

ACT 313

H.B. NO. 2345

A Bill for an Act Relating to Rooming Houses.

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

SECTION 1. The legislature finds that the rooming house population of this State is largely composed of elderly or disabled persons, many of whom are recipients of public assistance. Their physical or mental disabilities, coupled with their economic status, renders them particularly susceptible to exploitation. The purpose of this Act is to regulate trade practices in the rooming house business, and to prohibit those practices which the legislature finds to be unfair, deceptive, or contrary to public policy.

SECTION 2. Section 445-90, Hawaii Revised Statutes, is amended by adding "rooming house" to the definition of "lodging or tenement house", "group home", "group residence", and "group living arrangement", to read as follows: " "Lodging or tenement house", "group home", "group residence", [or] "group living arrangement", or "rooming house" means any building or portion thereof containing no more than nine rooming units, in which space is let by the owner or operator to three or more unrelated persons."

SECTION 3. Chapter 445, Hawaii Revised Statutes, is amended by adding seven new sections to be appropriately designated and to read as follows:

“§445- Unfair or deceptive practices prohibited. (a) No person shall engage in this State in any act or practice which is prohibited in section 445- or which is defined in that section as, or determined under that section to be, an unfair or deceptive act or practice in the rooming house business.

(b) Any facility owned or used by a government agency or by a non-profit agency which is registered with the department of commerce and consumer affairs and providing services by contract for a government agency, shall be exempt from this section.

(c) The department of human services shall enforce the provisions of this section and shall refer to other state and county agencies any violations enforced by those other governmental agencies.

§445- Unfair and deceptive practices defined. The following are defined as unfair or deceptive practices in the rooming house business:

- (1) Requiring, seeking, or encouraging any resident or prospective resident to execute a power of attorney in which the resident or prospective resident names the rooming house, its owner, or any of its agents or employees as attorney-in-fact;
- (2) Making any representation that the rooming house offers medical care, rehabilitation, or therapeutic benefits of any type;
- (3) Negotiating public assistance checks payable to a resident;
- (4) Refusing to refund any deposit as provided in sections 521-44(c) and 521-66;
- (5) Refusing to give any resident a partial rent refund in accordance with section 521-66;
- (6) Encouraging, soliciting, or requiring any resident or prospective resident to consent to the release of information concerning the resident or prospective resident which is maintained by any government agency and otherwise confidential;
- (7) Encouraging, soliciting, or requiring a resident or prospective resident to:
 - (A) Turn over food stamps to the rooming house, its agents, or employees; or
 - (B) Permit authorization to purchase (ATP) food stamp cards to be negotiated by the rooming house, its agents, or employees;
- (8) Limiting, hindering, or restricting access of residents who are food stamp recipients to foodstuffs, food containers, refrigerators, or other food storage facilities;
- (9) Encouraging, soliciting, or requiring any resident or prospective resident to apply for or receive food stamps if the rooming house has meal service;
- (10) Accepting food stamps as payment for or in reduction of rent;
- (11) Charging different rents for similar accommodations based on the amount of a resident's public assistance benefits;
- (12) Encouraging, soliciting, or requiring any resident or prospective resident to have public assistance benefits mailed to the rooming house, its owner, or its agents or employees; and
- (13) Denying any prospective resident or evicting any resident from living accommodations solely on the basis of age or disability.

§445- Powers of the director. The director of the department of human services may examine and investigate the affairs of every person, partnership, corporation, or other organization engaged in the rooming house business in this State in order to determine whether any unfair or deceptive practice prohibited by section 445- has been committed.

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§445- Penalty. Any person, firm, company, association, or corporation committing any unfair or deceptive practice as defined in section 445- shall be fined \$500 for each violation.

§445- Suits by the state. The director of the department of human services, by and through the attorney general, may bring an action on behalf of the state to enjoin any violation of section 445- , to enjoin any person, partnership, corporation or other organization who has violated section 445- from continuing to engage in the rooming house business, to collect the penalties provided by section 445- , or to recover any damages sustained by any person injured by a violation of section 445- . In any such action, the State shall also be entitled to recover the costs of suit together with reasonable attorneys' fees.

§445- Suits by individuals. Any person injured by a violation of section 445- has a private right of action and may bring a civil action to recover three times the person's actual damages or \$1,000 for each violation, whichever sum is greater. Any person bringing such an action shall also be entitled to recover the person's costs together with reasonable attorneys' fees.

§445- Jurisdiction, venue. An action under section 445- or 445- shall be brought in the district court and division in which the rooming house is located."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 5. This Act shall take effect upon its approval.

(Approved June 13, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.