

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S

D

SENATE BILL 425
PROPOSED COMMITTEE SUBSTITUTE S425-PCS55369-TD-33

Short Title: Fair Housing Act Amendment.

(Public)

Sponsors:

Referred to:

March 5, 2009

A BILL TO BE ENTITLED

AN ACT AMENDING THE STATE FAIR HOUSING ACT TO PROHIBIT
DISCRIMINATION ON THE BASIS OF RECEIPT OF HOUSING ASSISTANCE AND
TO APPROPRIATE FUNDS TO THE NORTH CAROLINA HUMAN RELATIONS
COMMISSION TO ADMINISTER THIS ACT.

The General Assembly of North Carolina enacts:

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

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

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

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

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

- (1) Refuse to engage in a real estate transaction;
- (2) Discriminate against a person in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith;
- (2a) Refuse to permit, at the expense of a handicapped person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications are necessary to the handicapped person's full enjoyment of the premises; except that, in the case of a rental unit, the landlord may, where it is reasonable to do so, condition permission for modifications on agreement by the renter to restore the interior of the premises to the condition that existed before the modifications, reasonable wear and tear excepted;
- (2b) Refuse to make reasonable accommodations in rules, policies, practices, or services, when these accommodations may be necessary to a handicapped person's equal use and enjoyment of a dwelling;
- (2c) Fail to design and construct covered multifamily dwellings available for first occupancy after March 13, 1991, so that:



* S 4 2 5 - P C S 5 3 6 9 - T D - 3 3 *

- 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 (3) Refuse to receive or fail to transmit a bona fide offer to engage in a real
21 estate transaction;
22 (4) Refuse to negotiate for a real estate transaction;
23 (5) Represent to a person that real property is not available for inspection, sale,
24 rental, or lease when in fact it is so available, or fail to bring a property
25 listing to ~~his~~ the person's attention, or refuse to permit ~~him~~ the person to
26 inspect real property;
27 (6) Make, print, circulate, post, or mail or cause to be so published a statement,
28 advertisement, or sign, or use a form or application for a real estate
29 transaction, or make a record or inquiry in connection with a prospective real
30 estate transaction, which indicates directly or indirectly, an intent to make a
31 limitation, specification, or discrimination with respect thereto;
32 (7) Offer, solicit, accept, use, or retain a listing of real property with the
33 understanding that any person may be discriminated against in a real estate
34 transaction or in the furnishing of facilities or services in connection
35 therewith; or
36 (8) Otherwise make unavailable or deny housing.
37 (b) Repealed by Session Laws 1989, c. 507, s. 2.
38 (b1) It is an unlawful discriminatory housing practice for any person or other entity
39 whose business includes engaging in residential real estate related transactions to discriminate
40 against any person in making available such a transaction, or in the terms and conditions of
41 such a transaction, because of race, color, religion, sex, national origin, handicapping condition,
42 housing assistance, or familial status. As used in this subsection, "residential real estate related
43 transaction" means:
44 (1) The making or purchasing of loans or providing financial assistance (i) for
45 purchasing, constructing, improving, repairing, or maintaining a dwelling, or
46 (ii) where the security is residential real estate; or
47 (2) The selling, brokering, or appraising of residential real estate.
48 The provisions of this subsection shall not prohibit any financial institution from using a loan
49 application which inquires into a person's financial and dependent obligations or from basing
50 its actions on the income or financial abilities of any person.

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

3 (1) By representing that a change has occurred, or may or will occur in the
4 composition of the residents of the block, neighborhood, or area in which the
5 real property is located with respect to race, color, religion, sex, national
6 origin, handicapping condition, housing assistance, or familial status of the
7 owners or occupants; or

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

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

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

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

23 **"§ 41A-5. Proof of violation.**

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

25 (1) A person by ~~his~~the person's act or failure to act intends to discriminate
26 against ~~a~~another person. A person intends to discriminate if, in committing
27 an unlawful discriminatory housing practice described in G.S. 41A-4 ~~he~~the
28 person was motivated in full, or in any part at all, by race, color, religion,
29 sex, national origin, handicapping condition, housing assistance, or familial
30 status. An intent to discriminate may be established by direct or
31 circumstantial evidence; or

32 (2) A person's act or failure to act has the effect, regardless of intent, of
33 discriminating, as set forth in G.S. 41A-4, against a person of a particular
34 race, color, religion, sex, national origin, handicapping condition, housing
35 assistance, or familial status. However, it is not a violation of this Chapter if
36 a person whose action or inaction has an unintended discriminatory effect,
37 proves that ~~his~~the person's action or inaction was motivated and justified by
38 business necessity.

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

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

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

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

47 (1) The rental of a housing accommodation in a building which contains
48 housing accommodations for not more than four families living
49 independently of each other, if the lessor or a member of ~~his~~the lessor's
50 family resides in one of the housing accommodations;

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

20 **SECTION 5.** This act becomes effective October 1, 2009, and applies to actions
21 taken or not taken on or after that date.