

**ACT 391**

**S.B. NO. 59**

**A Bill for an Act Relating to Discrimination in Real Property Transactions.**

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

**SECTION 1.** The legislature finds that there are some inconsistencies in the provisions under chapter 515, Hawaii Revised Statutes, relating to discrimination in real property transactions in that discrimination because of marital status, parental status, or HIV (human immunodeficiency virus) infection are not prohibited in the provisions regarding financial practices and restrictive covenants and conditions. The purpose of the Act is to bring these sections into conformance with the general discriminatory practices section, section 515-3, Hawaii Revised Statutes, by adding marital status, parental status, and HIV (human immunodeficiency virus) infection to the list of discriminatory practices prohibited.

**SECTION 2.** Section 515-3, Hawaii Revised Statutes, is amended to read as follows:

**“§515-3 Discriminatory practices.** It is a discriminatory practice for an owner or any other person engaging in a real estate transaction, or for a real estate broker or salesman, because of race, sex, color, religion, marital status, parental status, ancestry, physical handicap, or HIV (human immunodeficiency virus) infection:

- (1) To refuse to engage in a real estate transaction with a person;
- (2) To discriminate against a person in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith;
- (3) To refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction from a person;
- (4) To refuse to negotiate for a real estate transaction with a person;
- (5) To represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or to fail to bring a property listing to the person’s attention, or to refuse to permit the person to inspect real property;
- (6) To print, circulate, post, or mail, or cause to be so published a statement, advertisement, or sign, or to use a form of application for a real estate transaction, or to make a record or inquiry in connection with a prospective real estate transaction, which indicates, directly or indirectly, an intent to make a limitation, specification, or discrimination with respect thereto;
- (7) To offer, solicit, accept, use, or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection therewith; provided that it shall not be a discriminatory practice under this section to exclude a person based on parental status, or to so advertise or otherwise state, from a real estate transaction or housing accommodation developed specifically for the elderly. For the purposes of this paragraph an elderly person is a person who is sixty-two years of age or older. Nothing in this section shall affect covenants, bylaws, or administrative provisions established in accordance with chapter 514A or established under organizational documents and proprietary leases for housing cooperatives, placing restrictions based upon parental status, existing prior to April 19, 1984;
- (8) To refuse to engage in a real estate transaction with a blind or deaf person because the person uses the services of a certified guide or signal dog; provided that reasonable restrictions or prohibitions may be imposed regarding excessive noise or other problems caused by those animals. For the purposes of this paragraph:  
 “Blind” shall be as defined in section 235-1;  
 “Deaf” shall be as defined in section 235-1;  
 “Guide dog” means any dog individually trained by a licensed guide dog trainer for guiding a blind person by means of a harness attached to the dog and rigid handle grasped by the person; [and]  
“Reasonable restriction” shall not include any restriction that allows any owner or person to refuse to negotiate or refuse to engage in the real estate transaction; as used herein, the “reasonableness” of the restriction shall be examined by giving due consideration to the needs of a reasonable prudent person in the same or similar circumstances as the blind or deaf person. Depending on the circumstances, a “reasonable restriction” may require the owner of the certified guide or signal dog to comply with one or more of the following: (a) provide proof that the animal is a certified guide dog or signal dog; (b) observe

applicable laws including leash laws and pick-up laws; (c) assume responsibility for damage caused by the dog; (d) use a harness with a rigid handle on the dog at all times; or (e) have the housing unit cleaned upon vacating, by fumigation, deodorizing, professional carpet cleaning, or other method appropriate under the circumstances. The foregoing list is illustrative only, and neither exhaustive nor mandatory; and

“Signal dog” means any dog trained to alert a deaf person to intruders or sounds; or

- (9) To solicit or require as a condition of engaging in a real estate transaction that the buyer, renter, or lessee be tested for human immunodeficiency virus infection (HIV), the causative agent of acquired immunodeficiency syndrome (AIDS).”

SECTION 3. Section 515-5, Hawaii Revised Statutes, is amended to read as follows:

**“§515-5 Discriminatory financial practices.** It is a discriminatory practice for a person to whom application is made for financial assistance in connection with a real estate transaction or for the construction, rehabilitation, repair, maintenance, or improvement of real property, or a representative of such a person:

- (1) To discriminate against the applicant because of race, sex, color, religion, marital status, parental status, ancestry, [or a] physical handicap[.], or HIV (human immunodeficiency virus) infection;
- (2) To use a form of application for financial assistance or to make or keep a record or inquiry in connection with applications for financial assistance which indicates, directly or indirectly, an intent to make a limitation, specification, or discrimination as to race, sex, color, religion, marital status, parental status, ancestry, [or a] physical handicap[.], or HIV infection.”

SECTION 4. Section 515-6, Hawaii Revised Statutes, is amended to read as follows:

**“§515-6 Restrictive covenants and conditions.** (a) Every provision in an oral agreement or a written instrument relating to real property which purports to forbid or restrict the conveyance, encumbrance, occupancy, or lease thereof to individuals of a specified race, sex, color, religion, marital status, parental status, ancestry, [or] with a physical handicap, or who are infected by the HIV (human immunodeficiency virus) is void.

(b) Every condition, restriction, or prohibition, including a right of entry or possibility of reverter, which directly or indirectly limits the use or occupancy of real property on the basis of race, sex, color, religion, marital status, parental status, ancestry, [or a] physical handicap, or HIV infection is void, except a limitation of use on the basis of religion or sex of real property held by a religious institution or organization or by a religious or charitable organization operated, supervised, or controlled by a religious institution or organization, and used for religious or charitable purposes.

(c) It is a discriminatory practice to insert in a written instrument relating to real property a provision that is void under this section or to honor or attempt to honor such a provision in the chain of title.”

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

**SECTION 6.** This Act shall take effect upon its approval.  
(Approved June 27, 1989.)