A BILL FOR AN ACT

RELATING TO RENTAL DISCRIMINATION.

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

SECTION 1. The federal housing choice voucher program, also known as Section 8, provides federally funded, tenant-based vouchers to low-income households that are responsible for finding appropriate rental units in the private market. A challenge once a household receives a Section 8 voucher is finding a landlord willing to accept it. The legislature believes that renters who participate in housing assistance programs, such as Section 8, should have an equal opportunity to find housing and should not be discriminated against because their source of income includes funds from housing assistance programs.

Studies have shown that when there are laws to prevent discrimination against renters with housing assistant vouchers, the renters are twelve per cent more likely to find housing. The American Bar Association adopted a resolution in 2017 calling for enactment of laws that ban housing discrimination based on lawful sources of income. The legislature notes that source of income discrimination 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 Section 8 vouchers or other housing assistance simply because of the voucher or assistance.

The legislature finds that ten states, the District of Columbia, fourteen counties, and fifty-six major cities across the country have laws that prohibit source of income discrimination in housing. Honolulu is one of the largest cities in the United States that does not prohibit source of income discrimination in housing.

The legislature finds that low-income individuals experience extreme difficulty in finding affordable rentals in Hawaii. Prior to the COVID-19 pandemic, news reports, locally and nationally, have documented that prospective tenants are often rejected by landlords due to their use of Section 8 vouchers or other forms of housing assistance, or based on requirements for participation in a housing assistance program. This situation becomes all the more frustrating when housing vacancy advertisements state "no Section 8 accepted" or "Section 8 need not apply" in an effort to prevent low-income individuals receiving housing assistance from being considered as tenants.

The COVID-19 pandemic and resulting economic conditions have impacted many residents' ability to pay their rent. An August 2020 survey of 271 landlords and property managers...
statewide conducted by the economic research organization at the University of Hawaii indicated that more than 9,000 households were two months or more behind in rent, and that more tenants were thirty days behind in rent than prior to the pandemic.

Prior to the pandemic, nationally, eighty-three per cent of households participating in Section 8, were led by women.

Currently, there are more than 22,000 single mothers in Hawaii, and ninety-two per cent of fifty-five single mothers surveyed in Hawaii during the COVID-19 pandemic reported that they have lost financial independence due to the economic crisis. Allowing landlords to consider a rental applicant's source of income can also function as a proxy for discrimination against single mothers.

The purpose of this Act is to prohibit discrimination in rental transactions based on receipt of income from a housing assistance program or requirements related to participation in housing assistance programs.

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

"CHAPTER .

RENTAL DISCRIMINATION BASED ON SOURCE OF INCOME

HMS-09(21)
§  1 Definitions. As used in this chapter, unless the context clearly requires otherwise:

"Housing assistance program" means any government rental assistance program, including low-income housing assistance under the United States Housing Act of 1937, 42 U.S.C. § 1437f, as amended.

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

§  2 Discriminatory practices in a rental transaction based on source of income. (a) It is a discriminatory practice for a landlord to:

(1) Indicate in any manner used to advertise the availability of a rental property that the landlord will not rent a property to a person participating in a housing assistance program;

(2) Discourage in any manner a person from seeking to engage in a rental transaction based on the person's participation in a housing assistance program;

(3) Refuse to engage in a rental transaction with a person because of the person's participation in a housing assistance program or requirements related to participation in a housing assistance program; or
(4) Require rental conditions that are different from those required for a person not participating in a housing assistance program.

(b) Nothing in this section shall be deemed to prohibit a landlord from determining in a commercially reasonable manner the ability of a person to pay rent by:

(1) Verifying the source and amount of income of the person; or

(2) Evaluating the stability, security, and creditworthiness of the potential tenant or any source of income of the person.

§ 3 Remedies. (a) If a landlord engages in a discriminatory practice prohibited under this chapter, an aggrieved person may bring a civil action in district court within one year of the occurrence of the alleged violation for appropriate injunctive relief and damages.

(b) In an action brought pursuant to subsection (a), a district court may issue an injunction to enjoin violation of this chapter. If the court issues an injunction, the court may also award damages not to exceed $5,000 to the person bringing the action, and reasonable attorney's fees and costs incurred in the civil action."
SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. This Act shall take effect upon its approval.

INTRODUCED BY: 

BY REQUEST

JAN 25 2021
Report Title:
Source of Income, Rental Discrimination; Definitions

Description:
Creates a new chapter on "source of income" discrimination in rental transactions, adds definitions, and enforcement remedies by direct civil action.

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

TITLE: A BILL FOR AN ACT RELATING TO RENTAL DISCRIMINATION.

PURPOSE: To prohibit discrimination in rental housing transactions.

MEANS: Adds a new chapter to Hawaii Revised Statutes; creates remedies and enforcement by direct civil action.

JUSTIFICATION: The federal Fair Housing Act (42 U.S.C. §§ 3601-3619) and chapter 515, Hawaii Revised Statutes, do not bar landlords from denying rental applicants who have a federal Housing Choice Voucher, also known as Section 8 housing vouchers. Nationwide, 83% of Section 8 housing voucher holders are women. Honolulu is one of the largest U.S. Cities that does not prohibit source of income discrimination in housing. The COVID-19 pandemic and economic crisis have impacted many residents' ability to make rental payments, adding additional pressure on low-income residents who have lost jobs and income, and who are struggling to secure more affordable rental housing. This proposal would benefit the existing and future renters that hold Section 8 vouchers. A ban on source of income discrimination in housing rental transactions will improve access to rental housing for women and other residents who receive Section 8 vouchers or other government rental assistance.

Impact on the public: A prohibition on source of income discrimination will help remove barriers in securing affordable rental housing for holders of Section 8 vouchers or other government rental assistance, especially single mothers and women who are survivors of gender-based violence.
Impact on the department and other agencies:
The Hawaii Civil Rights Commission may receive inquiries from the public about this new prohibition on source of income discrimination.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: HMS 888.

OTHER AFFECTED AGENCIES: Hawaii Civil Rights Commission.

EFFECTIVE DATE: Upon approval.