RELATING TO ASSISTANCE ANIMALS.

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

SECTION 1. The legislature finds that recent legislation prohibits the misrepresentation of animals as service animals. Act 217, Session Laws of 2018 (Act 217), amends the definition of "service animal" to mean "any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability" and requires that the work or tasks performed by the service animal relate directly to the individual's disability. Act 217 also excludes other species of animals and the provision of emotional support, comfort, or companionship.

The legislature further finds that the term "service animal" applies in the general Americans with Disabilities Act context, while the broader term "assistance animal", which is used under the federal and state fair housing laws, includes a wider category of animals who provide support, including emotional support animals and service animals. When a person
with a disability requests the use of an assistance animal as a reasonable housing accommodation, the housing provider may ask for information, including verification from a treating health care professional, that the person has a disability and the requested assistance animal is needed to alleviate one or more symptoms of the person's disability. "Assistance animal" is defined in the State's administrative rules, but not in statute. Some housing providers are concerned that verification in support of the use of an assistance animal may be provided by an out-of-state health care provider who may not have treated the individual making the request.

To assist individuals requiring assistance animals and housing providers requested to make reasonable accommodations for assistance animals, the purpose of this Act is to codify the administrative definition of "assistance animal" and clarify the type of verification that may be provided by the individual to establish the need for an assistance animal.

SECTION 2. Section 515-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:
"Assistance animal" means an animal that is needed to perform disability-related work, services or tasks for the benefit of a person with a disability, or is needed to provide emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals may include but are not limited to service animals, therapy animals, comfort animals, or emotional support animals. Assistance animals may have formal training or may be untrained, and may include species other than dogs."

SECTION 3. 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 salesperson, because of race, sex, including gender identity or expression, sexual orientation, color, religion, marital status, familial status, ancestry, disability, age, or 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 with a real estate transaction;

(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 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, or to steer a person seeking to engage in a real estate transaction;

(6) 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 with a real estate transaction;
[7] 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, the causative agent of acquired immunodeficiency syndrome;

[8] To refuse to permit, at the expense of a person with a disability, reasonable modifications to existing premises occupied or to be occupied by the person if modifications may be necessary to afford the person full enjoyment of the premises; provided that a real estate broker or salesperson, where it is reasonable to do so, may condition permission for a modification on the person agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

[9] To refuse to make reasonable accommodations in rules, policies, practices, or services, when the accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy a housing accommodation; provided that if reasonable accommodations include the use of an assistance
animal, reasonable restrictions may be imposed; provided further that any verification provided by a person with a disability to establish the disability-related need for an assistance animal as a reasonable accommodation shall have been issued in writing by a health care professional, mental health professional, social worker, or rehabilitation counselor who has personally evaluated the person;

[-][-] In connection with the design and construction of covered multifamily housing accommodations for first occupancy after March 13, 1991, to fail to design and construct housing accommodations in such a manner that:

(A) The housing accommodations have at least one accessible entrance, unless it is impractical to do so because of the terrain or unusual characteristics of the site; and

(B) With respect to housing accommodations with an accessible building entrance:
(i) The public use and common use portions of the housing accommodations are accessible to and usable by persons with disabilities;

(ii) Doors allow passage by persons in wheelchairs; and

(iii) All premises within covered multifamily housing accommodations contain an accessible route into and through the housing accommodations; light switches, electrical outlets, thermostats, and other environmental controls are in accessible locations; reinforcements in the bathroom walls allow installation of grab bars; and kitchens and bathrooms are accessible by wheelchair; or

[+] (11) [+] To discriminate against or deny a person access to, or membership or participation in any multiple listing service, real estate broker's organization, or other service, organization, or facility involved either directly or indirectly in real estate transactions, or
to discriminate against any person in the terms or
conditions of access, membership, or participation."
SECTION 4. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.
SECTION 5. This Act shall take effect upon its approval.

INTRODUCED BY:

Calvin K. Say

JAN 23 2019
Report Title:
Deaf and Blind Task Force; Assistance Animals; Reasonable Accommodation Verification

Description:
Codifies the administrative rule definition of "assistance animal". Clarifies the type of verification of a reasonable accommodation request for an assistance animal that the individual may provide.

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