

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 425
Commerce Committee Substitute Adopted 5/11/09

Short Title: Fair Housing Act Amendment.

(Public)

Sponsors:

Referred to:

March 5, 2009

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 AND
4 TO APPROPRIATE FUNDS TO THE NORTH CAROLINA HUMAN RELATIONS
5 COMMISSION TO ADMINISTER THIS ACT.

6 The General Assembly of North Carolina enacts:

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

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

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

14 **"§ 41A-4. Unlawful discriminatory housing practices.**

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

- 18 (1) Refuse to engage in a real estate transaction;
- 19 (2) Discriminate against a person in the terms, conditions, or privileges of a real
20 estate transaction or in the furnishing of facilities or services in connection
21 therewith;
- 22 (2a) Refuse to permit, at the expense of a handicapped person, reasonable
23 modifications of existing premises occupied or to be occupied by the person
24 if the modifications are necessary to the handicapped person's full enjoyment
25 of the premises; except that, in the case of a rental unit, the landlord may,
26 where it is reasonable to do so, condition permission for modifications on
27 agreement by the renter to restore the interior of the premises to the
28 condition that existed before the modifications, reasonable wear and tear
29 excepted;
- 30 (2b) Refuse to make reasonable accommodations in rules, policies, practices, or
31 services, when these accommodations may be necessary to a handicapped
32 person's equal use and enjoyment of a dwelling;
- 33 (2c) Fail to design and construct covered multifamily dwellings available for first
34 occupancy after March 13, 1991, so that:
- 35 a. The dwellings have at least one building entrance on an accessible
36 route, unless it is impractical to do so because of terrain or unusual
37 site characteristics; or



- 1 b. With respect to dwellings with a building entrance on an accessible
2 route:
- 3 1. The public and common use portions are readily accessible to
4 and usable by handicapped persons;
- 5 2. There is an accessible route into and through all dwellings
6 and units;
- 7 3. All doors designed to allow passage into, within, and through
8 these dwellings and individual units are wide enough for
9 wheelchairs;
- 10 4. Light switches, electrical switches, electrical outlets,
11 thermostats, and other environmental controls are in
12 accessible locations;
- 13 5. Bathroom walls are reinforced to allow later installation of
14 grab bars; and
- 15 6. Kitchens and bathrooms have space for an individual in a
16 wheelchair to maneuver;
- 17 (3) Refuse to receive or fail to transmit a bona fide offer to engage in a real
18 estate transaction;
- 19 (4) Refuse to negotiate for a real estate transaction;
- 20 (5) Represent to a person that real property is not available for inspection, sale,
21 rental, or lease when in fact it is so available, or fail to bring a property
22 listing to ~~his~~ the person's attention, or refuse to permit ~~him~~ the person to
23 inspect real property;
- 24 (6) Make, print, circulate, post, or mail or cause to be so published a statement,
25 advertisement, or sign, or use a form or application for a real estate
26 transaction, or make a record or inquiry in connection with a prospective real
27 estate transaction, which indicates directly or indirectly, an intent to make a
28 limitation, specification, or discrimination with respect thereto;
- 29 (7) Offer, solicit, accept, use, or retain a listing of real property with the
30 understanding that any person may be discriminated against in a real estate
31 transaction or in the furnishing of facilities or services in connection
32 therewith; or
- 33 (8) Otherwise make unavailable or deny housing.
- 34 (b) Repealed by Session Laws 1989, c. 507, s. 2.
- 35 (b1) It is an unlawful discriminatory housing practice for any person or other entity
36 whose business includes engaging in residential real estate related transactions to discriminate
37 against any person in making available such a transaction, or in the terms and conditions of
38 such a transaction, because of race, color, religion, sex, national origin, handicapping condition,
39 housing assistance, or familial status. As used in this subsection, "residential real estate related
40 transaction" means:
- 41 (1) The making or purchasing of loans or providing financial assistance (i) for
42 purchasing, constructing, improving, repairing, or maintaining a dwelling, or
43 (ii) where the security is residential real estate; or
- 44 (2) The selling, brokering, or appraising of residential real estate.
- 45 The provisions of this subsection shall not prohibit any financial institution from using a loan
46 application which inquires into a person's financial and dependent obligations or from basing
47 its actions on the income or financial abilities of any person.
- 48 (c) It is an unlawful discriminatory housing practice for a person to induce or attempt to
49 induce another to enter into a real estate transaction from which such person may profit:
- 50 (1) By representing that a change has occurred, or may or will occur in the
51 composition of the residents of the block, neighborhood, or area in which the

1 real property is located with respect to race, color, religion, sex, national
2 origin, handicapping condition, housing assistance, or familial status of the
3 owners or occupants; or

- 4 (2) By representing that a change has resulted, or may or will result in the
5 lowering of property values, an increase in criminal or antisocial behavior,
6 or a decline in the quality of schools in the block, neighborhood, or area in
7 which the real property is located.

8 (d) It is an unlawful discriminatory housing practice to deny any person who is
9 otherwise qualified by State law access to or membership or participation in any real estate
10 brokers' organization, multiple listing service, or other service, organization, or facility relating
11 to the business of engaging in real estate transactions, or to discriminate in the terms or
12 conditions of such access, membership, or participation because of race, color, religion, sex,
13 national origin, handicapping condition, housing assistance, or familial status.

14 (e) It is an unlawful discriminatory housing practice to coerce, intimidate, threaten, or
15 interfere with any person in the exercise or enjoyment of, on account of having exercised or
16 enjoyed, or on account of having aided or encouraged any other person in the exercise or
17 enjoyment of any right granted or protected by this Chapter."

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

19 "**§ 41A-5. Proof of violation.**

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

- 21 (1) A person by ~~his~~the person's act or failure to act intends to discriminate
22 against ~~a~~another person. A person intends to discriminate if, in committing
23 an unlawful discriminatory housing practice described in G.S. 41A-4 ~~he~~the
24 person was motivated in full, or in any part at all, by race, color, religion,
25 sex, national origin, handicapping condition, housing assistance, or familial
26 status. An intent to discriminate may be established by direct or
27 circumstantial evidence; or
- 28 (2) A person's act or failure to act has the effect, regardless of intent, of
29 discriminating, as set forth in G.S. 41A-4, against a person of a particular
30 race, color, religion, sex, national origin, handicapping condition, housing
31 assistance, or familial status. However, it is not a violation of this Chapter if
32 a person whose action or inaction has an unintended discriminatory effect,
33 proves that ~~his~~the person's action or inaction was motivated and justified by
34 business necessity.

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

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

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

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

- 43 (1) The rental of a housing accommodation in a building which contains
44 housing accommodations for not more than four families living
45 independently of each other, if the lessor or a member of ~~his~~the lessor's
46 family resides in one of the housing accommodations;
- 47 (2) The rental of a room or rooms in a private house, not a boarding house, if the
48 lessor or a member of ~~his~~the lessor's family resides in the house;
- 49 (3) Religious institutions or organizations or charitable or educational
50 organizations operated, supervised, or controlled by religious institutions or
51 organizations which give preference to members of the same religion in a

- 1 real estate transaction, as long as membership in such religion is not
2 restricted by race, color, sex, national origin, handicapping condition,
3 housing assistance, or familial status;
- 4 (4) Private clubs, not in fact open to the public, which incident to ~~their~~the
5 private clubs' primary purpose or purposes provide lodging, which ~~they~~the
6 private clubs own or operate for other than a commercial purpose, to ~~their~~
7 the private clubs' members or give preference to ~~their~~the private clubs'
8 members;
- 9 (5) With respect to discrimination based on sex, the rental or leasing of housing
10 accommodations in single-sex dormitory property; and
- 11 (6) Repealed by Session Laws 1989 (Reg. Sess., 1990), c. 979, s. 4.
- 12 (7) The sale, rental, exchange, or lease of commercial real estate. For the
13 purposes of this Chapter, commercial real estate means real property which
14 is not intended for residential use."
- 15 **SECTION 5.** This act becomes effective October 1, 2009, and applies to actions
16 taken or not taken on or after that date.