

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 334
Commerce, Small Business and Entrepreneurship Committee Substitute Adopted
7/9/07

Short Title: Fair Housing Act Amendment.

(Public)

Sponsors:

Referred to:

February 26, 2007

A BILL TO BE ENTITLED

AN ACT AMENDING THE STATE FAIR HOUSING ACT TO PROHIBIT
DISCRIMINATION ON THE BASIS OF RECEIPT OF HOUSING ASSISTANCE
AND TO APPROPRIATE FUNDS TO THE NORTH CAROLINA HUMAN
RELATIONS COMMISSION TO ADMINISTER THIS ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 41A-3 is amended by adding a new subdivision to read:

"(4a) "Housing assistance" means a subsidy provided to defray the cost of rental housing for a household that has a member who is either: (i) age 62 or over or (ii) has been determined eligible for a government-funded disability program, such as veterans benefits, social security disability, or supplemental security income."

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

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

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

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

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

(2a) Refuse to permit, at the expense of a handicapped person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications are necessary to the handicapped person's full enjoyment of the premises; except that, in the case of a rental unit, the landlord may, where it is reasonable to do so, condition permission for modifications on agreement by the renter to restore the interior of

- 1 the premises to the condition that existed before the modifications,
2 reasonable wear and tear excepted;
- 3 (2b) Refuse to make reasonable accommodations in rules, policies,
4 practices, or services, when these accommodations may be necessary
5 to a handicapped person's equal use and enjoyment of a dwelling;
- 6 (2c) Fail to design and construct covered multifamily dwellings available
7 for first occupancy after March 13, 1991, so that:
- 8 a. The dwellings have at least one building entrance on an
9 accessible route, unless it is impractical to do so because of
10 terrain or unusual site characteristics; or
- 11 b. With respect to dwellings with a building entrance on an
12 accessible route:
- 13 1. The public and common use portions are readily
14 accessible to and usable by handicapped persons;
- 15 2. There is an accessible route into and through all
16 dwellings and units;
- 17 3. All doors designed to allow passage into, within, and
18 through these dwellings and individual units are wide
19 enough for wheelchairs;
- 20 4. Light switches, electrical switches, electrical outlets,
21 thermostats, and other environmental controls are in
22 accessible locations;
- 23 5. Bathroom walls are reinforced to allow later installation
24 of grab bars; and
- 25 6. Kitchens and bathrooms have space for an individual in a
26 wheelchair to maneuver;
- 27 (3) Refuse to receive or fail to transmit a bona fide offer to engage in a
28 real estate transaction;
- 29 (4) Refuse to negotiate for a real estate transaction;
- 30 (5) Represent to a person that real property is not available for inspection,
31 sale, rental, or lease when in fact it is so available, or fail to bring a
32 property listing to ~~his~~ the person's attention, or refuse to permit ~~him~~ the
33 person to inspect real property;
- 34 (6) Make, print, circulate, post, or mail or cause to be so published a
35 statement, advertisement, or sign, or use a form or application for a
36 real estate transaction, or make a record or inquiry in connection with a
37 prospective real estate transaction, which indicates directly or
38 indirectly, an intent to make a limitation, specification, or
39 discrimination with respect thereto;
- 40 (7) Offer, solicit, accept, use, or retain a listing of real property with the
41 understanding that any person may be discriminated against in a real
42 estate transaction or in the furnishing of facilities or services in
43 connection therewith; or
- 44 (8) Otherwise make unavailable or deny housing.

1 (b) Repealed by Session Laws 1989, c. 507, s. 2.

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

8 (1) The making or purchasing of loans or providing financial assistance (i)
9 for purchasing, constructing, improving, repairing, or maintaining a
10 dwelling, or (ii) where the security is residential real estate; or

11 (2) The selling, brokering, or appraising of residential real estate.

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

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

18 (1) By representing that a change has occurred, or may or will occur in the
19 composition of the residents of the block, neighborhood, or area in
20 which the real property is located with respect to race, color, religion,
21 sex, national origin, handicapping condition, housing assistance, or
22 familial status of the owners or occupants; or

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

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

34 (e) It is an unlawful discriminatory housing practice to coerce, intimidate,
35 threaten, or interfere with any person in the exercise or enjoyment of, on account of
36 having exercised or enjoyed, or on account of having aided or encouraged any other
37 person in the exercise or enjoyment of any right granted or protected by this Chapter."

38 **SECTION 3.** G.S. 41A-5 reads as rewritten:

39 **"§ 41A-5. Proof of violation.**

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

41 (1) A person by ~~his~~ the person's act or failure to act intends to discriminate
42 against a ~~another~~ person. A person intends to discriminate if, in
43 committing an unlawful discriminatory housing practice described in
44 G.S. 41A-4 ~~he~~ the person was motivated in full, or in any part at all, by

1 race, color, religion, sex, national origin, handicapping condition,
2 housing assistance, or familial status. An intent to discriminate may be
3 established by direct or circumstantial evidence; or

- 4 (2) A person's act or failure to act has the effect, regardless of intent, of
5 discriminating, as set forth in G.S. 41A-4, against a person of a
6 particular race, color, religion, sex, national origin, handicapping
7 condition, housing assistance, or familial status. However, it is not a
8 violation of this Chapter if a person whose action or inaction has an
9 unintended discriminatory effect, proves that ~~his~~ the person's action or
10 inaction was motivated and justified by business necessity.

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

13 (c) It is not a violation of this Chapter if the housing assistance on which the
14 transaction is dependent is not authorized for the transaction within 14 days of the date
15 of the landlord's approval of the tenant."

16 **SECTION 4.** G.S. 41A-6(a) reads as rewritten:

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

- 19 (1) The rental of a housing accommodation in a building which contains
20 housing accommodations for not more than four families living
21 independently of each other, if the lessor or a member of ~~his~~ the
22 lessor's family resides in one of the housing accommodations;
23 (2) The rental of a room or rooms in a private house, not a boarding house,
24 if the lessor or a member of ~~his~~ the lessor's family resides in the house;
25 (3) Religious institutions or organizations or charitable or educational
26 organizations operated, supervised, or controlled by religious
27 institutions or organizations which give preference to members of the
28 same religion in a real estate transaction, as long as membership in
29 such religion is not restricted by race, color, sex, national origin,
30 handicapping condition, housing assistance, or familial status;
31 (4) Private clubs, not in fact open to the public, which incident to ~~their~~ the
32 private clubs' primary purpose or purposes provide lodging, which
33 ~~they~~ the private clubs own or operate for other than a commercial
34 purpose, to ~~their~~ the private clubs' members or give preference to ~~their~~
35 the private clubs' members;
36 (5) With respect to discrimination based on sex, the rental or leasing of
37 housing accommodations in single-sex dormitory property; and
38 (6) Repealed by Session Laws 1989 (Reg. Sess., 1990), c. 979, s. 4.
39 (7) The sale, rental, exchange, or lease of commercial real estate. For the
40 purposes of this Chapter, commercial real estate means real property
41 which is not intended for residential use."

42 **SECTION 5.** Of the funds appropriated to the Department of Administration
43 for the 2007-2008 fiscal year, the sum of fifty thousand dollars (\$50,000) is

1 appropriated for use by the North Carolina Human Relations Commission in handling
2 additional claims on account of the addition of housing assistance status by this act.

3 **SECTION 6.** This act becomes effective October 1, 2007, and applies to
4 actions taken or not taken on or after that date.