

A BILL FOR AN ACT VETO OVERRIDE

RELATING TO DISCRIMINATORY PRACTICES.

ACT No. 30
Approved: [Signature]
Dated: July 15, 2009

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

1 SECTION 1. The legislature finds that the State of Hawaii
2 has strong laws against discrimination in employment on the
3 basis of disability, embodied in sections 378-1 and 378-2,
4 Hawaii Revised Statutes, and rules adopted by the civil rights
5 commission. In many respects, state law provides stronger
6 protections than those provided under federal law prohibiting
7 employment discrimination based on disability. The legislature
8 recognizes that pursuant to *California Federal Sav. and Loan*
9 *Ass'n v. Guerra*, 479 U.S. 272, 107 S.Ct. 683 (1987), federal law
10 is a "floor" beneath which protections against discrimination
11 should not drop, rather than a "ceiling" above which protections
12 cannot rise under state anti-discrimination laws.

13 The legislature further finds that on September 25, 2008,
14 President George W. Bush signed into law the ADA Amendments Act
15 of 2008, P.L. 110-325 ("ADAAA"). In the ADAAA, Congress found
16 that several United States Supreme Court decisions interpreted
17 the definition of disability inconsistently with legislative



OT3V

1 intent. The ADAAA clarified laws relating to employment
2 disability, broadening the definition of disability and
3 resulting in certain federal law protections that are stronger
4 than corresponding protections currently provided under Hawaii
5 state law.

6 The purpose of this Act is to require the Hawai'i civil
7 rights commission to adopt administrative rules to define
8 certain terms to conform state law protections against
9 disability discrimination in employment to recently amended
10 federal law.

11 SECTION 2. The Hawai'i civil rights commission, pursuant to
12 its authority under section 368-3(9), Hawaii Revised Statutes,
13 shall adopt rules to define or amend, as applicable, the
14 following terms for purposes of chapter 378, Hawaii Revised
15 Statutes: "major life activities"; "being regarded as having
16 such an impairment"; "disability"; and "substantially limits".
17 The Hawai'i civil rights commission may define such other terms
18 as necessary to effectuate the purposes of chapter 378, Hawaii
19 Revised Statutes, consistent with section 1 of this Act.

20 SECTION 3. The Hawai'i civil rights commission shall
21 complete the rulemaking process for purposes of section 2 of
22 this Act no later than December 31, 2010.



1 SECTION 4. Until the completion of the rulemaking under
2 section 3 of this Act, the Hawai'i civil rights commission shall
3 apply, at minimum, the definitions in the American with
4 Disabilities Act Amendments Act of 2008 (ADAAA); provided that
5 the definition of "disability" under section 378-1, Hawaii
6 Revised Statutes, and the implementing administrative rules
7 related thereto shall be construed at minimum to conform to the
8 ADAAA.

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

