

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE DRS35021-LB-67 (01/13)

Short Title: Fair Housing Act Amendment.

(Public)

Sponsors: Senator Kinnaird.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT AMENDING THE STATE FAIR HOUSING ACT TO PROHIBIT
3 DISCRIMINATION ON THE BASIS OF RECEIPT OF HOUSING ASSISTANCE.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 41A-3 is amended by adding a new subdivision to read:

6 "(4a) "Housing assistance" means a subsidy provided to defray the cost of rental
7 housing for a household that has a member who is either (i) age 62 or over or
8 (ii) has been determined eligible for a government-funded disability
9 program, such as veterans benefits, social security disability, or
10 supplemental security income."

11 **SECTION 2.** G.S. 41A-4 reads as rewritten:

12 **"§ 41A-4. Unlawful discriminatory housing practices.**

13 (a) It is an unlawful discriminatory housing practice for any person in a real estate
14 transaction, because of race, color, religion, sex, national origin, handicapping condition,
15 housing assistance, or familial status to:

- 16 (1) Refuse to engage in a real estate transaction;
- 17 (2) Discriminate against a person in the terms, conditions, or privileges of a real
18 estate transaction or in the furnishing of facilities or services in connection
19 therewith;
- 20 (2a), (2c) Repealed by Session Laws 2009-388, s. 1, effective October 1, 2009.
- 21 (3) Refuse to receive or fail to transmit a bona fide offer to engage in a real
22 estate transaction;
- 23 (4) Refuse to negotiate for a real estate transaction;
- 24 (5) Represent to a person that real property is not available for inspection, sale,
25 rental, or lease when in fact it is so available, or fail to bring a property
26 listing to ~~his~~ the person's attention, or refuse to permit ~~him~~ the person to
27 inspect real property;
- 28 (6) Make, print, circulate, post, or mail or cause to be so published a statement,
29 advertisement, or sign, or use a form or application for a real estate
30 transaction, or make a record or inquiry in connection with a prospective real
31 estate transaction, which indicates directly or indirectly, an intent to make a
32 limitation, specification, or discrimination with respect thereto;
- 33 (7) Offer, solicit, accept, use, or retain a listing of real property with the
34 understanding that any person may be discriminated against in a real estate



- 1 transaction or in the furnishing of facilities or services in connection
2 therewith; or
- 3 (8) Otherwise make unavailable or deny housing.
- 4 (b) Repealed by Session Laws 1989, c. 507, s. 2.
- 5 (b1) It is an unlawful discriminatory housing practice for any person or other entity
6 whose business includes engaging in residential real estate related transactions to discriminate
7 against any person in making available such a transaction, or in the terms and conditions of
8 such a transaction, because of race, color, religion, sex, national origin, handicapping condition,
9 or familial status. As used in this subsection, "residential real estate related transaction" means:
- 10 (1) The making or purchasing of loans or providing financial assistance (i) for
11 purchasing, constructing, improving, repairing, or maintaining a dwelling, or
12 (ii) where the security is residential real estate; or
- 13 (2) The selling, brokering, or appraising of residential real estate.
- 14 The provisions of this subsection shall not prohibit any financial institution from using a loan
15 application which inquires into a person's financial and dependent obligations or from basing
16 its actions on the income or financial abilities of any person.
- 17 (c) It is an unlawful discriminatory housing practice for a person to induce or attempt to
18 induce another to enter into a real estate transaction from which such person may profit:
- 19 (1) By representing that a change has occurred, or may or will occur in the
20 composition of the residents of the block, neighborhood, or area in which the
21 real property is located with respect to race, color, religion, sex, national
22 origin, handicapping condition, or familial status of the owners or occupants;
23 or
- 24 (2) By representing that a change has resulted, or may or will result in the
25 lowering of property values, an increase in criminal or antisocial behavior,
26 or a decline in the quality of schools in the block, neighborhood, or area in
27 which the real property is located.
- 28 (d) It is an unlawful discriminatory housing practice to deny any person who is
29 otherwise qualified by State law access to or membership or participation in any real estate
30 brokers' organization, multiple listing service, or other service, organization, or facility relating
31 to the business of engaging in real estate transactions, or to discriminate in the terms or
32 conditions of such access, membership, or participation because of race, color, religion, sex,
33 national origin, handicapping condition, or familial status.
- 34 (e) It is an unlawful discriminatory housing practice to coerce, intimidate, threaten, or
35 interfere with any person in the exercise or enjoyment of, on account of having exercised or
36 enjoyed, or on account of having aided or encouraged any other person in the exercise or
37 enjoyment of any right granted or protected by this Chapter.
- 38 (f) It is an unlawful discriminatory housing practice to:
- 39 (1) Refuse to permit, at the expense of a handicapped person, reasonable
40 modifications of existing premises occupied or to be occupied by the person
41 if the modifications are necessary to the handicapped person's full enjoyment
42 of the premises; except that, in the case of a rental unit, the landlord may,
43 where it is reasonable to do so, condition permission for modifications on
44 agreement by the renter to restore the interior of the premises to the
45 condition that existed before the modifications, reasonable wear and tear
46 excepted.
- 47 (2) Refuse to make reasonable accommodations in rules, policies, practices, or
48 services, when these accommodations may be necessary to a handicapped
49 person's equal use and enjoyment of a dwelling.
- 50 (3) Fail to design and construct covered multifamily dwellings available for first
51 occupancy after March 13, 1991, so that:

- 1 a. The dwellings have at least one building entrance on an accessible
2 route, unless it is impractical to do so because of terrain or unusual
3 site characteristics; or
- 4 b. With respect to dwellings with a building entrance on an accessible
5 route:
 - 6 1. The public and common use portions are readily accessible to
7 and usable by handicapped persons;
 - 8 2. There is an accessible route into and through all dwellings
9 and units;
 - 10 3. All doors designed to allow passage into, within, and through
11 these dwellings and individual units are wide enough for
12 wheelchairs;
 - 13 4. Light switches, electrical switches, electrical outlets,
14 thermostats, and other environmental controls are in
15 accessible locations;
 - 16 5. Bathroom walls are reinforced to allow later installation of
17 grab bars; and
 - 18 6. Kitchens and bathrooms have space for an individual in a
19 wheelchair to maneuver.

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

27 **SECTION 3.** G.S. 41A-5 reads as rewritten:

28 "**§ 41A-5. Proof of violation.**

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

- 30 (1) A person by ~~his~~ the person's act or failure to act intends to discriminate
31 against ~~a~~ another person. A person intends to discriminate if, in committing
32 an unlawful discriminatory housing practice described in G.S. 41A-4 ~~he~~ the
33 person was motivated in full, or in any part at all, by race, color, religion,
34 sex, national origin, handicapping condition, housing assistance, or familial
35 status. An intent to discriminate may be established by direct or
36 circumstantial evidence.
- 37 (2) A person's act or failure to act has the effect, regardless of intent, of
38 discriminating, as set forth in G.S. 41A-4, against a person of a particular
39 race, color, religion, sex, national origin, handicapping condition, housing
40 assistance, or familial status. However, it is not a violation of this Chapter if
41 a person whose action or inaction has an unintended discriminatory effect,
42 proves that ~~his~~ the person's action or inaction was motivated and justified by
43 business necessity.
- 44 (3) A person's act or failure to act violates G.S. 41A-4(f).
- 45 (4) A local government's act or failure to act in land-use decisions or in the
46 permitting of development is intended to discriminate against affordable
47 housing. A local government intends to discriminate if, in committing an
48 unlawful discriminatory housing practice described in G.S. 41A-4(g), the
49 local government was motivated in full, or in any part at all, by the fact that
50 a development or proposed development contains affordable housing units
51 for families or individuals with incomes below eighty percent (80%) of area

1 median income. It is not a violation of this Chapter if land-use decisions or
2 permitting of development is based on considerations of limiting high
3 concentrations of affordable housing. An intent to discriminate may be
4 established by direct or circumstantial evidence.

- 5 (5) A local government's act or failure to act has the effect, regardless of intent,
6 of discriminating against affordable housing in land-use decisions or in the
7 permitting of development, as set forth in G.S. 41A-4(g). It is not a violation
8 of this Chapter if land-use decisions or permitting of development is based
9 on considerations of limiting high concentrations of affordable housing. It is
10 not a violation of this Chapter if a local government whose action or inaction
11 has an unintended discriminatory effect proves that the action or inaction
12 was motivated and justified by a legitimate, bona fide governmental interest.

13 (b) It shall be no defense to a violation of this Chapter that the violation was requested,
14 sought, or otherwise procured by another person.

15 (c) It is not a violation of this Chapter if the housing assistance on which the transaction
16 is dependent is not authorized for the transaction within 14 days of the date of the landlord's
17 approval of the tenant."

18 **SECTION 4.** G.S. 41A-6(a) reads as rewritten:

19 "(a) The provisions of G.S. 41A-4, except for ~~subdivision (a)(6), G.S. 41A-4(a)(6),~~ do
20 not apply to the following:

- 21 (1) The rental of a housing accommodation in a building which contains
22 housing accommodations for not more than four families living
23 independently of each other, if the lessor or a member of ~~his~~ the lessor's
24 family resides in one of the housing accommodations;
- 25 (2) The rental of a room or rooms in a private house, not a boarding house, if the
26 lessor or a member of ~~his~~ the lessor's family resides in the house;
- 27 (3) Religious institutions or organizations or charitable or educational
28 organizations operated, supervised, or controlled by religious institutions or
29 organizations which give preference to members of the same religion in a
30 real estate transaction, as long as membership in such religion is not
31 restricted by race, color, sex, national origin, handicapping condition,
32 housing assistance, or familial status;
- 33 (4) Private clubs, not in fact open to the public, which incident to ~~their~~ the
34 private clubs' primary purpose or purposes provide lodging, which ~~they~~ the
35 private clubs own or operate for other than a commercial purpose, to ~~their~~ the
36 private clubs' members or give preference to ~~their~~ the private clubs'
37 members;
- 38 (5) With respect to discrimination based on sex, the rental or leasing of housing
39 accommodations in single-sex dormitory property; and
- 40 (6) Repealed by Session Laws 1989 (Reg. Sess., 1990), c. 979, s. 4.
- 41 (7) The sale, rental, exchange, or lease of commercial real estate. For the
42 purposes of this Chapter, commercial real estate means real property which
43 is not intended for residential use."

44 **SECTION 5.** This act becomes effective October 1, 2011, and applies to actions
45 taken or not taken on or after that date.