

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 2273  
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Short Title: Winston-Salem Fair Housing.

(Local)

Sponsors: Representatives Kennedy; Burke, Esposito, and Gray.

Referred to: Government.

June 1, 1990

1 A BILL TO BE ENTITLED  
2 AN ACT AMENDING THE CHARTER OF THE CITY OF WINSTON-SALEM  
3 RELATING TO FAIR HOUSING.

4 The General Assembly of North Carolina enacts:

5 Section 1. Article XII of the Charter of the City of Winston-Salem, being  
6 Chapter 232, Private Laws of 1927, as amended by Chapter 608, Session Laws of 1981,  
7 is rewritten to read:

8 "ARTICLE XII.  
9 "FAIR HOUSING.

10 "Sec. 45. Equal Housing.

11 The Board of Aldermen may adopt ordinances prohibiting discrimination on the  
12 basis of race, color, sex, religion, national origin, handicap or familial status in real  
13 estate transactions. Such ordinances may regulate or prohibit any act, practice, activity  
14 or procedure related directly or indirectly, to the sale or rental of public or private  
15 housing, which affects or may tend to affect the availability, accessibility or desirability  
16 of housing on an equal basis to all persons; may provide that the city may apply to the  
17 General Court of Justice or the aggrieved person(s) in a private right of action  
18 instituted under the ordinance; may apply to the General Court of Justice for appropriate  
19 legal and equitable remedies including mandatory and prohibitory injunctions,  
20 temporary restraining orders, orders of abatement, actual and punitive damages, the  
21 assessment of civil penalties in accordance with the Fair Housing Amendments Act of  
22 1988, attorney's fees to the prevailing party and the court shall have the power to grant  
23 such remedies. The ordinance adopted by the Board of Aldermen shall provide that the

1 aggrieved person(s) or respondent has the right to elect to have all claims and issues  
2 asserted, after a reasonable cause determination has been made by the Human Relations  
3 Director, decided in a civil action commenced and maintained by the City thereby  
4 foregoing the City's administrative hearing process.

5 "Sec. 46. Exemptions.

6 (a) Any ordinance enacted pursuant to this Article may provide for exemption  
7 from its coverage:

- 8 (1) The sale or rental of any single-family house by an owner; provided  
9 that such private individual owner does not own or have any interest in  
10 more than three such single-family houses at any one time; provided  
11 further, that in the case of the sale of any such single-family house by a  
12 private individual owner not residing in such house at the time of such  
13 sale or who was not the most recent resident of such house prior to  
14 such sale, the exemption granted may only apply with respect to one  
15 such sale within any 24-month period; provided further, that any  
16 single-family house under this exemption may not be sold or rented (i)  
17 with the use in any manner of the sales or rental facilities of any  
18 person in the business of selling or renting dwellings or the sales or  
19 rental services of any real estate broker, agent, salesman or of any  
20 employee of any such broker, agent or salesman, or (ii) with the  
21 publication, or posting or any advertisement in violation of the  
22 ordinance. Nothing in this provision shall prohibit the use of the  
23 attorneys, escrow agents, abstractors, title companies and other such  
24 provisional assistance as necessary to perfect or transfer the title.
- 25 (2) Rooms or units in dwellings containing living quarters occupied or  
26 intended to be occupied by no more than four families living  
27 independently of each other if the owner actually maintains and  
28 occupies one of such living quarters as his or her residence.
- 29 (3) With respect to discrimination based on sex, the rental or leasing of  
30 housing accommodations in single-sex dormitory property.
- 31 (4) The rental of a room or rooms in a private house, not a boarding house,  
32 if the lessor or a member of his family resides in the house.
- 33 (5) Housing accommodations owned and operated for other than a  
34 commercial purpose by a religious organization, association or society  
35 or any nonprofit institution or organization, operated, supervised or  
36 controlled by or in conjunction with a religious organization,  
37 association or society shall not be prohibited by this Article from  
38 limiting the sale, rental or occupancy of dwellings which it owns or  
39 operates to persons of the same religion or from giving preference to  
40 such persons unless membership in such religion is restricted on  
41 account of race, color, or national origin.
- 42 (6) The sale, rental, exchange or lease of commercial real estate, which is  
43 real estate not intended for residential use.

- 1 (7) A private club, not in fact, open to the public, which as an incident to  
2 its primary purpose or purposes, provides lodging which it owns or  
3 operates for other than commercial purposes limiting the rental or  
4 occupancy of such lodging to its members or giving preference to its  
5 members.
- 6 (8) The provisions of this Article regarding familial status shall not apply  
7 with respect to housing for older persons.
- 8 (b) As used in this section 'housing for older persons' means, housing:  
9 (1) Provided under any State or federal program that is specifically  
10 designed and operated to assist elderly persons (as defined in the State  
11 or federal program); or  
12 (2) Intended for, and solely occupied by, persons 62 years of age or older;  
13 or  
14 (3) Intended and operated for occupancy by at least one person 55 years of  
15 age or older as shown by the following factors:  
16 a. The existence of significant facilities and services specifically  
17 designed to meet the physical or social needs of older persons,  
18 or if the provision of such facilities and services is not  
19 practicable, that such housing is necessary to provide important  
20 housing opportunities for older persons; and  
21 b. That at least eighty percent (80%) of the dwellings are occupied  
22 by at least one person 55 years of age or older per unit; and  
23 c. The publication of, and adherence to, policies and procedures  
24 which demonstrate an intent by the owner or manager to  
25 provide housing for persons 55 years of age or older.
- 26 (c) Housing shall not fail to meet the requirements of 'housing for older persons'  
27 by reason of:  
28 (1) Persons residing in such housing as of the date of enactment of this act  
29 who do not meet the requirements of subsection (b)(2) and (3).  
30 (2) Unoccupied units, provided that such units are reserved for occupancy  
31 by persons who meet the age requirements of subsection (b)(2) and  
32 (3).
- 33 (d) Housing facilities newly constructed for first occupancy after the date of  
34 enactment of this Article shall satisfy the requirements of subsection (b)(3) if:  
35 (1) When twenty-five percent (25%) of the units are occupied, eighty  
36 percent (80%) of the occupied units are occupied by at least one  
37 person 55 years or older thereafter; and  
38 (2) Eighty percent (80%) of all newly occupied units are occupied by at  
39 least one person 55 years or older until such time as eighty percent  
40 (80%) of all units in the housing facility are occupied by at least one  
41 person 55 years or older.

42 "Sec. 47. Enforcement.

43 The Board of Aldermen may create or designate a committee or commission to  
44 assume the duty and responsibility of enforcing ordinances adopted pursuant to this

1 Article. Such body may be granted any authority deemed necessary by the Board of  
2 Aldermen for the proper enforcement of any fair housing ordinance, including the  
3 power to:

- 4 (1) Promulgate rules for the receipt, initiation, investigation and  
5 conciliation of complaints of violations of the ordinance.
- 6 (2) Conduct public hearings regarding complaints of alleged violations of  
7 the ordinances; issue subpoenas, request and require answers to  
8 interrogatories; request and require the production of documents and  
9 things, and the entry upon land and premises in the possession of a  
10 party to a complaint alleging a violation of the ordinances and compel  
11 the attendance of witnesses at public hearings under oath or  
12 affirmation.
- 13 (3) Apply to the General Court of Justice, upon the failure of any person  
14 to respond to or to comply with a lawful interrogatory, request for  
15 production of documents and things, request to enter upon land and  
16 premises, or subpoena, for an order requiring such person to respond  
17 or comply.
- 18 (4) Apply to the General Court of Justice for mandatory and prohibitory  
19 injunctions or temporary restraining orders.
- 20 (5) Upon finding reasonable cause to believe that a violation of ordinances  
21 has occurred, to petition, with the permission of the Board of  
22 Aldermen, the General Court of Justice for appropriate civil relief.
- 23 (6) In the event that the U.S. Department of Housing and Urban  
24 Development pursuant to 42 U.S.C. 3610(f) determines that it is  
25 required that the commission or committee be able to make final  
26 decisions and apply to the General Court of Justice without the  
27 permission of the Board of Aldermen, the commission or committee  
28 shall have the power to:
  - 29 a. Make final decisions regarding complaints of violations of the  
30 ordinances, and
  - 31 b. Petition the General Court of Justice for appropriate civil relief  
32 upon a finding of reasonable cause to believe that a violation of  
33 the ordinances has occurred.
- 34 (7) If it is further determined by the U.S. Department of Housing and  
35 Urban Development that pursuant to 42 U.S.C. 3610(f) the  
36 commission or committee must be able to make final decisions  
37 reviewable by the General Court of Justice and assess actual damages  
38 and civil penalties upon a finding of reasonable cause to believe a  
39 violation has occurred, the commission or committee shall have the  
40 power to:
  - 41 a. Make final decisions subject to review by the General Court of  
42 Justice within 15 days of the decision of the commission or  
43 committee, and

- 1                   b.     Assess actual damages and/or civil penalties and injunctive or  
2                             other equitable relief in accordance with the Fair Housing  
3                             Amendments Act of 1988.

4     "Sec. 48. Complaints and Other Records.

5     Neither complaints filed with the Board of Aldermen or any committee or  
6     commission designated the duty or responsibility of enforcing ordinances adopted  
7     pursuant to this Article nor the results of that body's investigations, discovery or  
8     attempts at conciliation shall be subject to examination or copying under the provisions  
9     of what is now Chapter 132 of the General Statutes. Each conciliation agreement shall  
10    be public record unless the aggrieved person and respondent otherwise agree and the  
11    Board of Aldermen or the designated commission or committee determine that  
12    disclosure is not required to further the purposes of this Article.

13    "Sec. 49. Committee Meetings.

14    The Board of Aldermen may provide that the statutory provisions relating to  
15    meetings of governmental bodies, presently embodied in Article 33C of Chapter 143 of  
16    the General Statutes, shall not apply to the activity of any body authorized to enforce the  
17    ordinances, to the extent that said body is receiving a complaint or conducting an  
18    investigation, discovery or conciliation pertaining to a complaint filed pursuant to the  
19    ordinances.

20    "Sec. 50. Occupancy Standards.

21    Nothing in this Article should be construed to prohibit reasonable local, State, and  
22    federal restrictions regarding the maximum number of occupants permitted to occupy a  
23    dwelling."

24           Sec. 2. This act is effective upon ratification.