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SENATE BILL DRS15135-LR-87 (03/17)

Short Title: A Common Sense Repeal of HB2. (Public)

Sponsors: Senator Tarte (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT PROVIDING FOR THE COMMON SENSE REPEAL OF HOUSE BILL 2 AND
3 ADOPTING THE FEDERAL LAW CLASSIFICATIONS FOR NONDISCRIMINATION
4 IN HOUSING AND EMPLOYMENT.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** HB2 Repealed. – S.L. 2016-99 and S.L. 2016-3 are repealed.

7 **SECTION 2.** Effect and Declaration. – Effective when this bill becomes law,
8 access to multiple occupancy bathrooms, to showers, and to changing facilities shall be
9 governed under the law in the same manner as was effective before January 1, 2015, because
10 people have a right to privacy in public accommodations.

11 **SECTION 3.** Employment and Public Accommodations. – Article 49A of Chapter
12 143 of the General Statutes reads as rewritten:

13 "Article 49A.

14 "Equal Employment ~~Practices~~ and Equal Access to Public Accommodations Act.

15 "§ 143-422.1. Short title.

16 This Article shall be known and may be cited as the Equal Employment ~~Practices Act~~ and
17 Equal Access to Public Accommodations Act.

18 "§ 143-422.2. Legislative declaration.

19 (a) It is the public policy of this State to protect and safeguard the right and opportunity
20 of all persons to seek, obtain and hold employment without discrimination or abridgement on
21 account of ~~race, religion, color, national origin, age, sex or handicap~~ race, sex, sexual
22 orientation, national origin, citizenship, religion, age, veteran status, genetic information,
23 pregnancy, handicap, or disability by employers which regularly employ 15 or more
24 employees.

25 (b) It is recognized that the practice of denying employment opportunity and
26 discriminating in the terms of employment foments domestic strife and unrest, deprives the
27 State of the fullest utilization of its capacities for advancement and development, and
28 substantially and adversely affects the interests of employees, employers, and the public in
29 general.

30 (c) Repealed.

31 (d) It is the public policy of this State to protect and safeguard the right and opportunity
32 of all individuals within the State to enjoy fully and equally the goods, services, facilities,
33 privileges, advantages, and accommodations of places of public accommodations free of
34 discrimination because of race, sex, sexual orientation, national origin, citizenship, religion,
35 age, veteran status, genetic information, pregnancy, handicap, or disability.



1 (e) If a person's bona fide religious beliefs are contrary to the requirements of this
2 section, then the person is exempt from the requirements.

3 (f) For purposes of this Article, "place of public accommodations" has the same
4 meaning as defined in G.S. 168A-3(8), but shall exclude any private club or other
5 establishment not, in fact, open to the public.

6 **"§ 143-422.3. Investigations; conciliations.**

7 (a) The Human Relations Commission in the Department of Administration shall have
8 the authority to receive charges of discrimination from the Equal Employment Opportunity
9 Commission pursuant to an agreement under Section 709(b) of Public Law 88-352, as amended
10 by Public Law 92-261, and investigate and conciliate charges of discrimination. Throughout
11 this process, the agency shall use its good offices to effect an amicable resolution of the charges
12 of discrimination.

13 (b) The Human Relations Commission in the Department of Administration shall have
14 the authority to receive, investigate, and conciliate complaints of discrimination in places of
15 public accommodations. Throughout this process, the Human Relations Commission shall use
16 its good offices to effect an amicable resolution of the complaints of discrimination."

17 **SECTION 4.1. Housing/Protections.** – G.S. 41A-4 reads as rewritten:

18 **"§ 41A-4. Unlawful discriminatory housing practices.**

19 (a) It is an unlawful discriminatory housing practice for any person in a real estate
20 transaction, because of race, color, religion, sex, sexual orientation, national origin, citizenship,
21 disability, handicapping condition, genetic information, pregnancy, veteran status, or familial
22 status to:

23 ...

24 (b1) It is an unlawful discriminatory housing practice for any person or other entity
25 whose business includes engaging in residential real estate related transactions to discriminate
26 against any person in making available such a transaction, or in the terms and conditions of
27 such a transaction, because of race, color, religion, sex, sexual orientation, national origin,
28 citizenship, disability, handicapping condition, genetic information, pregnancy, veteran status,
29 or familial status. As used in this subsection, "residential real estate related transaction" means:

30 ...

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

33 (1) By representing that a change has occurred, or may or will occur in the
34 composition of the residents of the block, neighborhood, or area in which the
35 real property is located with respect to race, color, religion, sex, sexual
36 orientation, national origin, citizenship, disability, handicapping condition,
37 genetic information, pregnancy, veteran status, or familial status of the
38 owners or occupants; or

39 ...

40 (d) It is an unlawful discriminatory housing practice to deny any person who is
41 otherwise qualified by State law access to or membership or participation in any real estate
42 brokers' organization, multiple listing service, or other service, organization, or facility relating
43 to the business of engaging in real estate transactions, or to discriminate in the terms or
44 conditions of such access, membership, or participation because of race, color, religion, sex,
45 sexual orientation, national origin, citizenship, disability, handicapping condition, genetic
46 information, pregnancy, veteran status, or familial status.

47 ...

48 (g) It is an unlawful discriminatory housing practice to discriminate in land-use
49 decisions or in the permitting of development based on race, color, religion, sex, sexual
50 orientation, national origin, citizenship, disability, handicapping condition, genetic information,
51 pregnancy, veteran status, familial status, or, except as otherwise provided by law, the fact that

1 a development or proposed development contains affordable housing units for families or
2 individuals with incomes below eighty percent (80%) of area median income. It is not a
3 violation of this Chapter if land-use decisions or permitting of development is based on
4 considerations of limiting high concentrations of affordable housing.

5 (h) Notwithstanding any other provision of this section, if a person's bona fide religious
6 beliefs are contrary to the requirements of this section, then the person is exempt from the
7 requirements."

8 **SECTION 4.2.** Housing/Violations. – G.S. 41A-5 reads as rewritten:

9 **"§ 41A-5. Proof of violation.**

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

11 (1) A person by his act or failure to act intends to discriminate against a person.
12 A person intends to discriminate if, in committing an unlawful
13 discriminatory housing practice described in G.S. 41A-4 he was motivated in
14 full, or in any part at all, by race, color, religion, sex, sexual orientation,
15 national origin, citizenship, disability, handicapping condition, genetic
16 information, pregnancy, veteran status, or familial status. An intent to
17 discriminate may be established by direct or circumstantial evidence.
18 However, if a person's bona fide religious beliefs are contrary to the
19 requirements of this Chapter, then the person is exempt from the
20 requirements.

21 (2) A person's act or failure to act has the effect, regardless of intent, of
22 discriminating, as set forth in G.S. 41A-4, against a person of a particular
23 race, color, religion, sex, sexual orientation, national origin, citizenship,
24 disability, handicapping condition, genetic information, pregnancy, veteran
25 status, or familial status. However, it is not a violation of this Chapter if a
26 person whose action or inaction has an unintended discriminatory effect,
27 proves that his or her action or inaction was motivated and justified by
28 business necessity; business necessity or a bona fide religious belief.

29"

30 **SECTION 5.** Effective Date. – This act is effective when it becomes law.