

# HOUSE OF REPRESENTATIVES

AMENDMENT TO: S.B. No. 1 H.D. 1OFFERED BY: Representative Gene Ward DATE: November 6, 2013

SECTION 1. Senate Bill No. 1 H.D. 1 RELATING TO EQUAL RIGHTS, is amended by inserting the words "Part I" just above Section 1 of the bill.

SECTION 2. Senate Bill No. 1 H.D. 1 RELATING TO EQUAL RIGHTS, is amended by amending Section 1 to read as follows:

SECTION 1. This Act shall be known as the Hawaii Marriage Equality Act of 2013.

The legislature acknowledges the recent decision of the United States Supreme Court in *United States v. Windsor*, 133 S. Ct. 2675 (2013), which held that Section 3 of the Defense of Marriage Act, Public Law 104-199, unlawfully discriminated against married same-sex couples by prohibiting the federal government from recognizing those marriages and by denying federal rights, benefits, protections, and responsibilities to those couples. The legislature has already extended to same-sex couples the right to enter into civil unions that provide the same rights, benefits, protections, and responsibilities under state law as afforded to opposite-sex couples who marry.

However, these civil unions are not recognized by federal law and will not be treated equally to a marriage under federal law.

Therefore, it is the intent of the legislature to:

- (1) Ensure that same-sex couples are able to take full advantage of federal rights, benefits, protections, and responsibilities granted to married opposite-sex couples by allowing same-sex couples to marry under the laws of this State;
- (2) Ensure that there be no legal distinction between same-sex married couples and opposite-sex married couples with respect to marriage under the laws of this State by applying all provisions of law regarding marriage equally to same-sex couples and opposite-sex couples regardless of whether this Act does or does not amend any particular provision of law; and
- (3) Protect religious freedom and liberty by:
  - (A) Ensuring that any clergy, minister, priest, rabbi, officer of any religious denomination or society, or religious society not having clergy but providing solemnizations that is authorized to perform solemnizations shall not be required to solemnize any marriage or civil union that is against their religious beliefs or faith, in

accordance with the Hawaii state constitution and  
the United States Constitution; and

- (B) Clarifying that a religious organization or nonprofit organization operated, supervised, or controlled by a religious organization shall not be required to provide goods, services, or its facilities or grounds for the solemnization or celebration of a marriage or civil union that is in violation of its religious beliefs or faith.

The purpose of this Part is to recognize marriages between individuals of the same sex in the State of Hawaii.

SECTION 3. Senate Bill No. 1 H.D. 1 RELATING TO EQUAL RIGHTS, is amended by inserting the following new Part immediately after Section 12 of the bill.

## **"Part II**

SECTION 13. Section 489-2, Hawaii Revised Statutes, is amended by amending the definition of "place of public accommodation" as follows:

"Place of public accommodation" means a business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the general public as customers, clients, or visitors. By way of example, but not of limitation, place of public accommodation

includes facilities of the following types:

- (1) A facility providing services relating to travel or transportation;
- (2) An inn, hotel, motel, or other establishment that provides lodging to transient guests;
- (3) A restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises of a retail establishment;
- (4) A shopping center or any establishment that sells goods or services at retail;
- (5) An establishment licensed under chapter 281 doing business under a class 4, 5, 7, 8, 9, 10, 11, or 12 license, as defined in section 281-31;
- (6) A motion picture theater, other theater, auditorium, convention center, lecture hall, concert hall, sports arena, stadium, or other place of exhibition or entertainment;
- (7) A barber shop, beauty shop, bathhouse, swimming pool, gymnasium, reducing or massage salon, or other establishment conducted to serve the health, appearance, or physical condition of persons;
- (8) A park, a campsite, or trailer facility, or other recreation facility;

- (9) A comfort station; or a dispensary, clinic, hospital, convalescent home, or other institution for the infirm;
- (10) A professional office of a health care provider, as defined in section 323D-2, or other similar service establishment;
- (11) A mortuary or undertaking establishment; and
- (12) An establishment that is physically located within the premises of an establishment otherwise covered by this definition, or within the premises of which is physically located a covered establishment, and which holds itself out as serving patrons of the covered establishment.

"Public accommodations" do not include the real property, buildings, or other areas owned or leased by a religious organization and regularly used for religious purposes, notwithstanding whether the religious organization permits the community to also use some or all of the real property, buildings or other areas owned or leased by the religious organization.

No place of public accommodation defined in this section shall be requested to reconstruct any facility or part thereof to comply with this chapter.

SECTION 4. Senate Bill No. 1 H.D. 1 RELATING TO EQUAL RIGHTS, is amended by inserting the words "Part III" immediately following Section 13 of the new Part II of this bill as amended.

SECTION 5. Senate Bill No. 1 H.D. 1 RELATING TO EQUAL RIGHTS, is amended by renumbering Sections 13, 14, 15, and 16 as Sections 14, 15, 16, and 17, as follows:

SECTION 14. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 15. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 16. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 17. This Act shall take effect on December 2, 2013.

<u>CARRIED</u>	<u>X</u> <u>FAILED TO CARRY</u>	<u>WITHDRAWN</u>
<u>Brian L. Schubert</u> CHIEF CLERK, HOUSE OF REPRESENTATIVES		