

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 522
SENATE BILL 279

AN ACT TO PROHIBIT DISCRIMINATION IN HOUSING.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes of North Carolina are amended to add a new Chapter 41A to read as follows:

"CHAPTER 41A.

"State Fair Housing Act.

"§ 41A-1. Title. – This Chapter shall be known and may be cited as the State Fair Housing Act.

"§ 41A-2. Purpose. – The purpose of this act is to provide fair housing throughout the State of North Carolina.

"§ 41A-3. Definitions. – For the purposes of this Chapter, the following definitions apply:

- (1) The 'Council' means the North Carolina Human Relations Council;
- (2) 'Family' includes a single individual;
- (3) 'Financial Institution' means any banking corporation or trust company, savings and loan association, credit union, insurance company, or related corporation, partnership, foundation, or other institution engaged primarily in lending or investing funds;
- (4) 'Housing Accommodation' means any improved or unimproved real property, or part thereof, which is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home or residence of one or more individuals;
- (5) 'Person' means any individual, association, corporation, political subdivision, partnership, labor union, legal representative, mutual company, joint stock company, trust, trustee in bankruptcy, unincorporated organization, or other legal or commercial entity, the State, or governmental entity or agency;
- (6) 'Real estate broker or salesman' means a person, whether licensed or not, who, for or with the expectation of receiving a consideration, lists, sells, purchases, exchanges, rents, or leases real property, or who negotiates or attempts to negotiate any of these activities, or who holds himself out as engaged in these activities, or who negotiates or attempts to negotiate a loan secured or to be secured by mortgage or other encumbrance upon real property, or who is engaged in the

business of listing real property in a publication; or a person employed by or acting on behalf of any of these persons;

- (7) 'Real estate transaction' means the sale, exchange, rental, or lease of real property;
- (8) 'Real property' means a building, structure, real estate, land, tenement, leasehold, interest in real estate cooperatives, condominium, and hereditament, corporeal and incorporeal, or any interest therein.

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

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

- (1) Discriminate against the applicant because of race, color, religion, sex, or national origin; or
- (2) Use a form of application for a loan, or other financial assistance, or make or keep a record of inquiry in connection with an application for a loan, or other financial assistance which indicates, directly or indirectly, an intent to make a limitation, specification, or discrimination as to race, color, religion, sex, or national origin.

The provisions of this subsection shall not prohibit any financial institution from basing its actions on the income or financial abilities of any person.

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

- (1) By representing that a change has occurred, or may or will occur in the composition of the residents of the block, neighborhood, or area in which the real property is located with respect to race, color, religion, sex, or national origin of the owners or occupants; or
- (2) By representing that a change has resulted, or may or will result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located.

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

"§ 41A-5. Acting for another person no defense. – It shall be no defense to a violation of this Chapter that the violation was requested, sought or otherwise procured by another person.

"§ 41A-6. Exemptions. – The provisions of G.S. 41A-4 do not apply to the following:

- (1) The rental of a housing accommodation in a building which contains housing accommodations for not more than four families living independently of each other, if the lessor or a member of his family resides in one of the housing accommodations;
- (2) The rental of a room or rooms in a house by an individual if he or a member of his family resides therein;
- (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, or national origin;
- (4) Private clubs, not in fact open to the public, which incident to their primary purpose or purposes provide lodging, which they own or operate for other than a commercial purpose, to their members or give preference to their members;
- (5) With respect to discrimination based on sex, the rental or leasing of housing accommodations in single-sex dormitory property;
- (6) Any person, otherwise subject to its provisions, who adopts and carries out a plan to eliminate present effects of past discriminatory practices or to assure equal opportunity in real estate transactions, if the plan is part of a conciliation agreement entered into by that person under the provisions of this Chapter or under the provisions of the Federal Fair

Housing Act, 42 U.S.C. G.S. 3601 et seq. or is voluntary and is consistent with the purposes thereof.

"§ 41A-7. Enforcement. – (a) Any person who claims to have been injured by an unlawful discriminatory housing practice, or who reasonably believes that he will be irrevocably injured by an unlawful discriminatory housing practice may file a complaint with the North Carolina Human Relations Council. Complaints shall be in writing, shall state the facts upon which the allegation of an unlawful discriminatory housing practice is based, and shall contain such other information, and be in such form as the Council requires. Within 10 days of receipt of the complaint the Director of the Council shall furnish a copy of the complaint to the person or persons who allegedly committed or are about to commit the unlawful discriminatory housing practice. Within 30 days after receiving a complaint the Council shall investigate the complaint to determine whether the matters complained of are within its jurisdiction, and shall, if jurisdiction is so found, give notice to the aggrieved person whether it intends to resolve it.

If the Council finds reasonable grounds to believe that an unlawful discriminatory housing practice has occurred it shall proceed to try to eliminate or correct such discriminatory housing practice by informal methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public by any employee of the Council, or used as evidence in a subsequent proceeding under this act without the written consent of the persons concerned. If the Council finds no reasonable ground to believe that an unlawful discriminatory housing practice has occurred or is about to occur it shall dismiss the complaint, and issue to the complaining party a right-to-sue letter which will enable him to bring a civil action in superior court.

(b) A complaint under subsection (a) shall be filed within 180 days after the alleged unlawful discriminatory housing practice occurred. A respondent may file an answer to the complaint against him within 10 days after receiving a copy of the complaint. With the leave of the Council, which shall be granted whenever it would be reasonable and fair to do so, the complaint and the answer may be amended at any time. Complaints and answers shall be verified.

(c) Whenever another agency of the State or any other unit of government of the State has jurisdiction over the subject matter of any complaint filed under this section, and such agency or unit of government has legal authority equivalent to or greater than the authority under this Chapter to investigate or act upon the complaint, the Council shall be divested of jurisdiction over such complaint. The Council shall, within 30 days, notify the agency or unit of government of the apparent unlawful discriminatory housing practice, and request that the complaint be investigated in accordance with such authority.

(d)(i) If within 180 days after a complaint has been filed the Council has failed to take final action, the complainant may commence a civil action in superior court against the respondent to enforce the rights granted or protected by this act, insofar as such rights relate to the subject of the complaint. The commencement of an action by the complainant shall divest the Council of jurisdiction over the complaint. Within 10 days of the filing of the action the complainant shall mail a copy of the original complaint to the Council.

(d)(ii) If the Council, within the 180-day period in subsection (d)(i) is unable to resolve the alleged unlawful discriminatory housing practice, by the methods allowed by this section, the Council may commence a civil action in superior court against the respondent for such preventive relief as it deems necessary to insure the full enjoyment of the rights granted by this act. In the event the complainant has also filed a complaint the court shall consolidate the actions.

(e) The court may grant relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, and may award to the plaintiff, actual and punitive damages, and may award court costs, and reasonable attorney's fees to the prevailing party, other than a State agency or commission; provided, however, that a prevailing respondent may be awarded court costs and reasonable attorney's fees only upon a showing that the case is frivolous, unreasonable, or without foundation.

"§ 41A-8. Investigation; subpoenas. – (a) In conducting an investigation, the Council shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation: Provided, however, that the Council first complies with the provisions of the Fourth Amendment to the United States Constitution relating to unreasonable searches and seizures.

(b) The Council may issue subpoenas to compel access to or the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the general court of justice.

(c) Upon written application to the Council, a respondent shall be entitled to the issuance of a reasonable number of subpoenas subject to the same limitations as subpoenas issued by the Council. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his request.

(d) In case of contumacy or refusal to obey a subpoena, the Council or the respondent may petition for its enforcement in the superior court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

"§ 41A-9. Statute of limitation. – Any civil action brought pursuant to this Chapter, shall be commenced within 180 days from the date of issuance of the right-to-sue letter, or the expiration of 180 days from the filing of a complaint with the Council whichever occurs first.

"§ 41A-10. Venue. – All civil actions shall be commenced in the county where the alleged unlawful discriminatory housing practice occurred, or in the county where the real property is located."

Sec. 2. G.S. 143B-391 is amended by removing the word "and" from the end of subdivision (9), by deleting the period at the end of subdivision (10) and substituting "; and", and by adding a new subdivision (11) at the end to read:

"(11) To administer the provisions of the State Fair Housing Act as outlined in Chapter 41A of the General Statutes."

Sec. 3. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 14th day of June, 1983.