

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE BILL 810  
Commerce Committee Substitute Adopted 5/7/09  
Third Edition Engrossed 5/12/09

Short Title: Affordable Housing/No Discrimination.

(Public)

Sponsors:

Referred to:

March 25, 2009

A BILL TO BE ENTITLED

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~~ person's act or failure to act ~~intends~~ is intended to discriminate against ~~a~~ another person. A person intends to discriminate if, in committing an unlawful discriminatory housing practice described in G.S. 41A-4 ~~he~~ the person was motivated in full, or in any part at all, by race, color, religion, sex, national origin, handicapping condition, ~~or familial status.~~ familial status or, in the case of land-use decisions or in the permitting of development, the person 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; or
- (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.~~ familial status or, in the case of land-use decisions or in the permitting of development, the person was motivated in full, or in any part at all, by the



1 fact that a development or proposed development contains affordable  
2 housing units for families or individuals with incomes below eighty percent  
3 (80%) of area median income. It is not a violation of this Chapter if land-use  
4 decisions or permitting of development is based on considerations of  
5 limiting high concentrations of affordable housing. However, ~~it~~ It is not a  
6 violation of this Chapter if a person whose action or inaction has an  
7 unintended discriminatory effect, proves that ~~his~~the action or inaction was  
8 motivated and justified by business necessity."

9 **SECTION 3.** This act is effective when it becomes law.