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# A BILL FOR AN ACT

RELATING TO DISCRIMINATORY PRACTICES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 368F-2, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 " ~~[+] §368F-2 [.]~~ Discriminatory practices in a rental  
4 transaction based on source of income ~~[.]~~ or creditworthiness.

5 It shall be a discriminatory practice for a landlord to:

- 6 (1) Indicate in any manner used to advertise the  
7 availability of a rental property that the landlord  
8 will not rent a property to a person participating in  
9 a housing assistance program;
- 10 (2) Discourage in any manner a person from seeking to  
11 engage in a rental transaction based on the person's  
12 participation in a housing assistance program;
- 13 (3) Refuse to engage in a rental transaction with a person  
14 because of the person's participation in a housing  
15 assistance program or requirements related to  
16 participation in a housing assistance program; ~~[e]~~



1 (4) Require rental conditions that are different from  
2 those required for a person not participating in a  
3 housing assistance program[-]; or

4 (5) Refuse to engage in a rental transaction with a  
5 potential tenant because of the tenant's credit  
6 history, credit report, or creditworthiness."

7 SECTION 2. Section 368F-3, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "[f] §368F-3 [f] **Exemptions.** Section 368F-2 shall not apply  
10 to:

11 (1) Landlords who are determining in a commercially  
12 reasonable manner the ability of a potential tenant to  
13 pay rent by:

14 (A) Verifying the source and amount of income of the  
15 potential tenant; or

16 (B) Evaluating the stability[-] and security[-~~and~~  
17 ~~creditworthiness~~] of the potential tenant or any  
18 source of income of the potential tenant;

19 (2) Landlords with ownership of not more than four  
20 dwelling units in the State at the time of the alleged  
21 discriminatory rental transaction; provided that this



1 paragraph shall not apply if an owner, whether  
2 individually or through a business entity, owns more  
3 than a ten per cent interest in more than four  
4 dwelling units in the State at the time of the alleged  
5 discriminatory rental transaction;

6 (3) Landlords in a case where a source of income is not  
7 approved within twenty-one days of a person's  
8 submission of a good faith request for tenancy  
9 approval, which shall include the inspection of a  
10 unit;

11 (4) The rental of any housing accommodation in a building  
12 that contains housing accommodations for not more than  
13 two families living independently of each other if the  
14 owner or lessor resides in one of the housing  
15 accommodations;

16 (5) The rental of a room or up to four rooms in a housing  
17 accommodation by an owner or lessor if the owner or  
18 lessor resides in the housing accommodation; and

19 (6) The rental of an affordable housing project subsidized  
20 by public funds or lands."



1 SECTION 3. Section 378-2, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) It shall be an unlawful discriminatory practice:

4 (1) Because of race, sex including gender identity or  
5 expression, sexual orientation, age, religion, color,  
6 ancestry, disability, marital status, arrest and court  
7 record, reproductive health decision, or domestic or  
8 sexual violence victim status if the domestic or  
9 sexual violence victim provides notice to the victim's  
10 employer of [~~sueh~~] their status or the employer has  
11 actual knowledge of [~~sueh~~] their status:

12 (A) For any employer to refuse to hire or employ or  
13 to bar or discharge from employment, or otherwise  
14 to discriminate against any individual in  
15 compensation or in the terms, conditions, or  
16 privileges of employment;

17 (B) For any employment agency to fail or refuse to  
18 refer for employment, or to classify or otherwise  
19 to discriminate against, any individual;

20 (C) For any employer or employment agency to print,  
21 circulate, or cause to be printed or circulated



1           any statement, advertisement, or publication or  
2           to use any form of application for employment or  
3           to make any inquiry in connection with  
4           prospective employment, that expresses, directly  
5           or indirectly, any limitation, specification, or  
6           discrimination;

7           (D) For any labor organization to exclude or expel  
8           from its membership any individual or to  
9           discriminate in any way against any of its  
10          members, employer, or employees; or

11          (E) For any employer or labor organization to refuse  
12          to enter into an apprenticeship agreement as  
13          defined in section 372-2; provided that no  
14          apprentice shall be younger than sixteen years of  
15          age;

16          (2) For any employer, labor organization, or employment  
17          agency to discharge, expel, or otherwise discriminate  
18          against any individual because the individual has  
19          opposed any practice forbidden by this part or has  
20          filed a complaint, testified, or assisted in any



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1 proceeding respecting the discriminatory practices  
2 prohibited under this part;

3 (3) For any person, whether an employer, employee, or not,  
4 to aid, abet, incite, compel, or coerce the doing of  
5 any of the discriminatory practices forbidden by this  
6 part, or to attempt to do so;

7 (4) For any employer to violate the provisions of section  
8 121-43 relating to nonforfeiture for absence by  
9 members of the national guard;

10 (5) For any employer to refuse to hire or employ or to bar  
11 or discharge from employment any individual because of  
12 assignment of income for the purpose of satisfying the  
13 individual's child support obligations as provided for  
14 under section 571-52;

15 (6) For any employer, labor organization, or employment  
16 agency to exclude or otherwise deny equal jobs or  
17 benefits to a qualified individual because of the  
18 known disability of an individual with whom the  
19 qualified individual is known to have a relationship  
20 or association;



- 1           (7) For any employer or labor organization to refuse to  
2           hire or employ, bar or discharge from employment,  
3           withhold pay from, demote, or penalize a lactating  
4           employee because the employee breastfeeds or expresses  
5           milk at the workplace. For purposes of this  
6           paragraph, the term "breastfeeds" means the feeding of  
7           a child directly from the breast;
- 8           (8) For any employer to refuse to hire or employ, bar or  
9           discharge from employment, or otherwise to  
10          discriminate against any individual in compensation or  
11          in the terms, conditions, or privileges of employment  
12          of any individual because of the individual's credit  
13          history or credit report [~~unless the information in~~  
14          ~~the individual's credit history or credit report~~  
15          ~~directly relates to a bona fide occupational~~  
16          ~~qualification under section 378-3(2)~~]; or
- 17          (9) For any employer to discriminate against any  
18          individual employed as a domestic, in compensation or  
19          in terms, conditions, or privileges of employment  
20          because of the individual's race, sex including gender  
21          identity or expression, sexual orientation, age,



1 religion, color, ancestry, disability, marital status,  
2 or reproductive health decision."

3 SECTION 4. Section 378-2.7, Hawaii Revised Statutes, is  
4 repealed.

5 ~~["§378-2.7] Employer inquiries into and consideration of~~  
6 ~~credit history or credit report. (a) Notwithstanding section~~  
7 ~~{378-2(a)(8)}:~~

8 ~~(1) Inquiry into and consideration of a prospective~~  
9 ~~employee's credit history or credit report may take~~  
10 ~~place only after the prospective employee has received~~  
11 ~~a conditional offer of employment, which may be~~  
12 ~~withdrawn if information in the credit history or~~  
13 ~~credit report is directly related to a bona fide~~  
14 ~~occupational qualification;~~

15 ~~(2) The prohibition against an employer's refusal to hire~~  
16 ~~or employ, barring or terminating from employment, or~~  
17 ~~otherwise discriminating on the basis of credit~~  
18 ~~history shall not apply to employers who are expressly~~  
19 ~~permitted or required to inquire into an individual's~~  
20 ~~credit history for employment purposes pursuant to any~~  
21 ~~federal or state law;~~





1       ~~(3) The prohibition against an employer's refusal to hire~~  
2       ~~or employ, barring or terminating from employment, or~~  
3       ~~otherwise discriminating on the basis of credit~~  
4       ~~history shall not apply to managerial or supervisory~~  
5       ~~employees; and~~

6       ~~(4) The prohibition against an employer's refusal to hire~~  
7       ~~or employ, barring or terminating from employment, or~~  
8       ~~otherwise discriminating on the basis of credit~~  
9       ~~history shall not apply to employers that are~~  
10       ~~financial institutions in which deposits are insured~~  
11       ~~by a federal agency having jurisdiction over the~~  
12       ~~financial institution.~~

13       ~~(b) For the purposes of this section:~~

14       ~~"Managerial employee" means an individual who formulates~~  
15       ~~and effectuates management policies by expressing and making~~  
16       ~~operative the decisions of the individual's employer.~~

17       ~~"Supervisory employee" means an individual having~~  
18       ~~authority, in the interest of the employer, to hire, transfer,~~  
19       ~~suspend, lay off, recall, promote, discharge, assign, reward, or~~  
20       ~~discipline other employees, or responsibility to direct them, or~~  
21       ~~to adjust their grievances, or effectively to recommend such~~



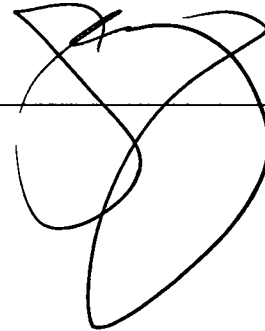
1 ~~action, if in connection with the foregoing the exercise of such~~  
2 ~~authority is not of a merely routine or clerical nature, but~~  
3 ~~requires the use of independent judgment."]~~

4 SECTION 5. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_

A handwritten signature in black ink, consisting of several overlapping loops and curves, positioned over a horizontal line.

# S.B. NO. 2100

**Report Title:**

Credit History; Credit Score; Creditworthiness; Discrimination;  
Housing; Employment

**Description:**

Prohibits landlords from discriminating against a potential tenant based on the tenant's credit history, credit score, or creditworthiness. Expands prohibition on employers from discriminating against an individual in compensation or in the terms, conditions, or privileges of employment because of the individual's credit history or credit report.

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