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
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 legislature further finds that allowing landlords to
consider a rental applicant's source of income also functions as
a proxy for discriminating against women. Nationally, prior to
the coronavirus disease 2019 (COVID-19) pandemic, eighty-three
per cent of households participating in the section 8 federal
housing choice voucher program were headed by women. Currently, there are more than twenty-two thousand single mothers in Hawai'i, and ninety-two per cent of single mothers surveyed during the COVID-19 pandemic reported that they had lost financial independence due to the economic crisis.

The purpose of this Act is to prohibit 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.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER

SOURCE OF INCOME DISCRIMINATION IN HOUSING

§ -1 Definitions. As used in this chapter, unless the context clearly requires otherwise:

"Housing assistance program" means any government 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.
"Rental transaction" means any part of the process or transaction for the rental or lease of a premises for residential purposes.

"Steer" means the practice of directing persons who seek to enter into a rental transaction toward or away from the premises to deprive them of the benefits of living in a discrimination-free environment.

§ -2 Discriminatory practices. (a) 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 participation in a housing assistance program or requirements related to participation in a housing assistance program to:

(1) Refuse to engage in a real estate transaction with a person;

(2) 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) Refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction from a person;

(4) Refuse to negotiate for a real estate transaction with a person;

(5) 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) 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; or

(7) 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.

(b) Nothing in this section 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.

§ -3 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
participation in a housing assistance program or requirements
related to participation in a housing assistance program, to
represent that:
(1) 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) A 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.

§ -4 Other discriminatory practices. It is a discriminatory practice for a person, or for two or more persons, to conspire to:

(1) 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) Aid, abet, incite, or coerce a person to engage in a discriminatory practice;

(3) 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) Obstruct or prevent a person from complying with this chapter or an order issued pursuant to this chapter;

(5) 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) Threaten, intimidate, or interfere with persons in their enjoyment of a housing accommodation because of participation in a housing assistance program or requirements related to participation in a housing assistance program; or

(7) 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 participation in a housing assistance program or requirements related to participation in a housing assistance program.

§ -5 Remedies for discrimination based on participation in a housing assistance program. (a) If a person engaging in a real estate transaction engages in a discriminatory practice based on participation in a housing assistance program or requirements related to participation in a housing assistance program in violation of this chapter, any aggrieved person may bring a civil action in district court for appropriate injunctive relief within one year of the occurrence of the discriminatory violation.

(b) In an action brought pursuant to subsection (a), a district court:

(1) May issue an injunction to enjoin violation of this chapter in regard to discriminatory practices based on participation in a housing assistance program or
requirements related to participation in a housing assistance program; and

(2) In any case in which it issues an injunction pursuant to paragraph (1), may also assess a fine not to exceed $5,000 and award reasonable attorney's fees incurred in the civil action."

SECTION 3. The executive director of the Hawaii 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 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 5. This Act shall take effect upon its approval.
Report Title:
Real Property Discrimination; Housing Assistance Program

Description:
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. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.