A BILL FOR AN ACT

RELATING TO RENTAL DISCRIMINATION.

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

SECTION 1. The legislature finds that low-income individuals experience extreme difficulty in finding affordable rentals in Hawai‘i. This situation becomes all the more frustrating when housing vacancy advertisements proclaim "no Section 8 accepted" or "Section 8 need not apply" in an effort to prevent low-income individuals with housing vouchers from being considered as tenants. News reports, locally and nationally, have documented that prospective tenants are often rejected by landlords due to their use of housing vouchers or other forms of housing assistance, or based on requirements for participation in a housing program.

The legislature further finds that studies have shown that when there are laws to prevent discrimination against renters with housing vouchers, such renters are twelve per cent more likely to find housing. Discrimination against voucher holders and recipients of other housing assistance programs, often termed "source of income" discrimination, is prohibited in

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twelve states and the District of Columbia, as well as numerous cities and counties throughout the United States. Further, the American Bar Association adopted a resolution in 2017 calling for enactment of laws that ban housing discrimination based on lawful sources of income. Hawai‘i law currently does not prohibit housing discrimination based on lawful sources of income.

The legislature notes that source of income laws do not alter or restrict the standard industry practices to vet prospective renters. Rather, these laws prohibit landlords from rejecting prospective renters who receive housing vouchers or other housing assistance simply because of the voucher or assistance. The legislature believes that renters who participate in housing assistance programs, such as the federal housing choice voucher program, also known as section 8 housing, should have an equal opportunity to find housing.

The purpose of this Act is to prohibit discrimination, including in advertisements for available rental units, based on receipt of income from a housing assistance program, or requirements related to participation in housing assistance programs, in rental transactions and requirements.
SECTION 2. Section 515-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Housing assistance program" means any government or private assistance, grant, loan, or rental assistance program, including low-income housing assistance certificates and vouchers under the United States Housing Act of 1937, as amended."

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, participation in a housing assistance program or requirements related to participation in a housing assistance program, 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;
[-f-] (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;

[-f-] (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;

[-f-] (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 animal, reasonable restrictions may be imposed;

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

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

"§515-4 Exemptions. (a) Section 515-3 does not apply:

(1) To the rental of a housing accommodation in a building
which contains housing accommodations for not more
than two families living independently of each other
if the owner or lessor resides in one of the housing accommodations; or

(2) To the rental of a room or up to four rooms in a housing accommodation by an owner or lessor if the owner or lessor resides in the housing accommodation.

(b) Nothing in section 515-3 shall be deemed to prohibit refusal, because of sex, including gender identity or expression, sexual orientation, or marital status, to rent or lease housing accommodations:

(1) Owned or operated by a religious institution and used for church purposes as that term is used in applying exemptions for real property taxes; or

(2) Which are part of a religiously affiliated institution of higher education housing program which is operated on property that the institution owns or controls, or which is operated for its students pursuant to Title IX of the Higher Education Act of 1972.

(c) Nothing in this chapter regarding familial status or age shall apply to housing for older persons as defined by title 42 United States Code section 3607(b)(2).
(d) Nothing in section 515-3 shall be deemed to prohibit a person from determining the ability of a potential buyer or renter to pay a purchase price or rent by:

(1) Verifying, in a commercially reasonable manner, the source and amount of income of the potential buyer or renter; or

(2) Evaluating, in a commercially reasonable manner, the stability, security, and credit worthiness of the potential buyer or renter or any source of income of the potential buyer or renter."

SECTION 5. 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, a representative of such person, or a real estate broker or salesperson, to whom an inquiry or 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, because of race, sex, including gender identity or expression, sexual orientation, color, religion, marital status, familial status, ancestry, disability,
age, participation in a housing assistance program or
requirements related to participation in a housing assistance
program, or human immunodeficiency virus infection:

(1) To discriminate against the applicant;

(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 that
indicates, directly or indirectly, an intent to make a
limitation, specification, or discrimination unless
the records are required by federal law;

(3) To discriminate in the making or purchasing of loans
or the provision of other financial assistance for
purchasing, constructing, improving, repairing, or
maintaining a dwelling, or the making or purchasing of
loans or the provision of other financial assistance
secured by residential real estate; or

(4) To discriminate in the selling, brokering, or
appraising of residential real property."

SECTION 6. Section 515-6, Hawaii Revised Statutes, is
amended by amending subsections (a) and (b) to read as follows:
"(a) Every provision in an oral agreement or a written
instrument relating to real property that purports to forbid or
restrict the conveyance, encumbrance, occupancy, or lease
thereof to individuals because of race, sex, including gender
identity or expression, sexual orientation, color, religion,
marital status, familial status, ancestry, disability, age,
participation in a housing assistance program or requirements
related to participation in a housing assistance program, or
human immunodeficiency virus infection, is void.

(b) Every condition, restriction, or prohibition,
including a right of entry or possibility of reverter, that
directly or indirectly limits the use or occupancy of real
property on the basis of race, sex, including gender identity or
expression, sexual orientation, color, religion, marital status,
familial status, ancestry, disability, age, participation in a
housing assistance program or requirements related to
participation in a housing assistance program, or human
immunodeficiency virus infection is void, except a limitation,
on the basis of religion, on the use 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."

SECTION 7. Section 515-7, Hawaii Revised Statutes, is amended to read as follows:

"§515-7 Blockbusting. It is a discriminatory practice for a person, representative of a person, or a real estate broker or salesperson, for the purpose of inducing a real estate transaction from which the person, representative, or real estate broker or salesperson may benefit financially, because of race, sex, including gender identity or expression, sexual orientation, color, religion, marital status, familial status, ancestry, disability, age, participation in a housing assistance program or requirements related to participation in a housing assistance program, or human immunodeficiency virus infection:

(1) To represent that a change has occurred or will or may occur in the composition of the owners or occupants in the block, neighborhood, or area in which the real property is located; or

(2) To represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the
quality of schools in the block, neighborhood, or area in which the real property is located."

SECTION 8. Section 515-16, Hawaii Revised Statutes, is amended to read as follows:

"§515-16 Other discriminatory practices. It is a discriminatory practice for a person, or for two or more persons to conspire:

(1) To retaliate, threaten, or discriminate against a person because of the exercise or enjoyment of any right granted or protected by this chapter, or because the person has opposed a discriminatory practice, or because the person has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under this chapter;

(2) To aid, abet, incite, or coerce a person to engage in a discriminatory practice;

(3) To interfere with any person in the exercise or enjoyment of any right granted or protected by this chapter or with the performance of a duty or the exercise of a power by the commission;
(4) To obstruct or prevent a person from complying with this chapter or an order issued pursuant to this chapter;

(5) To intimidate or threaten any person engaging in activities designed to make other persons aware of, or encouraging such other persons to exercise rights granted or protected by this chapter;

(6) To threaten, intimidate or interfere with persons in their enjoyment of a housing accommodation because of the race, sex, including gender identity or expression, sexual orientation, color, religion, marital status, familial status, ancestry, disability, age, participation in a housing assistance program or requirements related to participation in a housing assistance program, or human immunodeficiency virus infection of the persons, or of visitors or associates of the persons; or

(7) To print, circulate, post, or mail, or cause to be 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, that indicates, directly or indirectly, an intent to make a limitation or specification, or to discriminate because of race, sex, including gender identity or expression, sexual orientation, color, religion, marital status, familial status, ancestry, disability, age, participation in a housing assistance program or requirements related to participation in a housing assistance program, or human immunodeficiency virus infection."

SECTION 9. The department of commerce and consumer affairs, in consultation with the Hawai‘i civil rights commission, shall produce materials related to this Act and publicize the prohibition against discrimination based on participation in housing assistance programs or requirements related to participation in housing assistance programs.

SECTION 10. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 11. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.
SECTION 12. This Act shall take effect upon its approval.

INTRODUCED BY: ____________________

JAN 23 2019
Report Title:
Rental Discrimination; Housing Assistance Program

Description:
Prohibits discrimination, including in advertisements for available rental units, based on receipt of income from a housing assistance program, or requirements related to participation in housing assistance programs, in rental transactions and requirements.

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