



EXECUTIVE CHAMBERS
HONOLULU

April 14, 2022

TO: The Honorable Representative Nadine K. Nakamura, Chair
House Committee on Housing

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

SUBJECT: **SCR 162 – REQUESTING THE GOVERNOR TO ORDER EXECUTIVE AGENCIES TO REVIEW AND REVISE THEIR POLICIES AND RULES TO PROHIBIT DISCRIMINATION IN RENTAL TRANSACTIONS AND ADVERTISEMENTS FOR RENTAL TRANSACTIONS BASED ON SOURCE OF INCOME OR PARTICIPATION IN HOUSING ASSISTANCE PROGRAMS.**

Hearing: Thursday, April 14, 2022, 10:00 a.m.
VIA VIDEO CONFERENCE
Hawaii State Capitol, Conference Room 423

POSITION: The Governor's Coordinator on Homelessness appreciates the intent of this concurrent resolution and respectfully offers comments.

PURPOSE: The purpose of this concurrent resolution is to request the Governor to order executive agencies to review and revise their policies and rules to prohibit discrimination in rental transactions and advertisements for rental transactions based on source of income or participation in housing assistance programs.

While source of income discrimination adversely impacts potential renters statewide and negatively impacts housing voucher utilization, a statutory change is necessary to effectively mitigate discrimination based on receiving assistance from the federal Section 8 program and other similar programs. Data from other communities demonstrate that housing voucher utilization increases when source of income discrimination or housing voucher discrimination policies are formally adopted. For example, a 2011 U.S. Department of Housing and Urban Development policy brief, [*The Impact of Source of Income Laws on Voucher Utilization and Locational Outcomes*](#), found voucher utilization rates increased by between 4 to

11% in communities with source of income discrimination policies compared to communities that did not have these policies. A more recent [2018 study by the Urban Institute](#) found dramatically lower rates of discrimination against households receiving housing choice vouchers in two areas – New Jersey and Washington, D.C. – that have strong source of income protections.¹

The passage of a law to provide Source of income discrimination protections for renters is a priority of the Hawaii Interagency Council on Homelessness (HICH) for the 2022 legislative session. The Coordinator notes that [SB206 SD2 HD1](#) recently passed out of the House Committee on Finance and is scheduled for Third Reading in the House.

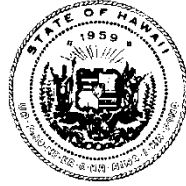
During the ongoing COVID-19 pandemic, reluctance to rent to clients in housing assistance programs has adversely impacted the utilization of new federal resources, such as U.S. Department of Housing and Urban Development Emergency Housing Vouchers (EHVs) and U.S. Department of Treasury Emergency Rental Assistance (ERA). A recent [February 2022 article in the Honolulu Star-Advertiser](#) states that the number of unused Section 8 vouchers issued by the Hawaii Public Housing Authority (HPHA) increased from only 10 in 2017 to 68 in 2021. With limited search periods to lease up with a voucher of normally 60- or 90-days, refusal to accept a housing voucher results in individuals losing their rental assistance and prolongs situations of housing insecurity and homelessness.

Strong source of income discrimination protections implemented in statute will address a key barrier to housing for many low-income and homeless individuals and families throughout the state, such as former foster youth, single mothers with minor children, veterans, individuals fleeing domestic violence, and the elderly. 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 the source of income, including housing vouchers.

Thank you for the opportunity to testify on this measure.

¹ Report available at: <https://www.urban.org/research/publication/pilot-study-landlord-acceptance-housing-choice-vouchers>

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

HOUSE COMMITTEE ON HOUSING

Thursday, April 14, 2022

10:00 AM – Videoconference – Room 423, Hawaii State Capitol

In consideration of
SCR 162

**REQUESTING THE GOVERNOR TO ORDER EXECUTIVE AGENCIES TO REVIEW AND REVISE THEIR
POLICIES AND RULES TO PROHIBIT DISCRIMINATION IN RENTAL TRANSACTIONS AND
ADVERTISEMENTS FOR RENTAL TRANSACTIONS BASED ON SOURCE OF INCOME OR
PARTICIPATION IN HOUSING ASSISTANCE PROGRAMS**

Honorable Chair Nakamura, and Members of the House Committee on Housing, thank you for the opportunity to provide comments for Senate Concurrent Resolution (SCR) 162.

The HPHA's mission is to promote adequate and affordable housing, economic opportunity, and a suitable living environment free from discrimination through its public housing and rental assistance programs. The HPHA serves the State's most disadvantaged populations, including those earning less than thirty percent of the Area Median Income (AMI), the disabled and the elderly.

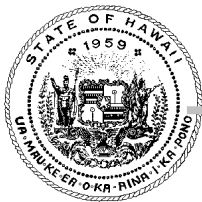
The Fair Housing Act prohibits the HPHA from discriminating against families and individuals because of race, color, national origin, religion, sex (including gender, gender identity, sexual orientation, and sexual harassment), familial status, and disability. A variety of other Federal civil rights laws, including Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act, prohibit discrimination in housing and community

development programs and activities, particularly those that are assisted with U.S. Department of Housing and Urban Development (HUD) funding.

These civil rights laws include obligations such as taking reasonable steps to ensure meaningful access to their programs and activities for persons with limited English proficiency (LEP) and taking appropriate steps to ensure effective communication with individuals with disabilities through the provision of appropriate auxiliary aids and services. Various Federal Fair Housing and civil rights laws require HUD and its program participants to affirmatively further the purposes of the Fair Housing Act.

Please know that until the State of Hawaii enacts a law that 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, this type of discrimination will continue.

The HPHA appreciates the opportunity to provide the Committee with the HPHA's testimony. We thank you very much for your dedicated support.



HAWAI‘I CIVIL RIGHTS COMMISSION

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

Thursday, April 14, 2022, 10:00 a.m.
Via Videoconference, and Conference Rm 423

To: The Honorable Nadine K. Nakamura, Chair
The Honorable Troy N. Hashimoto, Vice Chair
Members of the House Committee on Housing

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

Re: S.C.R. 162

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.

HCRC offers these comments on S.C.R. 162 which, if adopted, would request all executive agencies to review and revise their policies and rules to prohibit discrimination in rental transactions and advertisements for rental transactions based on source of income or participation in housing assistance programs.

The HCRC has offered testimony during this session in support of S.B. No. 2399 and S.B. No. 206, both of which would prohibit housing discrimination based on source of income. S.B. No. 206, S.D.2, H.D.1, is still alive, albeit in a problematic H.D.1 that is weaker than earlier versions, **which has passed third reading and has been transmitted to the Senate, and will likely go to conference committee.** The legislature has taken up similar bills year after year, dating

back to the 2009 Session. Remarkably, over time these bills have gained traction and support, as other jurisdictions have enacted similar laws.

With this backdrop, the legislature having considered and declined to pass numerous bills which would have established a statutory prohibition against discrimination in housing based on source of income, executive branch policies and rules that prohibit such discrimination on that basis would be invalid, beyond and outside the scope of statutory authority. See *Asato v. Procurement Policy Board*, 132 Hawai‘i 333 (2014), 346-347. Sadly, the adoption of a well-intended resolution will not have force and effect of law.

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
April 14, 2022

LATE

The Honorable Representative Nadine K. Nakamura, Chair
House Committee on Housing
The Thirty-First Legislature
State Capitol
State of Hawai'i
Honolulu, Hawai'i 96813

Dear Representative Nakamura and Committee Members:

SUBJECT: SCR162

The Hawaii State Council on Developmental Disabilities **SUPPORTS SCR162** which is requesting the Governor to order executive agencies to review and revise their policies and rules to prohibit discrimination in rental transactions and advertisements for rental transactions based on source of income or participation in housing assistance programs.

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 like this, which immediately removes our I/DD community from a chance at these rental units. This language is discriminatory based on assumed behaviors of the population believed to use Section 8 Vouchers.

Thank you for the opportunity to submit testimony in **support of SCR162.**

Sincerely,

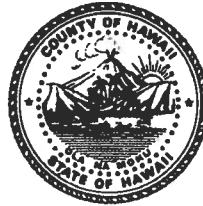
A handwritten signature in blue ink that reads "Daintry Bartoldus".

Daintry Bartoldus
Executive Administrator

Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director

Robert H. Command
Deputy Managing Director



Susan K. Kunz
Housing Administrator

Harry M. Yada
Assistant Housing Administrator

LATE

County of Hawai'i
Office of Housing and Community Development

1990 Kino'ole Street, Suite 102 • Hilo, Hawai'i 96720 • (808) 961-8379 • Fax (808) 961-8685
Existing Housing: (808) 959-4642 • Fax (808) 959-9308
Kona: (808) 323-4300 • Fax (808) 323-4301

April 14, 2022

Senator Stanley Chang, Chair
Senator Dru Mamo Kanuha, Vice-Chair
Committee on Housing

RE: Comments on S.C.R. 162 and S.S.C.R. 3609, REQUESTING THE GOVERNOR TO ORDER EXECUTIVE AGENCIES TO REVIEW AND REVISE THEIR POLICIES AND RULES TO PROHIBIT DISCRIMINATION IN RENTAL TRANSACTIONS AND ADVERTISEMENTS FOR RENTAL TRANSACTIONS BASED ON SOURCE OF INCOME OR PARTICIPATION IN HOUSING ASSISTANCE PROGRAMS.
Hearing Date: Thursday, April 14, 2022 at 10:00 a.m.
Location of Hearing: Via Video Conference, Conference Room 423


Aloha Chair Chang, Vice-Chair Kanuha, and Housing Committee members,

I am providing comments for S.C.R. 162 & S.S.C.R. 3609 for fiscal year 2022-2023 which is requesting the Governor to order Executive Agencies to review and revise their policies and rules to prohibit discrimination in rental transactions and advertisements for rental transactions based on source of income or participation in housing assistance programs.

We support this Resolution and its intent of prohibiting rental discrimination. However, we would recommend further legislation with power and effect of law.

Your consideration of this resolution is sincerely appreciated. Please feel free to contact me for any additional information.

Thank you for the opportunity to testify.



Susan K. Kunz
Housing Administrator



COMMENTS ON SCR 162

TO: Chair Nakamura, Vice Chair Hashimoto, & Housing Committee Members

FROM: Nikos Leverenz
Grants & Advancement Manager

DATE: April 14, 2022 (10:00 AM)

Hawai'i Health & Harm Reduction Center (HHRC) **offers comments** on SCR 162, which requests the Governor to order executive agencies to review and revise their policies and rules to prohibit discrimination in rental transactions, including advertisements, on the basis of source of income or participation on state or federal housing assistance programs.

The current administration has already reviewed policies and rules on this subject. It formally recommends that Hawai'i join the numerous states and localities that prohibit source of income discrimination in rental transactions. Earlier this year, the Hawai'i Interagency Council on Homelessness issued a policy brief, "[Rental Housing Assistance Discrimination](#)," recommending that ***"Hawai'i would benefit from joining other states and localities in legally protecting households against discrimination based on their rental assistance. This would give people more equitable footing in accessing rental housing."***

Many low-income persons and families who obtain needed government housing assistance have long had great difficulty in finding and securing rentals in a perennially high-cost, low-supply housing landscape on both O'ahu and the neighbor islands. Remedying this ongoing struggle for under-resourced families and individuals requires a clear and enforceable statutory framework. This resolution is an inadequate legislative response to their plight and does little to reduce unsheltered homelessness and housing instability in our communities.

In short, what is required at this juncture is a statutory framework that unambiguously prohibits source of income discrimination in rental transactions. Constructing that statutory framework is the purview of the Legislature.

Should the Legislature decide to pass a vehicle like [SB 206](#), *as passed by the Senate*, it is reasonably foreseeable that the Governor would sign it. Neither the executive branch nor private attorneys can enforce statutes and regulations that do not exist.

HHHRC 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.

HHHRC'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.

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

April 13, 2022



HOUSING
Rep. Nadine Nakamura, Chair
Rep. Troy Hashimoto, Vice Chair

Re: SCR162

Dear Representatives:

I am an attorney who has practiced landlord-tenant law for 29 years. As such, I have a perspective on landlord/tenant relationships that is informed by years of observing what does, and what does not, cause successful landlord/tenant relationships.

Foremost among the factors that make landlord/tenant relationships successful is the desire to be in the relationship. Like any other relationship, landlords and tenants both evaluate what the other brings to the relationship.

From a housing provider's perspective, the source of income is important because it provides information regarding the renter. A prospective tenant who has a long history of uninterrupted work is generally a better prospect than someone who borrows money from friends and family to get by.

Source of income also tells you something about the person. For example, if a prospective tenant's source of income is as the Executive Director of the Hawaii Chapter of the Proud Boys, that tells you much about the person's character. Housing providers should not be required to overlook this information. So, blanket prohibitions against considering source of income is a very blunt and imprecise method of dealing with the issue of getting more landlords to accept Section 8 tenants.

On that topic, the legislature is approaching Hawaii's housing problems as if it can be solved by requiring housing providers to make more of the available housing available to economically disadvantaged persons. The problem with this approach is that there is a shortage of housing across the spectrum. The stock of rental housing is not growing in any significant way. By requiring housing providers to prioritize lower income renters, everyone else will need to compete over what's left. This will have the effect of raising rents AND forcing those who do not qualify for Section 8 but who cannot find affordable housing in Hawaii to move away. You are literally taking homes away from Hawaii's middle class.

The only real solution to Hawaii's housing shortage is more housing. If you make laws that increase the rental housing stock, then everyone in Hawaii will have an easier time finding a place to rent. You could, for example, pass laws to allow for dense rental developments in the urban core of Honolulu, or allow for the use of what is now virtually vacant and unused agricultural land for rental properties. You could provide more tax incentives to develop more rental properties where they are needed. There are many solutions, but simply re-prioritizing who gets housing does not solve the real problem – we need more housing.

Please re-consider your priorities. Rather than helping only one segment of our population, please help everyone.

HOUSING

Rep. Nadine Nakamura, Chair

Rep. Troy Hashimoto, Vice Chair

April 13, 2022

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Please let me know if you have any questions.

Very truly yours,

/s/ David Chee

David W.H. Chee