

2015 Hawai'i Legislative Session Updates on Fair Housing

Two bills passed by the 2015 Hawai'i Legislature were signed into law in July of 2015. Act 220 relates to domestic violence and provides certain protections and remedies for victims of domestic violence. Act 242 relates to medical marijuana and the use of reasonable accommodations for qualified patients to use medical marijuana in their homes.

Act 220 (Bill: HB858 HD2 SD2 CD1)

Act 220 provides protections for victims of domestic violence under the Residential Landlord-Tenant Code. A tenant, or an immediate family member of the tenant who is living in the rental unit, that is a victim of domestic violence may ask the landlord to terminate the rental agreement. The tenant would need to provide their landlord with a written notice of early termination of rental agreement along with documentation evidencing domestic violence – such as a copy of a protective order, police report, or conviction relating to domestic violence. In instances where there are multiple tenants on the lease, the victim of domestic violence may terminate their part of the lease without terminating the lease for all other tenants.

If the tenant or immediate family member of the tenant is a victim of domestic violence and chooses to remain in the unit, they may require the landlord to change the locks to the dwelling unit. However, if the person who committed domestic violence is also a party to the lease, then the locks may not be changed without a court order that orders the person to vacate the rental unit.

In the event that person who committed domestic violence against the tenant or immediate family member of the tenant is ordered to vacate the unit, the landlord and tenant have no duty to allow access to the rental unit unless the person is accompanied by a law enforcement office, or to provide the person with keys to the dwelling unit.

Act 220 also shifts liability for actual damages caused by the tenant's early termination of the rental agreement to the person who committed domestic violence. This applies whether or not the person who committed domestic violence is a party to the rental agreement.

Effective date: November 1, 2015

Act 242 (Bill: SB1291 SD2 HD2 CD1)

Act 242 prohibits housing discrimination on the basis of a person's status as a qualifying patient or primary caregiver in the state's medical marijuana program. Provisions in house rules, declarations, or other condominium or association documents may not prohibit the use of medical marijuana unless the provision also prohibits smoking of tobacco and the medical marijuana is used via smoking. Qualified patients or caregivers may seek reasonable accommodations to any nonsmoking policies.

Since marijuana is still illegal under federal law, a housing provider is not required to allow the use of medical marijuana on property if the housing provider could lose a monetary or licensing-related benefit under federal law or regulation.

Effective date: July 14, 2015