

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 782

Short Title: Fair Housing Act Amendment.

(Public)

Sponsors: Senator Kinnaird.

Referred to: Judiciary II.

March 22, 2005

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

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) "Lawful source of income" means income derived from social
7 security, supplemental security income, housing assistance, child
8 support, alimony, or public or general assistance."

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

10 "§ 41A-4. **Unlawful discriminatory housing practices.**

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

- 14 (1) Refuse to engage in a real estate transaction;
- 15 (2) Discriminate against a person in the terms, conditions, or privileges of
16 a real estate transaction or in the furnishing of facilities or services in
17 connection therewith;
- 18 (2a) Refuse to permit, at the expense of a handicapped person, reasonable
19 modifications of existing premises occupied or to be occupied by the
20 person if the modifications are necessary to the handicapped person's
21 full enjoyment of the premises; except that, in the case of a rental unit,
22 the landlord may, where it is reasonable to do so, condition permission
23 for modifications on agreement by the renter to restore the interior of
24 the premises to the condition that existed before the modifications,
25 reasonable wear and tear excepted;
- 26 (2b) Refuse to make reasonable accommodations in rules, policies,
27 practices, or services, when these accommodations may be necessary
28 to a handicapped person's equal use and enjoyment of a dwelling;

- 1 (2c) Fail to design and construct covered multifamily dwellings available
2 for first occupancy after March 13, 1991, so that:
- 3 a. The dwellings have at least one building entrance on an
4 accessible route, unless it is impractical to do so because of
5 terrain or unusual site characteristics; or
- 6 b. With respect to dwellings with a building entrance on an
7 accessible route:
- 8 1. The public and common use portions are readily
9 accessible to and usable by handicapped persons;
- 10 2. There is an accessible route into and through all
11 dwellings and units;
- 12 3. All doors designed to allow passage into, within, and
13 through these dwellings and individual units are wide
14 enough for wheelchairs;
- 15 4. Light switches, electrical switches, electrical outlets,
16 thermostats, and other environmental controls are in
17 accessible locations;
- 18 5. Bathroom walls are reinforced to allow later installation
19 of grab bars; and
- 20 6. Kitchens and bathrooms have space for an individual in a
21 wheelchair to maneuver;
- 22 (3) Refuse to receive or fail to transmit a bona fide offer to engage in a
23 real estate transaction;
- 24 (4) Refuse to negotiate for a real estate transaction;
- 25 (5) Represent to a person that real property is not available for inspection,
26 sale, rental, or lease when in fact it is so available, or fail to bring a
27 property listing to his attention, or refuse to permit him to inspect real
28 property;
- 29 (6) Make, print, circulate, post, or mail or cause to be so published a
30 statement, advertisement, or sign, or use a form or application for a
31 real estate transaction, or make a record or inquiry in connection with a
32 prospective real estate transaction, which indicates directly or
33 indirectly, an intent to make a limitation, specification, or
34 discrimination with respect thereto;
- 35 (7) Offer, solicit, accept, use, or retain a listing of real property with the
36 understanding that any person may be discriminated against in a real
37 estate transaction or in the furnishing of facilities or services in
38 connection therewith; or
- 39 (8) Otherwise make unavailable or deny housing.
- 40 (b) Repealed by Session Laws 1989, c. 507, s. 2.
- 41 (b1) It is an unlawful discriminatory housing practice for any person or other
42 entity whose business includes engaging in residential real estate related transactions to
43 discriminate against any person in making available such a transaction, or in the terms
44 and conditions of such a transaction, because of race, color, religion, sex, national

1 origin, handicapping condition, lawful source of income, or familial status. As used in
2 this subsection, "residential real estate related transaction" means:

- 3 (1) The making or purchasing of loans or providing financial assistance (i)
4 for purchasing, constructing, improving, repairing, or maintaining a
5 dwelling, or (ii) where the security is residential real estate; or
- 6 (2) The selling, brokering, or appraising of residential real estate.

7 The provisions of this subsection shall not prohibit any financial institution from using a
8 loan application which inquires into a person's financial and dependent obligations or
9 from basing its actions on the income or financial abilities of any person.

10 (c) It is an unlawful discriminatory housing practice for a person to induce or
11 attempt to induce another to enter into a real estate transaction from which such person
12 may profit:

- 13 (1) By representing that a change has occurred, or may or will occur in the
14 composition of the residents of the block, neighborhood, or area in
15 which the real property is located with respect to race, color, religion,
16 sex, national origin, handicapping condition, lawful source of income,
17 or familial status of the owners or occupants; or
- 18 (2) By representing that a change has resulted, or may or will result in the
19 lowering of property values, an increase in criminal or antisocial
20 behavior, or a decline in the quality of schools in the block,
21 neighborhood, or area in which the real property is located.

22 (d) It is an unlawful discriminatory housing practice to deny any person who is
23 otherwise qualified by State law access to or membership or participation in any real
24 estate brokers' organization, multiple listing service, or other service, organization, or
25 facility relating to the business of engaging in real estate transactions, or to discriminate
26 in the terms or conditions of such access, membership, or participation because of race,
27 color, religion, sex, national origin, handicapping condition, lawful source of income, or
28 familial status.

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

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

34 **"§ 41A-5. Proof of violation.**

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

- 36 (1) A person by his act or failure to act intends to discriminate against a
37 person. A person intends to discriminate if, in committing an unlawful
38 discriminatory housing practice described in G.S. 41A-4 he was
39 motivated in full, or in any part at all, by race, color, religion, sex,
40 national origin, handicapping condition, lawful source of income, or
41 familial status. An intent to discriminate may be established by direct
42 or circumstantial evidence; or
- 43 (2) A person's act or failure to act has the effect, regardless of intent, of
44 discriminating, as set forth in G.S. 41A-4, against a person of a

1 particular race, color, religion, sex, national origin, handicapping
2 condition, lawful source of income, or familial status. However, it is
3 not a violation of this Chapter if a person whose action or inaction has
4 an unintended discriminatory effect, proves that his action or inaction
5 was motivated and justified by business necessity.

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

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

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

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

33 **SECTION 5.** This act is effective when it becomes law.