

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

FILED SENATE
Apr 1, 2019
S.B. 455
PRINCIPAL CLERK

S

D

SENATE BILL DRS15235-LR-72B*

Short Title: Equality for All.

(Public)

Sponsors: Senators Waddell, Searcy, and Woodard (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROTECT ALL NORTH CAROLINIANS AGAINST DISCRIMINATION IN
3 ALL WALKS OF LIFE.

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24 (2a), (2c) Repealed by Session Laws 2009-388, s. 1, effective October 1, 2009.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 estate
26 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 listing
30 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 transaction,
33 or make a record or inquiry in connection with a prospective real estate
34 transaction, which indicates directly or indirectly, an intent to make a
35 limitation, specification, or discrimination with respect thereto;



* D R S 1 5 2 3 5 - L R - 7 2 B *

- 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 whose
 8 business includes engaging in residential real estate related transactions to discriminate against
 9 any person in making available such a transaction, or in the terms and conditions of such a
 10 transaction, because of ~~race, color, religion, sex, national origin, handicapping condition, or~~
 11 ~~familial~~ that person's protected status. As used in this subsection, "residential real estate related
 12 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 its
 19 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, or
 29 a decline in the quality of schools in the block, neighborhood, or area in which
 30 the real property is located.

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

37 ...

38 (g) It is an unlawful discriminatory housing practice to discriminate in land-use decisions
 39 or in the permitting of development based on ~~race, color, religion, sex, national origin,~~
 40 ~~handicapping condition, familial~~ a person's protected status, or, except as otherwise provided by
 41 law, the fact that a development or proposed development contains affordable housing units for
 42 families or individuals with incomes below eighty percent (80%) of area median income. It is
 43 not a violation of this Chapter if land-use decisions or permitting of development is based on
 44 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 discriminatory
 50 housing practice described in G.S. 41A-4 he was motivated in full, or in any
 51 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, as amended by this act, 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 one 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 application for

- 1 employment or in the terms and conditions of the employee's employment, or
 2 in the termination of his or her employment.
- 3 (2) Retaliation. – An applicant for State employment, a State employee, or former
 4 State employee may allege retaliation for protesting discrimination based on
 5 race, religion, color, national origin, sex, sexual orientation, gender identity,
 6 marital status, familial status, military or veteran status, age, disability,
 7 political affiliation, or genetic information if the employee believes that he or
 8 she has been retaliated against in his or her application for employment or in
 9 the terms and conditions of the employee's employment, or in the termination
 10 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 furnished
 21 with a statement in writing setting forth the specific acts or omissions that are
 22 the reasons for the disciplinary action and the employee's appeal rights. The
 23 employee shall be permitted 15 days from the date the statement is delivered
 24 to appeal under the agency grievance procedure. However, an employee may
 25 be suspended without warning pending the giving of written reasons in order
 26 to avoid undue disruption of work, to protect the safety of persons or property,
 27 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 Chapter."
 40

41 PART III. PUBLIC ACCOMMODATIONS

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

44 "Article 49B.

45 "Access to Public Accommodations.

46 **"§ 143-422.10. Short title.**

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

49 **"§ 143-422.11. Legislative declaration.**

50 (a) It is the public policy of this State to protect and safeguard the right and opportunity
 51 of all individuals within the State to enjoy fully and equally the goods, services, facilities,

1 privileges, advantages, and accommodations of places of public accommodation free of
2 discrimination because of race, religion, color, national origin, sex, sexual orientation, gender
3 identity, disability, marital status, familial status, military or veteran status, or genetic
4 information. It shall not be deemed to constitute discrimination on the basis of sexual orientation
5 or gender identity for a public accommodation to provide separate bathrooms or changing
6 facilities based on gender, but a place of public accommodation shall provide access to such
7 facilities based on a person's gender identity.

8 **"§ 143-422.12. Places of public accommodation defined.**

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

12 **"§ 143-422.13. Investigations; conciliations.**

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

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

20
21 **PART IV. CREDIT**

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

24 **"§ 75-43. Discrimination by lenders prohibited.**

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

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

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

41
42 **PART V. INSURANCE**

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

44 **"§ 58-3-25. Discriminatory practices prohibited.**

45 ...

46 (c) No insurer shall refuse to insure or refuse to continue to insure an individual; limit the
47 amount, extent, or kind of coverage available to an individual; or charge an individual a different
48 rate for the same coverage, because of the race, color, ~~or~~ national or ethnic ~~origin~~ origin, religion,
49 sex, marital status, familial status, sexual orientation, gender identity, disability, military or
50 veteran status, or genetic information of that individual. This subsection supplements the
51 provisions of G.S. 58-3-120, 58-33-80, 58-58-35, and 58-63-15(7)."

1
2 **PART VI. EDUCATION**

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

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

19 **SECTION 6.2.** Part 1H of Article 9 of Chapter 115C of the General Statutes is
20 amended by adding a new section to read:

21 **"§ 115C-112.10. Nondiscrimination requirement.**

22 A nonpublic school that accepts eligible students receiving scholarship grants shall not
23 discriminate on the basis of race, color, national origin, religion, age, disability, sex, marital
24 status, familial status, sexual orientation, gender identity, military or veteran status, or genetic
25 information. Any person who claims to have been injured by an unlawful discriminatory practice
26 or who reasonably believes that he or she will be irrevocably injured by an unlawful
27 discriminatory practice may file a complaint with the North Carolina Human Relations
28 Commission (Commission) established under G.S. 143B-391. Upon receipt of a complaint, the
29 Commission shall work with the relevant parties to develop an amicable resolution to the charge
30 of discrimination. If the Commission is unable to effect an amicable resolution of the charge of
31 discrimination, the complainant and the Commission may proceed with an enforcement action
32 using the procedures provided by G.S. 41A-7."

33 **SECTION 6.3.(a)** G.S. 115C-218.45(e) reads as rewritten:

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

48 **SECTION 6.3.(b)** G.S. 115C-218.55 reads as rewritten:

49 **"§ 115C-218.55. Nondiscrimination in charter schools.**

50 A charter school shall not discriminate against any student on the basis of ethnicity, national
51 origin, ~~gender,~~ race, color, religion, age, sex, marital status, familial status, sexual orientation,

1 gender identity, military or veteran status, genetic information, or disability. Any person who
2 claims to have been injured by an unlawful discriminatory practice or who reasonably believes
3 that he or she will be irrevocably injured by an unlawful discriminatory practice may file a
4 complaint with the North Carolina Human Relations Commission established under
5 G.S. 143B-391. Upon receipt of a complaint, the Commission shall work with the relevant parties
6 to develop an amicable resolution to the charge of discrimination. If the Commission is unable
7 to effect an amicable resolution of the charges of discrimination, the complainant and the
8 Commission may proceed with an enforcement action using the procedures provided in
9 G.S. 41A-7."

10 **SECTION 6.4.** G.S. 115C-521.2 is repealed.

11 **SECTION 6.5.** G.S. 115C-562.5(c1) reads as rewritten:

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

23 **SECTION 6.6.** G.S. 115D-77 reads as rewritten:

24 "**§ 115D-77. Nondiscrimination policy.**

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

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

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

42 **SECTION 6.7.** G.S. 116-11 is amended by adding a new subdivision to read:

43 "(2a) The Board of Governors shall adopt a policy to provide that The University
44 of North Carolina and its affiliates and personnel employed by The University
45 of North Carolina and its affiliates shall not discriminate on the basis of race,
46 color, national origin, religion, age, disability, sex, marital status, familial
47 status, sexual orientation, gender identity, military or veteran status, or genetic
48 information. The policy shall include that any person who claims to have been
49 injured by an unlawful discriminatory practice or who reasonably believes that
50 he or she will be irrevocably injured by an unlawful discriminatory practice
51 may file a complaint with the North Carolina Human Relations Commission

1 established under G.S. 143B-391. Upon receipt of a complaint, the
2 Commission shall work with the relevant parties to develop an amicable
3 resolution to the charge of discrimination. If the Commission is unable to
4 effect an amicable resolution of the charges of discrimination, the complainant
5 and the Commission may proceed with an enforcement action using the
6 procedures provided in G.S. 41A-7."
7

8 **PART VII. JURY SERVICE**

9 **SECTION 7.1.** G.S. 15A-1214 is amended by adding a new subsection to read:

10 "(k) A citizen may not be excluded from jury service in this State on account of race, color,
11 national origin, religion, age, disability, sex, marital status, familial status, sexual orientation,
12 gender identity, military or veteran status, or genetic information."
13

14 **PART VIII. EFFECTIVE DATE**

15 **SECTION 8.1.** This act becomes effective July 1, 2019.