

**§ 41A-5. Proof of violation.**

- (a) It is a violation of this Chapter if:
- (1) A person by his act or failure to act intends to discriminate against a person. A person intends to discriminate if, in committing an unlawful discriminatory housing practice described in G.S. 41A-4 he was motivated in full, or in any part at all, by race, color, religion, sex, national origin, handicapping condition, or familial 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 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.
  - (3) A person's act or failure to act violates G.S. 41A-4(f).
  - (4) A local government's act or failure to act in land-use decisions or in the permitting of development is intended to discriminate against affordable housing. A local government intends to discriminate if, in committing an unlawful discriminatory housing practice described in G.S. 41A-4(g), the local government was motivated in full, or in any part at all, by the fact that a development or proposed development contains affordable housing units for families or individuals with incomes below eighty percent (80%) of area median income. It is not a violation of this Chapter if land-use decisions or permitting of development is based on considerations of limiting high concentrations of affordable housing. An intent to discriminate may be established by direct or circumstantial evidence.
  - (5) A local government's act or failure to act has the effect, regardless of intent, of discriminating against affordable housing in land-use decisions or in the permitting of development, as set forth in G.S. 41A-4(g). It is not a violation of this Chapter if land-use decisions or permitting of development is based on considerations of limiting high concentrations of affordable housing. It is not a violation of this Chapter if a local government whose action or inaction has an unintended discriminatory effect proves that the action or inaction was motivated and justified by a legitimate, bona fide governmental interest.
- (b) It shall be no defense to a violation of this Chapter that the violation was requested, sought, or otherwise procured by another person. (1983, c. 522, s. 1; 1987, c. 603, s. 1; 1989, c. 507, s. 3; 2009-388, s. 2; 2009-533, s. 2.)