

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

SESSION LAW 2009-533
SENATE BILL 810

AN ACT PROVIDING THAT IT IS A VIOLATION OF THE STATE'S FAIR HOUSING ACT TO DISCRIMINATE IN LAND-USE DECISIONS OR THE PERMITTING OF DEVELOPMENT BASED ON THE FACT THAT A DEVELOPMENT CONTAINS AFFORDABLE HOUSING UNITS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 41A-4 is amended by adding a new subsection to read as follows:

"(f) It is an unlawful discriminatory housing practice to discriminate in land-use decisions or in the permitting of development based on race, color, religion, sex, national origin, handicapping condition, familial status, or, except as otherwise provided by law, the fact that a development or proposed development contains affordable housing units for families or individuals with incomes below eighty percent (80%) of area median income. It is not a violation of this Chapter if land-use decisions or permitting of development is based on considerations of limiting high concentrations of affordable housing."

SECTION 2. G.S. 41A-5(a) reads as rewritten:

"(a) It is a violation of this Chapter if:

- (1) A person by his act or failure to act intends to discriminate against a person. A person intends to discriminate if, in committing an unlawful discriminatory housing practice described in G.S. 41A-4 he was motivated in full, or in any part at all, by race, color, religion, sex, national origin, handicapping condition, or familial status. An intent to discriminate may be established by direct or circumstantial ~~evidence; or~~ evidence.
- (2) A person's act or failure to act has the effect, regardless of intent, of discriminating, as set forth in G.S. 41A-4, against a person of a particular race, color, religion, sex, national origin, handicapping condition, or familial status. However, it is not a violation of this Chapter if a person whose action or inaction has an unintended discriminatory effect, proves that his action or inaction was motivated and justified by business necessity.
- (3) A local government's act or failure to act in land-use decisions or in the permitting of development is intended to discriminate against affordable housing. A local government intends to discriminate if, in committing an unlawful discriminatory housing practice described in G.S. 41A-4(f), the local government was motivated in full, or in any part at all, by the fact that a development or proposed development contains affordable housing units for families or individuals with incomes below eighty percent (80%) of area median income. It is not a violation of this Chapter if land-use decisions or permitting of development is based on considerations of limiting high concentrations of affordable housing. An intent to discriminate may be established by direct or circumstantial evidence.
- (4) A local government's act or failure to act has the effect, regardless of intent, of discriminating against affordable housing in land-use decisions or in the permitting of development, as set forth in G.S. 41A-4(f). It is not a violation of this Chapter if land-use decisions or permitting of development is based on considerations of limiting high concentrations of affordable housing. It is not a violation of this Chapter if a local government whose action or inaction has an unintended discriminatory effect proves that the action or inaction



was motivated and justified by a legitimate, bona fide governmental interest."

SECTION 3. This act is effective when it becomes law. If Senate Bill 465, 2009 Regular Session, becomes law, then G.S. 41A-4(f) as enacted by Section 1 of this act is recodified as G.S. 41A-4(g) and G.S. 41A-5(a)(3) as enacted by Section 2 of this act is recodified as G.S. 41A-5(a)(4).

In the General Assembly read three times and ratified this the 4th day of August, 2009.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 10:00 a.m. this 28th day of August, 2009