

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 262*

Short Title: Fair Housing/Handicapped & Family.

(Public)

Sponsors: Senator Goldston.

Referred to: Judiciary III.

February 23, 1989

A BILL TO BE ENTITLED

AN ACT TO AMEND THE STATE FAIR HOUSING ACT BY EXTENDING PROTECTION TO THE HANDICAPPED AND FAMILIES WITH CHILDREN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 41A-3 is amended by adding four new subdivisions to read:

"(1a) 'Covered multifamily dwelling' means:

(a) A building with four or more units if the building has one or more elevators, and

(b) Ground floor units in any other building with four or more units.

(1b) 'Familial status' means one or more individuals (who have not attained the age of 18 years) being domiciled with

(a) A parent or another person having legal custody of such individual or individuals; or

(b) The designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

(3a) 'Handicapping condition' means (i) a physical or mental impairment which substantially limits one or more of a person's major life activities, (ii) a record of having such an impairment, or (iii) being regarded as having such an impairment.

Handicapping condition does not include current, illegal use of or addiction to a controlled substance as defined in 21 U.S.C. 802, the Controlled Substances Act. The protections afforded against discrimination on the basis of handicapping condition shall

1 apply to a buyer or renter of a dwelling, a person residing in or intending to reside in the
2 dwelling after it is sold, rented, or made available, or any person associated with the
3 buyer or renter.

4 (4a) 'Housing for older persons' means housing

5 (a) Provided under any State or federal program specifically designed and
6 operated to assist elderly persons as defined in the program; or

7 (b) Intended for and solely occupied by persons 62 years or older; or

8 (c) Intended for and operated for occupancy by at least one person 55
9 years or older per unit as shown by such factors as (i) the existence of
10 significant facilities and services specifically designed to meet the
11 physical or social needs of older persons or, if this is not practicable,
12 that the housing provides important housing opportunities for older
13 persons; and (ii) at least 80 percent (80%) of the units are occupied by
14 at least one person 55 years or older per unit; and (iii) the publication
15 of and adherence to policies and procedures which demonstrate an
16 intent by the owner or manager to provide housing for persons 55
17 years or older.

18 Housing in which there are units occupied by persons who do not meet the age
19 requirements of subdivisions (b) and (c) or in which there are unoccupied units shall
20 meet the requirements of housing for older persons if future occupants of these units
21 meet the age requirements."

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

23 "**§ 41A-4. Unlawful discriminatory housing practices.**

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

27 (1) Refuse to engage in a real estate transaction;

28 (2) Discriminate against a person in the terms, conditions, or privileges of
29 a real estate transaction or in the furnishing of facilities or services in
30 connection therewith;

31 (2a) Refuse to permit, at the expense of a handicapped person, reasonable
32 modifications of existing premises occupied or to be occupied by the
33 person if the modifications are necessary to the handicapped person's
34 full enjoyment of the premises;

35 (2b) Refuse to make reasonable accommodations in rules, policies,
36 practices, or services, when these accommodations may be necessary
37 to a handicapped person's equal use and enjoyment of a dwelling;

38 (2c) Fail to design and construct covered multifamily dwellings available
39 for first occupancy after March 13, 1991, so that (i) the public and
40 common use portions are readily accessible to and usable by
41 handicapped persons; (ii) there is an accessible route into and through
42 all dwellings and units therein; (iii) all doors designed to allow passage
43 into, within, and through these dwellings and individual units therein
44 are wide enough for wheelchairs; (iv) light switches, electrical outlets,

1 thermostats, and other environmental controls are in accessible
2 locations; (v) bathroom walls are reinforced to allow later installation
3 of grab bars; and (vi) kitchens and bathrooms have space for an
4 individual in a wheelchair to maneuver;

- 5 (3) Refuse to receive or fail to transmit a bona fide offer to engage in a
6 real estate transaction;
7 (4) Refuse to negotiate for a real estate transaction;
8 (5) Represent to a person that real property is not available for inspection,
9 sale, rental, or lease when in fact it is so available, or fail to bring a
10 property listing to his attention, or refuse to permit him to inspect real
11 property;
12 (6) Make, print, circulate, post, or mail or cause to be so published a
13 statement, advertisement, or sign, or use a form or application for a
14 real estate transaction, or make a record or inquiry in connection with a
15 prospective real estate transaction, which indicates directly or
16 indirectly, an intent to make a limitation, specification, or
17 discrimination with respect thereto;
18 (7) Offer, solicit, accept, use, or retain a listing of real property with the
19 understanding that any person may be discriminated against in a real
20 estate transaction or in the furnishing of facilities or services in
21 connection therewith; or
22 (8) Otherwise make unavailable or deny housing.

23 (b) It is an unlawful discriminatory housing practice for a financial institution to
24 whom application is made for a loan, or other financial assistance in connection with a
25 real estate transaction or for the construction, rehabilitation, repair, maintenance, or
26 improvement of real property to:

- 27 (1) Discriminate against the applicant because of race, color, religion, sex,
28 ~~or national origin~~ national origin, handicapping condition, or familial
29 status; or
30 (2) Use a form of application for a loan, or other financial assistance, or
31 make or keep a record of inquiry in connection with an application for
32 a loan, or other financial assistance which indicates, directly or
33 indirectly, an intent to make a limitation, specification, or
34 discrimination as to race, color, religion, sex, ~~or national origin~~ national
35 origin, handicapping condition, or familial status.

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

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

- 41 (1) By representing that a change has occurred, or may or will occur in the
42 composition of the residents of the block, neighborhood, or area in
43 which the real property is located with respect to race, color, religion,

1 sex, ~~or national origin~~ national origin, handicapping condition, or
2 familial status of the owners or occupants; or

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

7 (d) It is an unlawful discriminatory housing practice to deny any person who is
8 otherwise qualified by State law membership in any real estate brokers' organization,
9 multiple listing service, or other service, organization, or facility relating to the business
10 of engaging in real estate transactions, or to discriminate in the terms or conditions of
11 such membership because of race, color, religion, sex, ~~or national origin~~ national origin,
12 handicapping condition, or familial status."

13 Sec. 3. G.S. 41A-5 reads as rewritten:

14 **"§ 41A-5. Proof of violation.**

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

16 (1) A person by his act or failure to act intends to discriminate against a
17 person. A person intends to discriminate if, in committing an unlawful
18 discriminatory housing practice described in G.S. 41A-4 he was
19 motivated in full, or in any part at all, by race, color, religion, sex,
20 national origin, ~~or any other characteristic or classification protected by this~~
21 Chapter handicapping condition, or familial status. An intent to
22 discriminate may be established by direct or circumstantial evidence;
23 or

24 (2) A person's act or failure to act has the effect, regardless of intent, of
25 discriminating, as set forth in G.S. 41A-4, against a person of a
26 particular race, color, religion, sex, national origin, ~~or any other~~
27 characteristic or classification protected by this Chapter handicapping
28 condition, or familial status. However, it is not a violation of this
29 Chapter if a person whose action or inaction has an unintended
30 discriminatory effect, proves that his action or inaction was motivated
31 and justified by business necessity.

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

34 Sec. 4. G.S. 41A-6 reads as rewritten:

35 **"§ 41A-6. Exemptions.**

36 (a) The provisions of G.S. 41A-4 do not apply to the following:

37 (1) The rental of a housing accommodation in a building which contains
38 housing accommodations for not more than four families living
39 independently of each other, if the lessor or a member of his family
40 resides in one of the housing accommodations;

41 (2) The rental of a room or rooms in a private house, not a boarding house,
42 if the lessor or a member of his family resides in the house;

43 (3) Religious institutions or organizations or charitable or educational
44 organizations operated, supervised, or controlled by religious

1 institutions or organizations which give preference to members of the
2 same religion in a real estate transaction, as long as membership in
3 such religion is not restricted by race, color, sex, ~~or national~~
4 origin, national origin, handicapping condition, or familial status;

5 (4) Private clubs, not in fact open to the public, which incident to their
6 primary purpose or purposes provide lodging, which they own or
7 operate for other than a commercial purpose, to their members or give
8 preference to their members;

9 (5) With respect to discrimination based on sex, the rental or leasing of
10 housing accommodations in single-sex dormitory property;

11 (6) Any person, otherwise subject to its provisions, who adopts and carries
12 out a plan to eliminate present effects of past discriminatory practices
13 or to assure equal opportunity in real estate transactions, if the plan is
14 part of a conciliation agreement entered into by that person under the
15 provisions of this Chapter or under the provisions of the Federal Fair
16 Housing Act, 42 U.S.C. § 3601 **et seq.**, or is voluntary and is
17 consistent with the purposes thereof;

18 (7) The sale, rental, exchange, or lease of commercial real estate. For the
19 purposes of this Chapter, commercial real estate means real property
20 which is not intended for residential use.

21 (b) No provision of this Chapter requires that a dwelling be made available to an
22 individual whose tenancy would constitute a direct threat to the health or safety of other
23 individuals or whose tenancy would result in substantial physical damage to the
24 property of others.

25 (c) No provision of this Chapter limits the applicability of any reasonable local or
26 State restrictions regarding the maximum number of occupants permitted to occupy a
27 dwelling unit. Nor does any provision in this Chapter regarding familial status apply
28 with respect to housing for older persons.

29 (d) Nothing in this Chapter shall be deemed to nullify any provisions of the
30 North Carolina Building Code applicable to the construction of residential housing for
31 the handicapped."

32 Sec. 5. This act is effective upon ratification.