Testifying for LGBT Caucus of the Democratic Party of Hawaii	Support	No

Comments:

Aloha Senators,

The LGBT Caucus fully supports SB 36.

Mahalo,

Michael Golojuch, Jr.

Chair

LGBT Caucus of the Democratic Party of Hawai'i

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

February 1, 2021

SENATE COMMITTEE ON HOUSING
Senator Stanley Chang, Chair
Senator Dru Mamo Kanuha, Vice Chair

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

Dear Senators:

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 and my clients manage over 10,000 residential dwellings across the State of Hawaii. I am writing regarding the above-referenced bill.

In Hawaii, too few landlords participate in the Section 8 program, so I generally agree with the intent of the legislation – to create opportunities for those with Section 8 vouchers to be able to find housing.

This proposed legislation, however, 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 how a landlord can 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. The law will make normal and prudent business decisions in the transaction of real estate discriminatory.

A. 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.¹

¹ Although it seems the intent is to include only government programs in the definition of “housing assistance program,” the definition can be read to include any sort of housing assistance program, not just government programs. If the legislature intends that the source of income prohibition pertain only to government programs, please consider revising the definition to:

The law also can be read to require that all landlords participate in the Section 8 program. Is that the Legislature's intent? 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 it is unattractive to them.

What could be unattractive about a secure stream of rent? 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 made 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.

"Housing assistance program" means any government assistance, government grant, government loan, or government rental assistance program, including low-income housing assistance certificates and vouchers under the United States Housing Act of 1937, as amended.

Otherwise, the definition can be read to apply to any grant, any loan or any rental assistance program, in addition to government assistance programs. For example, under the current language, if there was a "Proud Boys Rental Assistance Program", arguably a landlord could not turn a prospective tenant away because of their participation in that rental assistance program.

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.

As it is presently written, this legislation can be read to require all landlords to agree to any condition imposed by any government program, without regard to whether the landlord wants to, or even can, participate. This will drive many landlords out of the business and deprive the community of rental units - a resource that is scarce.

B. 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.² That would be an absurd result.

So, while I agree that Section 8 recipients should have more options to find housing, this proposed legislation does not seem well-designed to achieve that end and will cause much disruption. This proposed bill will create confusion and litigation without any significant benefit.

Very truly yours,

/s/ David Chee

David W.H. Chee

² Of note – section (b) (page 5, line 13) makes it explicitly proper for a landlord to determine the ability of a prospective renter to pay the rent, but section (a) (page 3, line 19) makes it illegal to choose a prospective tenant who has a steady income over one who may only receive temporary stimulus funds (page 4, line 4)..

SB-36

Submitted on: 1/31/2021 5:56:29 PM

Testimony for HOU on 2/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Glenn Nagao	Individual	Support	No

Comments:

I am writing in support of SB36. This is a common sense law that should effectively already be taking place.

Discrimination based on any criteria should be avoided by those who create and implement policy and even more so for housing issues where minority and indigenous populations are more greatly impacted.

Please vote in support of SB36.

SB-36

Submitted on: 1/31/2021 5:37:57 PM

Testimony for HOU on 2/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
cathy lee	Individual	Support	No

Comments:

I support this bill.

SB-36

Submitted on: 2/1/2021 1:29:35 PM

Testimony for HOU on 2/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Rachael Ke	Individual	Support	No

Comments:

TO: Members of the Senate Committee on Housing

FROM: Rachael Ke, BH Case Manager, University of Hawaii MSW student

SUBJECT: SB 36 – RELATING TO RENTAL DISCRIMINATION

Aloha!

My name is Rachael Ke and I strongly support SB 36 which prohibits housing discrimination in regards to a person's source of income, or their involvement in various housing assistance programs.

Over the years, the federal government has continued to appropriate funding towards the Hawaii Housing Authority and other agencies to help families and individuals obtain rental vouchers. These vouchers assist with a significant portion of their monthly rent and provides them with a safe and adequate place to call home. However, this only works if private landlords or housing agencies are willing to rent to families and individuals who are receiving these rental subsidies.

Here in Hawaii there are numerous landlords and rental agencies who do not accept housing vouchers, and I express this through past personal experience. This makes it difficult for our most vulnerable communities to secure adequate and affordable housing. This further marginalizes individuals and families by containing them in certain communities, which is also a form of oppression and discrimination.

The passing of this measure will have a positive impact not only on our families and individuals, but also the many individuals with physical and mental disabilities who have fallen victim to our homeless crisis due to the lack of housing. This measure will also decrease Hawaii's homeless population as more affordable housing is provided.

In addition, I respectfully suggest that you take into consideration that these renters are also being subjected to credit checks. Having low credit scores can also be a barrier to families and individuals seeking to secure affordable housing. This is an issue that needs to be address in order to avoid further discrimination.

Mahalo for allowing me the opportunity to share my support of this measure.