Statement of
Hakim Ouansafi
Hawaii Public Housing Authority
Before the
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Tuesday, February 2, 2021
9:30 AM - Room 229, Hawaii State Capitol

In consideration of
SB 206
RELATING TO RENTAL DISCRIMINATION

Honorable Chair Baker and Members of the Senate Committee on Commerce and Consumer Protection, thank you for the opportunity to provide testimony concerning Senate Bill (SB) 206, relating to rental discrimination.

The Hawaii Public Housing Authority (HPHA) supports the enactment of SB 206, which prohibits discrimination, including in advertisements for available real property, based on participation in a housing assistance program or requirements related to participation in housing assistance programs, in real estate transactions and requirements.

One of the programs in which the HPHA assists our low-income families is through the Section 8 Housing Choice Voucher Program, also known as “Section 8 HCV”. The Section 8 HCV program is one of the federal government’s major programs for assisting very low-income families, the elderly, and the disabled to afford decent, safe, and sanitary housing in the private market, including single-family homes, townhouses and apartments. This program currently brings $38.45 million dollars a year primarily on the island of Oahu, supports over 2,800 families and over 8,400 individuals.

Because of the overwhelming need in our community to assist our low-income families, we are hopeful that with the passage of this measure, our Section 8 HCV participants will be considered as tenants and given a chance to apply for vacant rental units in the private market.

In the last few years, the HPHA received feedback that many landlords advertise “No Section 8” and refuse to consider Section 8 participants because they believe that they will not be good
tenants. Over the past several months, when the HPHA launched a “lease in place” preference, we were surprised to learn that many landlords did not want to participate in the Section 8 program even though their current renters had been with them for many years. We discovered that many landlords prefer cash payments for tax purposes.

The Section 8 HCV program is an important part of the State’s efforts in addressing the affordable housing needs of our low-income families. All families go through a criminal background, sex offender and Homeland Security screenings before being given a voucher to pursue a rental unit, and the HPHA is willing to work and assist all landlords that would like to participate in the program.

The HPHA appreciates the opportunity to provide the Committee with the HPHA’s testimony regarding SB 206. We thank you very much for your dedicated support.
February 2, 2021

TO: The Honorable Senator Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection

FROM: Scott Morishige, MSW, Governor’s Coordinator on Homelessness

SUBJECT: SB 206 – RELATING TO RENTAL DISCRIMINATION

Hearing: Tuesday, February 2, 2021, 9:30 a.m.
VIA VIDEO CONFERENCE
Conference Room 229, State Capitol

POSITION: The Governor’s Coordinator supports this measure with amendments. The Coordinator prefers the language in Senate Bill 1135 and House Bill 981, which propose remedies for violation that include an award of damages not to exceed $5,000.

PURPOSE: The purpose of the bill 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.

This measure will address a key barrier to housing for many low-income and homeless individuals and families throughout the state. Connecticut, Maine, Massachusetts, New Jersey, North Dakota, Oklahoma, Oregon, Utah, Vermont, Washington, and Washington, D.C., have adopted statutes that prohibit rental discrimination based on source of income, which includes the use of housing vouchers. In December 2020 the Hawaii Interagency Council on Homelessness prioritized addressing source of income discrimination in rental housing as a key priority for the 2021 legislative session.

In addition, the adoption of source of income legislation is aligned with ‘The Framework for an Equitable COVID-19 Homelessness Response’ supported by the Center on Budget &
Homelessness remains one of the most pressing challenges facing Hawaii. Due to the pandemic related economic downturn, we anticipate the number of homeless individuals will significantly increase at a far greater magnitude than what followed the Great Recession. Previous statewide Point in Time counts showed an increase of over 2,100 homeless individuals between the 2009 economic recession and 2016. A steady focus on permanent housing, including maximized use of all available housing vouchers and programs, and rent and mortgage assistance or subsidies will be required to mitigate or reverse anticipated future increases in homelessness.

In response to the pandemic, the federal government has increased funding for housing subsidies available through the Emergency Solutions Grant (ESG) Rapid Rehousing, as well as similar long-term housing subsidies. However, many homeless individuals continue to experience difficulties in locating permanent housing, despite being assigned a housing voucher programs through programs such as Housing First, the State Rent Supplement Program, the Section 8 Housing Choice Voucher program, Tenant-Based Rental Assistance (TBRA), or the U.S. Department of Housing and Urban Development Veteran Affairs Supportive Housing (HUD VASH) program.

According to feedback from service providers, many landlords are reluctant to rent to individuals who have a voucher or who report receiving case management through Housing First or a similar program. Providers have shared that a number of advertisements for housing specifically state “No Section 8” or “No Vouchers.” The Coordinator’s office has also received direct calls and e-mails from constituents who cite discrimination against individuals with a housing voucher as a key factor related to their homelessness.

Thank you for the opportunity to testify on this bill.
Aloha Chair Baker, Vice Chair Chang and Honorable Members,

The Hawai‘i State Commission on the Status of Women supports SB206, which prohibits discrimination, including in advertisements for available real property, based on participation in a housing assistance program, or requirements related to participation in housing assistance programs, in rental transactions and requirements.

SB206 would create an individual direct cause of action to prohibit landlords from discriminating against renters based on their source of rent money such as emergency rental assistance during COVID-19 and Housing Choice Vouchers/Section 8, which are tenant-based vouchers awarded to low-income households that assume responsibility for finding themselves appropriate units to rent in the private market.

SB206 can bring about greater gender equality. Source of income discrimination is a veiled form of illegal forms of discrimination, especially sex and family discrimination. Discrimination against women and children can be hidden by using voucher discrimination as a pretext. An astounding 83 percent of households participating in the Section 8 Housing Choice Voucher Program are led by women. Section 8 blanket bans further limits access to housing during the economic shocks of COVID-19 pandemic.

The Commission submits the following friendly amendments:

- Add the following paragraph to Section 1:

  Allowing landlords to consider a rental applicant's source of income also functions as a proxy for discrimination against women. Prior to the pandemic, nationally eighty-three per cent of households participating in the federal housing choice voucher program, also known as Section 8, are led by women. Currently, there are more than 22,000 single mothers in Hawaii, and ninety-two per cent of single mothers surveyed during the COVID-19 pandemic reported that they have lost financial independence due to the economic crisis.
• Amend Section 5(b)(2):

(2) In any case in which it issues an injunction pursuant to paragraph (1), may also assess a fine not to exceed $500 $5000 and award reasonable attorney's fees incurred in the civil action."

Further, Honolulu is one of the largest cities in the United States that permits income discrimination in housing. Accordingly, the Commission asks that the Committee pass SB 206 with the requested friendly amendments.

Sincerely,
Khara
To:       The Honorable Rosalyn H. Baker Chair  
           The Honorable Stanley Chang, Vice Chair  
           Members of the Senate Committee on Commerce and Consumer Protection

From:    Liann Ebesugawa, Chair  
           and Commissioners of the Hawai‘i Civil Rights Commission

Re: S.B. No. 206

The Hawai‘i Civil Rights Commission (HCRC) has enforcement jurisdiction over Hawai‘i’s laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state funded services. The HCRC carries out the Hawai‘i constitutional mandate that no person shall be discriminated against in the exercise of their civil rights. Art. I, Sec. 5.

The HCRC supports S.B. No. 206, which would amend the HRS to add a new chapter to prohibit housing discrimination against persons based on their source of income, including participation in a housing assistance program or requirements related to participation in a housing assistance program. While this new protection is different in kind from the protected bases under fair housing law, there is some correlation between the protected bases under federal and state fair housing law and those who receive rental assistance and other sources of income from government programs – many are people living with disabilities, families with children, single female heads of household, and members of racial minority groups.
In recent years a number of states and municipalities have enacted laws prohibiting discrimination in housing based on lawful source of income, including Section 8 vouchers as a source of income. Courts have held that these state and local laws are not preempted by federal Section 8 law (which states that participation in the Section 8 program is voluntary), and that the burden of participating in the Section 8 program is not onerous.

As the COVID-19 pandemic continues, its economic repercussions affect income and housing. In this crisis, it is even more important to prohibit discrimination based on source of income.

**HCRC has both supported and raised concerns about similar bills in the past, and this bill addresses those concerns.** S.B. 206 places the new prohibited practice in a new chapter of the HRS, with enforcement through direct civil action and provision for appropriate remedies. This addresses specific concerns raised by the HCRC in 2019 on a similar bill.

The HCRC supports S.B. No. 206.
Dear Chair Baker, Vice Chair Chang, and members of the Committee:

The American Civil Liberties Union of Hawai‘i writes in support of S.B. 206 with one proposed amendment: to raise the maximum penalty for a violation from $500 to $5,000 (§5(b)(2)). This bill prohibits discrimination in real estate transactions based on an individual’s participation in a housing assistance program or requirements related to such programs.

The State of Hawai‘i continues to struggle with one of the highest rates of houselessness in the country, at over 2.5 times the national average.1 This is due, in large part, to the high cost of living and lack of affordable housing in the state.2 Housing assistance programs like the federal Housing Choice Voucher program (“Section 8”) are an essential means of alleviating high rental costs for struggling families—and in turn fighting our state’s housing crisis. In 2016, a federal Department of Housing and Urban Development (“HUD”) study found that compared to other means of intervention, long-term rental subsidies that enabled families to offset or cover the cost of a unit in the private market led to the best outcomes for reducing family houselessness “by far.”3

However, programs like Section 8 depend on private landlords’ willingness to rent to participating individuals. Unfortunately, discrimination based on “source of income” is well-documented in housing markets across the country—and there is no general federal law that protects against it.4 As a result, many landlords flat out refuse, often including declarations that say “No Section 8” in their advertisements for available rentals. This prolongs the housing search for many renters, makes it extremely difficult to find habitable, safe housing, and can ultimately lead to the expiration of a voucher if certain time limits run out.

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To combat this problem and allow housing assistance programs to serve their intended function, numerous states, cities, and counties have already adopted laws prohibiting source of income discrimination.\(^5\) Several studies have found that people living in areas with these non-discrimination laws are more likely to succeed in securing a unit using a housing voucher.\(^6\) Given their success, it is time for Hawai‘i to join this growing list of locales as they break down a critical barrier to affordable housing and improve geographic mobility for low-income families.

Importantly, discrimination based on source of income often also functions as discrimination against women and children in reality. One 2016 report noted that 83% of households participating in the Section 8 voucher program were led by women, and 43% of participating households contained children.\(^7\) Property owners and landlords in Hawai‘i should not be permitted to engage in behavior that is tantamount to sex or familial status discrimination under the pretense that they do not accept certain sources of income.

Finally, S.B. 206 provides a remedy for violations of the law by enabling an individual to bring a direct cause of action in district court. To increase the deterrent effect of this law, however, we respectfully request that the Committee amend S.B. 206 to increase the maximum penalty for a violation from $500 to $5,000 ($5(b)(2)).

For these reasons, the ACLU of Hawai‘i requests that the Committee support this measure, with the amendment discussed above. Thank you for the opportunity to testify.

Sincerely,

Hope Kerpelman
Legal and Legislative Fellow
ACLU of Hawai‘i

The mission of the ACLU of Hawai‘i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai‘i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai‘i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai‘i has been serving Hawai‘i for over 50 years.


\(^6\) Alison Bell, Barbara Sard, Becky Koepnick, Prohibiting Discrimination Against Renters Using Housing Vouchers Improves Results: Lessons From Cities and States That Have Enacted Source of Income Laws, Ctr. on Budget & Policy Priorities, at 1, 5–6 (2018).

\(^7\) Gail Quets, Áine Duggan, Gail Cooper, A Gender Lens on Affordable Housing, Re:Gender, at 7 (2016).
February 2, 2021

The Honorable Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection
Via Videoconference

RE: Senate Bill 206, Relating to Rental Discrimination

HEARING: Tuesday, February 2, 2021, at 9:30 a.m.

Aloha Chair Baker, Vice Chair Chang, and Members of the Committee,

I am Ken Hiraki, Director of Government Affairs, testifying on behalf of the Hawai‘i Association of REALTORS® (“HAR”), the voice of real estate in Hawai‘i, and its over 10,000 members. HAR opposes Senate Bill 206, which prohibits discrimination, including in advertisements for available real property, based on participation in a housing assistance program or requirements related to participation in housing assistance programs, in real estate transactions and requirements.

HAR believes that government subsidized housing assistance programs, such as Section 8, are an important part of our community’s social safety net. However, the section 8 process mandates additional paperwork, inspections and processes, which is not required by other applicants. As a result, housing providers participating in section 8 often forfeit their first month’s rent in addition to having to wait 3 months or longer for a subsequent rental check. While property managers may possess the experience and knowledge necessary to navigate safely through this process, it may be too complex, expensive and time consuming for the average housing provider.

Additionally, the issue of whether a property owner is engaged in a discriminatory practice, simply by not choosing to participate in a housing assistance program, becomes subjective and ambiguous. As a result, even the most diligent property owner could find himself or herself the subject of a discrimination complaint.

HAR believes that it is not a good practice to make government assistance housing programs, which are optional to participate in, to be considered a discriminatory practice. Instead, we should focus on providing incentives or removing barriers to encourage property owners to participate in these valuable programs.

Mahalo for the opportunity to testify.
**SB-206**
Submitted on: 1/28/2021 5:41:08 PM
Testimony for CPN on 2/2/2021 9:30:00 AM

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<td>Testifying for Rainbow Family 808</td>
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Comments:

Chair Baker, Vice-Chair Chang, and Committee members,

Rainbow Family 808 strongly supports SB206. Thank you for hearing this important bill.

Mike Golojuch, Sr, Secretary

Rainbow Family 808
Aloha Senators,

The LGBT Caucus fully supports SB 206.

Mahalo,

Michael Golojuch, Jr.
Chair
LGBT Caucus of the Democratic Party of Hawai‘i
SB 206, RELATING TO RENTAL DISCRIMINATION

FEbruary 2, 2021 · Senate Commerce and Consumer Protection Committee · Chair Sen. Rosalyn H. Baker

Position: Support.

Rationale: Imua Alliance supports SB 206, relating to rental discrimination, which prohibits discrimination, including in advertisements for available real property, based on participation in a housing assistance program or requirements related to participation in housing assistance programs, in real estate transactions and requirements.

Hawaii is facing a looming eviction crisis. During COVID-19, unemployment skyrocketed to levels not seen since the Great Depression. A recent study found that our state is experiencing the slowest unemployment rate recovery in the nation, moreover, with our rate hovering at approximately 9 percent in December. Thousands of people who haven’t lost their jobs have instead seen their employment hours and earnings slashed, as the economic downturn lingered throughout 2020 and into the new year.

Financial precarity has become the norm for many families, who are unable to pay their full rent and have accumulated rental debts. Currently, the state’s eviction moratorium protects these families from being removed from their homes. Yet, the eviction moratorium will eventually expire as the public health emergency passes, leaving thousands of people at risk of losing their housing. Rental assistance discrimination will only make their plight worse as they try to navigate
a path back to financial and housing security, especially for low-income families who already do or soon will be forced to rely on government assistance to survive.

Today, our state’s ongoing lack of affordable housing exacerbates the economic insecurity suffered by local families, which sex traffickers use to prey upon potential victims with false promises of financial stability and prosperity. Hawai’i residents face the highest housing costs in the nation, at more than twice the national average. Researchers who authored the National Low Income Housing Coalition’s Out of Reach 2020 report found that a full-time worker would need to earn $38.76/hour to afford a two-bedroom apartment at fair market value in our state, with Honolulu experiencing a 67 percent increase in fair market rent between 2005 and 2015. Average rent for a two-bedroom unit surpassed $2,000 in recent years, with minimum wage workers needing to log 117 hours per week to afford a modest one-bedroom apartment at fair market value and 153 hours per week to afford a two-bedroom—a number that is equivalent to working over 20 hours a day with no days off year-round. In the past five years alone, Honolulu rent has increased by more than 25 percent. While 42 percent of Hawai’i residents are renters (a number that does not include individuals and families renting outside of the regulated rental market), they earn an average wage of $17.17/hour, according to NLIHC, scarcely enough to meet their basic needs.

One out of every four households in Hawai’i report that they are “doubling up” or are three paychecks or less away from being homeless, per the Hawai’i Appleseed Center for Law and Economic Justice. Additionally, over 60 percent of households are severely cost-burdened, following NLIHC data, meaning that they pay more than 30 percent of their income for housing costs, a number that rises to over 80 percent of extremely low-income households, with only 74 homes available for every 100 households earning 80 percent of their respective area’s median income.

Unsurprisingly, our state is now experiencing population decline. Hawai’i saw domestic out-migration increase for a third consecutive year in 2019, as the state’s high cost of living continued to push people to the mainland. Census estimates show that our state’s population dropped by 8,866 people from July 2019 to July 2020, when births, deaths, and migration were accounted for. That population drop is nearly double the loss seen in 201, when Hawai’i one of just ten states in
the country to lose population, according to the U.S. Census Bureau. People are simply being priced out of paradise.

Without question, Hawai‘i’s lack of affordable housing exacerbates our state’s homelessness crisis. In a recently released report, Chief Medical Examiner Dr. Masahiko Kobayashi said that 127 people who were considered homeless at the time of their deaths died on O‘ahu in 2019, up from 120 deaths in 2018 and an increase of 46 percent from 2017 (87 deaths).

Furthermore, over 30 percent of juvenile arrests in Hawai‘i are for running away from home, the highest proportion in the nation. Nationally, one in seven young people between the ages of 10 and 18 will run away. Approximately 75 percent of runaways are female, while 46 percent of runaway and homeless youth report being physically abused, 38 percent report being emotionally abused, and 17 percent report being forced into unwanted sexual activity by a family or household member, according to the National Conference of State Legislatures.

Roughly 30 percent of runaway children will be approached for sexual exploitation within 48 hours of being on the run, according to the National Center for Missing and Exploited Children, with over 80 percent being approached for the commercial sex trade during the course of their time on streets. A federal study found that an estimated 38,600 runaway youth have been sexually assaulted, in the company of someone known to be sexually abusive, or engaged in sexual activity in exchange for money, food, or shelter.

Runaways are perceived as easy targets for sex traffickers because they lack stable shelter, a supportive environment, and financial resources, placing them at greater risk of forced prostitution and sexual servitude. Traffickers exploit our limited number of available shelter beds to lure young people into exploitation. As the homeless childcare provider Covenant House observes, traffickers tell homeless youth that shelters are full and ask, “Where are you going to go? Why don’t you come with me? I’ll take care of you.” Coupled with threats of and actual physical and sexual violence against the victims or their families, these coercive techniques compel runaway youth to remain enslaved.
LGBTQ youth, who comprise an estimated 40 percent of the runaway and homeless youth population in the United States, are exponentially more likely to fall prey to human traffickers because of discrimination, family and community trauma, and a longing for comfort and acceptance (an estimated 26 percent of LGBTQ adolescents are rejected by their families and put out of their homes simply for being open and honest about who they are). In providing care for victims of human trafficking, we have heard their stories hundreds of times.

We cannot continue to allow the islands to be used as a private Monopoly board for real estate speculators. To ensure that our islands are affordable for ourselves and future generations, we must take bold action now to increase our affordable housing supply for working families and ensure that low-income families who are participating in our state’s rental market—and who are often Native Hawaiian, Micronesian, Pacific Islander, or other people of color—are not discriminated against simply for being poor.
Dear Chair Baker, Vice-Chair Chang, and esteemed members of the committee:

My name is Alani Bagcal and I am writing today in support for SB206.

I strongly believe that Hawai‘i should have a law that prohibits housing discrimination, I believe that housing should be a basic human right and be protected. There are people right now that are being forced to leave their homes due to the consequences of the pandemic, people should be allowed to rely on housing assistance programs to obtain a home, not be penalized for it. Everyone deserves to live in housing not matter their situation.

Thank you for the opportunity to testify in support for this bill,

Alani Bagcal

96815
SB-206
Submitted on: 1/31/2021 5:50:06 PM
Testimony for CPN on 2/2/2021 9:30:00 AM

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Comments:

I support this bill as the criminalization and the discrimination of poverty is a very real concern in today's society. Housing should be a right for everyone.