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Bill expanding fair-housing laws hailed

By [Gordon Y.K. Pang](#)
Advertiser Capitol Bureau

Supporters of a bill barring discrimination in housing based on sexual orientation, gender identity or expression are hailing its passage through the Legislature as a civil rights victory.

But an organization opposed to the measure says the bill would infringe upon the constitutional freedom to practice religions that do not accept certain sexual behaviors or lifestyle choices.

Existing fair-housing laws prohibit discrimination in real estate transactions based on race, sex, color, religion, marital status, familial status, ancestry, disability, age or HIV infection. The bill would include gender identity, gender expression and sexual orientation under the category of "sex."

House Bill 1715 Senate Draft 1 was passed by the House, 44-7, on Thursday. It now goes to Gov. Linda Lingle for her signature. Lingle has indicated that she supports the concept of eliminating all discrimination in housing and is expected to sign the measure.

In the past, the bill has stalled in the Legislature because of disagreements over a proposed exemption to the prohibition sought by Brigham Young University-Hawai'i. BYUH officials say forcing them to rent to gays, lesbians, bisexuals and the transgendered would run counter to their religious beliefs. The university is operated by the Church of Jesus Christ of Latter-day Saints.

That hurdle was avoided this year when bill proponents worked with BYUH officials to craft language that essentially allows school housing to be exempted from the law, as well as any property that provides housing exclusively to the university.

"We're very pleased; it took a long time getting here," said William Woods, executive director of the Gay and Lesbian Education and Advocacy Foundation.

"I believe that, in the effort of compromise, we've come to terms with the religious exemption issue as well as protecting the gay, lesbian, bisexual and transgendered community."

Kim Coco Iwamoto, a transgendered civil rights attorney and a landlord, said the bill would be most helpful to those in the gay, lesbian, bisexual and transgendered community who are on the lower end of the income spectrum.

Those who felt they were discriminated against previously had no avenue to address their concerns, Iwamoto said, making it difficult to determine how often the discrimination occurs. "It's hidden because there's been nothing they could do up until now. Until there are actual laws, people don't feel empowered to say, 'Wait a minute, that's wrong.'"

Kelly Rosati, executive director of the Hawai'i Family Forum, said her organization opposes the bill and feels the exemption should apply to anyone who feels the proposed law would counter to their religious beliefs.

"We think it violates the free exercise clause of the First Amendment (of the Constitution) as it applies to people who would want to rent their homes, for example, in accordance with their religious practices," Rosati said. "And the crux of it is some people adhere to a faith that believes sexual activity is reserved for marriage."

That concern, she said, "applies not just to homosexual behavior but for any type of sexual behavior outside of marriage."

Rep. Mark Moses, R-40th (Makakilo, Kapolei, Royal Kunia), said he voted against the bill because he's bothered by language that refers to "a person's actual or perceived gender."

"We all know you're not supposed to discriminate for any reason; it's already law," he said. "But now we're adding this thing about 'perceived identity.' I don't know perceived by who — perceived by me or perceived by the person that I'm looking at."

Reach Gordon Y.K. Pang at gpang@honoluluadvertiser.com or at 525-8070.

[Back](#)

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