

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H.B. 906
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10319-LRa-109B (04/06)

Short Title: Statewide Nondiscrimination/Funds. (Public)

Sponsors: Representative Meyer.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROTECT ALL NORTH CAROLINIANS AGAINST DISCRIMINATION IN
3 ALL WALKS OF LIFE AND APPROPRIATING FUNDS FOR THAT PURPOSE.
4 The General Assembly of North Carolina enacts:

5
6 **PART I. HOUSING**

7 **SECTION 1.1.** G.S. 41A-3 reads as rewritten:

8 **"§ 41A-3. Definitions.**

9 For the purposes of this Chapter, the following definitions apply:

10 ...

11 (5a) "Protected status" means a person's race, color, national origin, religion, age,
12 disability, sex, marital status, familial status, sexual orientation, gender
13 identity, military or veteran status, or genetic information.

14"

15 **SECTION 1.2.** G.S. 41A-4 reads as rewritten:

16 **"§ 41A-4. Unlawful discriminatory housing practices.**

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

- 20 (1) Refuse to engage in a real estate transaction;
- 21 (2) Discriminate against a person in the terms, conditions, or privileges of a real
22 estate transaction or in the furnishing of facilities or services in connection
23 therewith;
- 24 (2a), (2c) Repealed by Session Laws 2009-388, s. 1, effective October 1, 2009.
- 25 (3) Refuse to receive or fail to transmit a bona fide offer to engage in a real
26 estate transaction;
- 27 (4) Refuse to negotiate for a real estate transaction;
- 28 (5) Represent to a person that real property is not available for inspection, sale,
29 rental, or lease when in fact it is so available, or fail to bring a property
30 listing to his attention, or refuse to permit him to inspect real property;
- 31 (6) Make, print, circulate, post, or mail or cause to be so published a statement,
32 advertisement, or sign, or use a form or application for a real estate
33 transaction, or make a record or inquiry in connection with a prospective real
34 estate transaction, which indicates directly or indirectly, an intent to make a
35 limitation, specification, or discrimination with respect thereto;



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- 1 (7) Offer, solicit, accept, use, or retain a listing of real property with the
2 understanding that any person may be discriminated against in a real estate
3 transaction or in the furnishing of facilities or services in connection
4 therewith; or
5 (8) Otherwise make unavailable or deny housing.

6 ...
7 (b1) It is an unlawful discriminatory housing practice for any person or other entity
8 whose business includes engaging in residential real estate related transactions to discriminate
9 against any person in making available such a transaction, or in the terms and conditions of
10 such a transaction, because of ~~race, color, religion, sex, national origin, handicapping condition,~~
11 ~~or familial~~ that person's protected status. As used in this subsection, "residential real estate
12 related transaction" means:

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

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

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

- 22 (1) By representing that a change has occurred, or may or will occur in the
23 composition of the residents of the block, neighborhood, or area in which the
24 real property is located with respect to ~~race, color, religion, sex, national~~
25 ~~origin, handicapping condition, or familial~~ the protected status of the owners
26 or occupants; or
27 (2) By representing that a change has resulted, or may or will result in the
28 lowering of property values, an increase in criminal or antisocial behavior,
29 or a decline in the quality of schools in the block, neighborhood, or area in
30 which the real property is located.

31 (d) It is an unlawful discriminatory housing practice to deny any person who is
32 otherwise qualified by State law access to or membership or participation in any real estate
33 brokers' organization, multiple listing service, or other service, organization, or facility relating
34 to the business of engaging in real estate transactions, or to discriminate in the terms or
35 conditions of such access, membership, or participation because of ~~race, color, religion, sex,~~
36 ~~national origin, handicapping condition, or familial~~ that person's protected status.

37 ...
38 (g) It is an unlawful discriminatory housing practice to discriminate in land-use
39 decisions or in the permitting of development based on ~~race, color, religion, sex, national~~
40 ~~origin, handicapping condition, familial~~ a person's protected status, or, except as otherwise
41 provided by law, the fact that a development or proposed development contains affordable
42 housing units for families or individuals with incomes below eighty percent (80%) of area
43 median income. It is not a violation of this Chapter if land-use decisions or permitting of
44 development is based on considerations of limiting high concentrations of affordable housing."

45 **SECTION 1.3.** G.S. 41A-5(a) reads as rewritten:

46 "**§ 41A-5. Proof of violation.**

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

- 48 (1) A person by his act or failure to act intends to discriminate against a person.
49 A person intends to discriminate if, in committing an unlawful
50 discriminatory housing practice described in G.S. 41A-4 he was motivated in
51 full, or in any part at all, by ~~race, color, religion, sex, national origin,~~

handicapping condition, or familial a person's protected status. An intent to discriminate may be established by direct or circumstantial evidence.

- (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 of a protected status. However, it is not a violation of this Chapter if a person whose action or inaction has an unintended discriminatory effect, proves that his action or inaction was motivated and justified by business necessity.

...."

SECTION 1.4. G.S. 41A-6(a) reads as rewritten:

"§ 41A-6. Exemptions.

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

...

- (3) Religious institutions or organizations or charitable or educational organizations operated, supervised, or controlled by religious institutions or organizations which give preference to members of the same religion in a real estate transaction, as long as membership in such religion is not restricted by race, color, sex, national origin, handicapping condition, or familial status; a protected status, other than religion;

...."

PART II. EMPLOYMENT

SECTION 2.1. G.S. 143-422.2 reads as rewritten:

"§ 143-422.2. Legislative declaration.

It is the public policy of this State to protect and safeguard the right and opportunity of all persons to seek, obtain and hold employment without discrimination or abridgement on account of race, religion, color, national origin, age, sex or handicap sex, sexual orientation, gender identity, disability, marital status, familial status, military or veteran status, or genetic information by employers which regularly employ 15 or more employees. It is recognized that the practice of denying employment opportunity and discriminating in the terms of employment foments domestic strife and unrest, deprives the State of the fullest utilization of its capacities for advancement and development, and substantially and adversely affects the interests of employees, employers, and the public in general."

SECTION 2.2. G.S. 126-16 reads as rewritten:

"§ 126-16. Equal opportunity for employment and compensation by State departments and agencies and local political subdivisions.

All State agencies, departments, and institutions and all local political subdivisions of North Carolina shall give equal opportunity for employment and compensation, without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, marital status, familial status, military or veteran status, age, disability, or genetic information to all persons otherwise qualified."

SECTION 2.3. G.S. 126-34.02(b) reads as rewritten:

"(b) The following issues may be heard as contested cases after completion of the agency grievance procedure and the Office of State Human Resources review:

- (1) Discrimination or harassment. – An applicant for State employment, a State employee, or former State employee may allege discrimination or harassment based on race, religion, color, national origin, sex, sexual orientation, gender identity, marital status, familial status, military or veteran status, age, disability, genetic information, or political affiliation if the employee believes that he or she has been discriminated against in his or her

- 1 application for employment or in the terms and conditions of the employee's
2 employment, or in the termination of his or her employment.
- 3 (2) Retaliation. – An applicant for State employment, a State employee, or
4 former State employee may allege retaliation for protesting discrimination
5 based on race, religion, color, national origin, sex, sexual orientation, gender
6 identity, marital status, familial status, military or veteran status, age,
7 disability, political affiliation, or genetic information if the employee
8 believes that he or she has been retaliated against in his or her application for
9 employment or in the terms and conditions of the employee's employment,
10 or in the termination of the employee's employment.
- 11 (3) Just cause for dismissal, demotion, or suspension. – A career State employee
12 may allege that he or she was dismissed, demoted, or suspended for
13 disciplinary reasons without just cause. A dismissal, demotion, or suspension
14 which is not imposed for disciplinary reasons shall not be considered a
15 disciplinary action within the meaning of this section. However, in contested
16 cases conducted pursuant to this section, an employee may appeal an
17 involuntary nondisciplinary separation due to an employee's unavailability in
18 the same fashion as if it were a disciplinary action, but the agency shall only
19 have the burden to prove that the employee was unavailable. In cases of such
20 disciplinary action the employee shall, before the action is taken, be
21 furnished with a statement in writing setting forth the specific acts or
22 omissions that are the reasons for the disciplinary action and the employee's
23 appeal rights. The employee shall be permitted 15 days from the date the
24 statement is delivered to appeal under the agency grievance procedure.
25 However, an employee may be suspended without warning pending the
26 giving of written reasons in order to avoid undue disruption of work, to
27 protect the safety of persons or property, or for other serious reasons.
- 28 (4) Veteran's preference. – An applicant for State employment or a State
29 employee may allege that he or she was denied veteran's preference in
30 violation of the law.
- 31 (5) Failure to post or give priority consideration. – An applicant for State
32 employment or a State employee may allege that he or she was denied hiring
33 or promotion because a position was not posted in accordance with this
34 Chapter; or a career State employee may allege that he or she was denied a
35 promotion as a result of a failure to give priority consideration for promotion
36 as required by G.S. 126-7.1; or a career State employee may allege that he or
37 she was denied hiring as a result of the failure to give him or her a
38 reduction-in-force priority.
- 39 (6) Whistleblower. – A whistleblower grievance as provided for in this
40 Chapter."
41

42 PART III. PUBLIC ACCOMMODATIONS

43 SECTION 3.1. Chapter 143 of the General Statutes is amended by adding a new
44 Article to read:

45 "Article 49B.

46 "Access to Public Accommodations.

47 "§ 143-422.10. Short title.

48 This Article shall be known and may be cited as the "Equal Access to Public
49 Accommodations Act."

50 "§ 143-422.11. Legislative declaration.

1 It is the public policy of this State to protect and safeguard the right and opportunity of all
2 individuals within the State to enjoy fully and equally the goods, services, facilities, privileges,
3 advantages, and accommodations of places of public accommodation free of discrimination
4 because of race, religion, color, national origin, sex, sexual orientation, gender identity,
5 disability, marital status, familial status, military or veteran status, or genetic information. It
6 shall not be deemed to constitute discrimination on the basis of sexual orientation or gender
7 identity for a public accommodation to provide separate bathrooms or changing facilities based
8 on gender, but a place of public accommodation shall provide access to such facilities based on
9 a person's gender identity.

10 **"§ 143-422.12. Places of public accommodation defined.**

11 For purposes of this Article, places of public accommodation has the same meaning as
12 defined in G.S. 168A-3(8) but shall exclude any private club or other establishment not, in fact,
13 open to the public.

14 **"§ 143-422.13. Investigations; conciliations.**

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

19 (b) If the Commission is unable to effect an amicable resolution of the charges of
20 discrimination, the complainant and the Commission may proceed with an enforcement action
21 using the procedures provided in G.S. 41A-7."

22
23 **PART IV. CREDIT**

24 **SECTION 4.1.** Article 1 of Chapter 75 of the General Statutes is amended by
25 adding a new section to read:

26 **"§ 75-43. Discrimination by lenders prohibited.**

27 (a) Discrimination Prohibited. – No person engaged in any form of lending money in
28 this State, or to residents of this State, shall discriminate in the extension of credit on the basis
29 of race, color, national origin, religion, age, disability, sex, marital status, familial status, sexual
30 orientation, gender identity, military or veteran status, or genetic information.

31 (b) Filing of Complaint With Human Relations Commission. – Any person who claims
32 to have been injured by a violation of subsection (a) of this section or who reasonably believes
33 that he or she will be irrevocably injured by a violation of that subsection may file a complaint
34 with the North Carolina Human Relations Commission established under G.S. 143B-391. Upon
35 receipt of a complaint, the Commission shall work with the relevant parties to develop an
36 amicable resolution to the charge of discrimination. If the Commission is unable to effect an
37 amicable resolution of the charges of discrimination, the complainant and the Commission may
38 proceed with an enforcement action using the procedures provided in G.S. 41A-7. Filing of a
39 complaint pursuant to this subsection shall not preclude the filing of an action pursuant to
40 subsection (c) of this section.

41 (c) Violation an Unfair and Deceptive Trade Practice. – A violation of subsection (a) of
42 this section shall constitute an unfair trade practice in violation of G.S. 75-1.1."

43
44 **PART V. INSURANCE**

45 **SECTION 5.1.** G.S. 58-3-25 reads as rewritten:

46 **"§ 58-3-25. Discriminatory practices prohibited.**

47 ...

48 (c) No insurer shall refuse to insure or refuse to continue to insure an individual; limit
49 the amount, extent, or kind of coverage available to an individual; or charge an individual a
50 different rate for the same coverage, because of the race, color, ~~or~~ national or ethnic ~~origin~~
51 origin, religion, sex, marital status, familial status, sexual orientation, gender identity,

1 disability, military or veteran status, or genetic information of that individual. This subsection
2 supplements the provisions of G.S. 58-3-120, 58-33-80, 58-58-35, and 58-63-15(7)."
3

4 **PART VI. EDUCATION**

5 **SECTION 6.1.** G.S. 115C-47 is amended by adding a new subdivision to read:

6 "(64) To Adopt a Policy on Nondiscrimination in Schools. – Each local board of
7 education shall adopt a policy to establish that the local board of education
8 and school personnel employed by the local board shall not discriminate on
9 the basis of race, color, national origin, religion, age, disability, sex, marital
10 status, familial status, sexual orientation, gender identity, military or veteran
11 status, or genetic information. The policy shall include that any person who
12 claims to have been injured by an unlawful discriminatory practice or who
13 reasonably believes that he or she will be irrevocably injured by an unlawful
14 discriminatory practice may file a complaint with the North Carolina Human
15 Relations Commission established under G.S. 143B-391. Upon receipt of a
16 complaint, the Commission shall work with the relevant parties to develop
17 an amicable resolution to the charge of discrimination. If the Commission is
18 unable to effect an amicable resolution of the charges of discrimination, the
19 complainant and the Commission may proceed with an enforcement action
20 using the procedures provided in G.S. 41A-7."

21 **SECTION 6.2.(a)** G.S. 115C-218.45(e) reads as rewritten:

22 "(e) Except as otherwise provided by law or the mission of the school as set out in the
23 charter, the school shall not limit admission to students on the basis of intellectual ability,
24 measures of achievement or aptitude, athletic ability, or disability. A charter school shall not
25 limit admission to students on the basis of race, ~~ered,~~ color, national origin, religion, ~~or~~
26 ~~ancestry,~~ age, sex, marital status, familial status, sexual orientation, gender identity, military or
27 veteran status, or genetic information. A charter school whose mission is single-sex education
28 may limit admission on the basis of sex. A charter school that serves only certain grade levels
29 may limit admission based on age. Within one year after the charter school begins operation,
30 the charter school shall make efforts for the population of the school to reasonably reflect the
31 racial and ethnic composition of the general population residing within the local school
32 administrative unit in which the school is located or the racial and ethnic composition of the
33 special population that the school seeks to serve residing within the local school administrative
34 unit in which the school is located. The school shall be subject to any court-ordered
35 desegregation plan in effect for the local school administrative unit."

36 **SECTION 6.2.(b)** G.S. 115C-218.55 reads as rewritten:

37 **"§ 115C-218.55. Nondiscrimination in charter schools.**

38 A charter school shall not discriminate ~~against any student~~ on the basis of ~~ethnicity,~~
39 ~~national origin, gender,~~ race, color, religion, age, sex, marital status, familial status, sexual
40 orientation, gender identity, military or veteran status, genetic information, or disability. Any
41 person who claims to have been injured by an unlawful discriminatory practice or who
42 reasonably believes that he or she will be irrevocably injured by an unlawful discriminatory
43 practice may file a complaint with the North Carolina Human Relations Commission
44 established under G.S. 143B-391. Upon receipt of a complaint, the Commission shall work
45 with the relevant parties to develop an amicable resolution to the charge of discrimination. If
46 the Commission is unable to effect an amicable resolution of the charges of discrimination, the
47 complainant and the Commission may proceed with an enforcement action using the
48 procedures provided in G.S. 41A-7."

49 **SECTION 6.3.** G.S. 115C-521.2 is repealed.

50 **SECTION 6.4.** G.S. 115C-562.5(c1) reads as rewritten:

1 "(c1) A nonpublic school shall not discriminate ~~with respect to the categories listed in 42~~
2 ~~U.S.C. § 2000d, as that statute read on January 1, 2014,~~ on the basis of race, color, national
3 origin, religion, age, disability, sex, marital status, familial status, sexual orientation, gender
4 identity, military or veteran status, or genetic information. Any person who claims to have been
5 injured by an unlawful discriminatory practice or who reasonably believes that he or she will be
6 irrevocably injured by an unlawful discriminatory practice may file a complaint with the North
7 Carolina Human Relations Commission established under G.S. 143B-391. Upon receipt of a
8 complaint, the Commission shall work with the relevant parties to develop an amicable
9 resolution to the charge of discrimination. If the Commission is unable to effect an amicable
10 resolution of the charges of discrimination, the complainant and the Commission may proceed
11 with an enforcement action using the procedures provided in G.S. 41A-7."

12 **SECTION 6.5.** G.S. 115D-77 reads as rewritten:

13 **"§ 115D-77. Nondiscrimination policy.**

14 It is the policy of the State Board of Community Colleges and of local boards of trustees of
15 the State of North Carolina not to discriminate ~~among students~~ on the basis of race,
16 gender, color, national origin, religion, age, sex, marital status, familial status, sexual
17 orientation, gender identity, military or veteran status, genetic information, or disability.

18 The State Board and each board of trustees shall give equal opportunity for employment
19 and compensation of personnel at community colleges, without regard to race, religion, color,
20 creed, national origin, sex, age, marital status, familial status, sexual orientation, gender
21 identity, military or veteran status, genetic information, or disability, except where specific age,
22 sex or physical or mental requirements constitute bona fide occupational qualifications.

23 Any person who claims to have been injured by an unlawful discriminatory practice or who
24 reasonably believes that he or she will be irrevocably injured by an unlawful discriminatory
25 practice may file a complaint with the North Carolina Human Relations Commission
26 established under G.S. 143B-391. Upon receipt of a complaint, the Commission shall work
27 with the relevant parties to develop an amicable resolution to the charge of discrimination. If
28 the Commission is unable to effect an amicable resolution of the charges of discrimination, the
29 complainant and the Commission may proceed with an enforcement action using the
30 procedures provided in G.S. 41A-7."

31 **SECTION 6.6.** G.S. 116-11 is amended by adding a new subdivision to read:

32 "(2a) The Board of Governors shall adopt a policy to provide that The University
33 of North Carolina and its affiliates and personnel employed by The
34 University of North Carolina and its affiliates shall not discriminate on the
35 basis of race, color, national origin, religion, age, disability, sex, marital
36 status, familial status, sexual orientation, gender identity, military or veteran
37 status, or genetic information. The policy shall include that any person who
38 claims to have been injured by an unlawful discriminatory practice or who
39 reasonably believes that he or she will be irrevocably injured by an unlawful
40 discriminatory practice may file a complaint with the North Carolina Human
41 Relations Commission established under G.S. 143B-391. Upon receipt of a
42 complaint, the Commission shall work with the relevant parties to develop
43 an amicable resolution to the charge of discrimination. If the Commission is
44 unable to effect an amicable resolution of the charges of discrimination, the
45 complainant and the Commission may proceed with an enforcement action
46 using the procedures provided in G.S. 41A-7."

47
48 **PART VII. HUMAN RELATIONS COMMISSION**

49 **SECTION 7.1.** G.S. 143B-391 reads as rewritten:

50 **"§ 143B-391. North Carolina Human Relations Commission – Creation; powers and**
51 **duties.**

1 There is hereby created the North Carolina Human Relations Commission of the
2 Department of Administration. The North Carolina Human Relations Commission shall have
3 the following functions and duties:

- 4 (1) To study problems concerning human relations;
- 5 (2) To promote equality of opportunity for all citizens;
- 6 (3) To promote understanding, respect, and goodwill among all citizens;
- 7 (4) To provide channels of communication among the races;
- 8 (5) To encourage the employment of qualified people without regard to race;
- 9 (6) To encourage youths to become better trained and qualified for employment;
- 10 (7) To receive on behalf of the Department of Administration and to recommend
11 expenditure of gifts and grants from public and private donors;
- 12 (8) To enlist the cooperation and assistance of all State and local government
13 officials in the attainment of the objectives of the Commission;
- 14 (9) To assist local good neighborhood councils and biracial human relations
15 committees in promoting activities related to the functions of the
16 Commission enumerated above;
- 17 (10) To advise the Secretary of Administration upon any matter the Secretary
18 may refer to it;
- 19 (11) To administer the provisions of the State Fair Housing Act as outlined in
20 Chapter 41A of the General Statutes;
- 21 (12) To administer the provisions of Chapter 99D of the General Statutes.
- 22 (13) To administer the provisions of the Equal Access to Public Accommodations
23 Act as outlined in Article 49B of Chapter 143 of the General Statutes.
- 24 (14) To administer the provisions of G.S. 143-422.3.
- 25 (15) To administer the provisions of G.S. 143-422.13.
- 26 (16) To administer the provisions of G.S. 75-43.
- 27 (17) To administer the provisions of G.S. 115C-47(64).
- 28 (18) To administer the provisions of G.S. 115C-218.55.
- 29 (19) To administer the provisions of G.S. 115C-562.5.
- 30 (20) To administer the provisions of G.S. 115D-77.
- 31 (21) To administer the provisions of G.S. 116-11."

32 33 **PART VIII. APPROPRIATIONS**

34 **SECTION 8.1.(a)** There is appropriated from the General Fund to the Department
35 of Administration, Human Relations Commission, the sum of one million dollars (\$1,000,000)
36 for the 2017-2018 fiscal year to provide grants to requesting counties and municipalities to be
37 used to support nonprofit community organizations that support youth who identify as lesbian,
38 gay, bisexual, transgender, or queer.

39 **SECTION 8.1.(b)** There is appropriated from the General Fund to the Department
40 of Administration, Human Relations Commission, the sum of seven hundred eighty-eight
41 thousand seventy-six dollars (\$788,076) in recurring funds for the 2017-2018 fiscal year. Of the
42 funds appropriated by this section, the sum of five hundred forty-five thousand four hundred
43 seven dollars (\$545,407) shall be used for operating expenses and the sum of two hundred
44 forty-two thousand six hundred sixty-nine dollars (\$242,669) shall be used to fund the
45 following new positions:

- 46 (1) Program Assistant IV.
 - 47 (2) Human Relations Specialist I.
 - 48 (3) Human Relations Specialist I.
 - 49 (4) Administrative Assistant.
- 50

1 **PART IX. NONDISCRIMINATION PREEMPTION AND MORATORIUM**
2 **REPEALED**

3 **SECTION 9.1.(a)** Article 81A of Chapter 143 of the General Statutes, as enacted
4 by Section 2 of S.L. 2017-4, is repealed.

5 **SECTION 9.1.(b)** Section 3 of S.L. 2017-4 is repealed.

6 **SECTION 9.1.(c)** Section 4 of S.L. 2017-4 reads as rewritten:

7 "**SECTION 4.** This act is effective when it becomes law. ~~Section 3 of this act expires on~~
8 ~~December 1, 2020.~~"

9
10 **PART X. EFFECTIVE DATE**

11 **SECTION 10.1.** Section 8.1 of this act becomes effective July 1, 2017. The
12 remainder of this act is effective when it becomes law and applies to causes of action arising on
13 or after that date.