

ACT 204

H.B. NO. 2195

A Bill for an Act Relating to Covenants in Leases.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. It is the policy of the State to encourage appropriate deinstitutionalization of persons who are developmentally disabled, handicapped, mentally ill, and elderly. However, the development of community-based residential settings has been restricted from many areas within the State because of restrictive covenants on leasehold land which prohibit the establishment of such facilities. This has in part, resulted in the movement and concentration of these facilities in communities which are not on leasehold land containing such restrictive covenants. Consequently, a small number of communities contain a disproportionately large number of group living facilities and many communities contain few or none.

Several states, including Arizona, Indiana, Iowa, Missouri, North Carolina, Rhode Island, Texas, West Virginia, and Wisconsin have enacted legislation declaring private restrictive covenants, which impede the development of these facilities, as invalid and unenforceable on public policy grounds. It is essential that the State initiate such legislation to ensure that group living facilities are dispersed fairly in every community.

The purpose of this Act is to declare that any restrictive covenant which prevents or restricts the establishment of facilities licensed by the State as an adult residential care home, intermediate care facility/mental retardation-community, or special treatment facility shall be void and unenforceable as to such community residences.

SECTION 2. Chapter 518, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§518- Invalidity of certain restrictive covenants.** It is the public policy of the State of Hawaii to establish community residences in residential areas. Therefore, any restrictive covenant or other private legal impediment made by any person, association, firm, or corporation which directly or indirectly prevents or restricts the establishment in an area zoned for residential use of a facility licensed by the state as an adult residential care home as defined under section 321-15.1; intermediate care facility/mental retardation-community as defined under section 46-4(d); or special treatment facility as defined under section 334-1 shall be void and unenforceable as to such community residences.”

SECTION 3. New statutory material is underscored.<sup>1</sup>

**SECTION 4.** This Act shall take effect upon approval.  
(Approved June 7, 1988.)

**Note**

1. Edited pursuant to HRS §23G-16.5.