

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 334*
Committee Substitute Favorable 5/8/89

Short Title: Fair Housing/Handicapped & Family.

(Public)

Sponsors:

Referred to:

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 three new subdivisions to read:

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

- a. A building, including all units and common use areas, in which there are four or more units if the building has one or more elevators; or
- b. Ground floor units and ground floor common use areas in a building with four or more units.

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

- a. A parent or another person having legal custody of the person or persons; or
- b. The designee of the parent or other person having custody, provided the designee has the written permission of the parent or other person.

The protections 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 person 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

1 controlled substance as defined in 21 U.S.C. § 802, the Controlled Substances Act. The
2 protections against discrimination on the basis of handicapping condition shall apply to
3 a buyer or renter of a dwelling, a person residing in or intending to reside in the
4 dwelling after it is sold, rented, or made available, or any person associated with the
5 buyer or renter."

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

7 **"§ 41A-4. Unlawful discriminatory housing practices.**

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

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

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

15 (2a) Refuse to permit, at the expense of a handicapped person, reasonable
16 modifications of existing premises occupied or to be occupied by the
17 person if the modifications are necessary to the handicapped person's
18 full enjoyment of the premises; except that, in the case of a rental unit,
19 the landlord may, where it is reasonable to do so, condition permission
20 for modifications on agreement by the renter to restore the interior of
21 the premises to the condition that existed before the modifications,
22 reasonable wear and tear excepted;

23 (2b) Refuse to make reasonable accommodations in rules, policies,
24 practices, or services, when these accommodations may be necessary
25 to a handicapped person's equal use and enjoyment of a dwelling;

26 (2c) Fail to design and construct covered multifamily dwellings available
27 for first occupancy after March 13, 1991, so that:

28 a. The dwellings have at least one building entrance on an
29 accessible route, unless it is impractical to do so because of
30 terrain or unusual site characteristics; or

31 b. With respect to dwellings with a building entrance on an
32 accessible route:

33 1. The public and common use portions are readily
34 accessible to and usable by handicapped persons;

35 2. There is an accessible route into and through all
36 dwellings and units;

37 3. All doors designed to allow passage into, within, and
38 through these dwellings and individual units are wide
39 enough for wheelchairs;

40 4. Light switches, electrical switches, electrical outlets,
41 thermostats, and other environmental controls are in
42 accessible locations;

43 5. Bathroom walls are reinforced to allow later installation
44 of grab bars; and

6. Kitchens and bathrooms have space for an individual in a wheelchair to maneuver;

- (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.~~

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

- (1) The making or purchasing of loans or providing financial assistance (i) for purchasing, constructing, improving, repairing, or maintaining a dwelling, or (ii) where the security is residential real estate; or
- (2) The selling, brokering, or appraising of residential real estate.

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

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

7 (1) By representing that a change has occurred, or may or will occur in the
8 composition of the residents of the block, neighborhood, or area in
9 which the real property is located with respect to race, color, religion,
10 sex, ~~or~~ national origin, handicapping condition, or familial status of the
11 owners or occupants; or

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

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

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

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

27 "**§ 41A-5. Proof of violation.**

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

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

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

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

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

4 **"§ 41A-6. Exemptions.**

5 (a) Except for G.S. 41A-4(a)(6), the provisions of G.S. 41A-4 do not apply
6 to the following:

- 7 (1) The rental of a housing accommodation in a building which contains
8 housing accommodations for not more than four families living
9 independently of each other, if the lessor or a member of his family
10 resides in one of the housing accommodations;
- 11 (2) The rental of a room or rooms in a private house, not a boarding house,
12 if the lessor or a member of his family resides in the house;
- 13 (3) Religious institutions or organizations or charitable or educational
14 organizations operated, supervised, or controlled by religious
15 institutions or organizations which give preference to members of the
16 same religion in a real estate transaction, as long as membership in
17 such religion is not restricted by race, color, sex, ~~or~~ national origin,
18 handicapping condition, or familial status;
- 19 (4) Private clubs, not in fact open to the public, which incident to their
20 primary purpose or purposes provide lodging, which they own or
21 operate for other than a commercial purpose, to their members or give
22 preference to their members;
- 23 (5) With respect to discrimination based on sex, the rental or leasing of
24 housing accommodations in single-sex dormitory property;
- 25 (6) Any person, otherwise subject to its provisions, who adopts and carries
26 out a plan to eliminate present effects of past discriminatory practices
27 or to assure equal opportunity in real estate transactions, if the plan is
28 part of a conciliation agreement entered into by that person under the
29 provisions of this Chapter or under the provisions of the Federal Fair
30 Housing Act, 42 U.S.C. § 3601 **et seq.**, or is voluntary and is
31 consistent with the purposes thereof;
- 32 (7) The sale, rental, exchange, or lease of commercial real estate. For the
33 purposes of this Chapter, commercial real estate means real property
34 which is not intended for residential use.

35 (b) No provision of this Chapter requires that a dwelling be made available to a
36 person whose tenancy would constitute a direct threat to the health or safety of other
37 persons or whose tenancy would result in substantial physical damage to the property of
38 others.

39 (c) No provision of this Chapter limits the applicability of any reasonable local or
40 State restrictions regarding the maximum number of occupants permitted to occupy a
41 dwelling unit.

42 (d) Nothing in this Chapter shall be deemed to nullify any provisions of the
43 North Carolina Building Code applicable to the construction of residential housing for
44 the handicapped.

1 (e) No provision of this Chapter regarding familial status applies with respect to
2 housing for older persons. 'Housing for older persons' means housing:

3 (1) Provided under any State or federal program specifically designed and
4 operated to assist elderly persons as defined in the program;

5 (2) Intended for and solely occupied by person 62 years or older. Housing
6 satisfies the requirements of this subdivision even though there are
7 persons residing in such housing on October 1, 1989, who are under 62
8 years of age, provided that all new occupants after October 1, 1989,
9 are 62 years or older; or

10 (3) Intended for and operated for occupancy by at least one person 55
11 years of age or older per unit as shown by such factors as (i) the
12 existence of significant facilities and services specifically designed to
13 meet the physical and social needs of older persons or, if this is not
14 practicable, that the housing provides important housing opportunities
15 for older persons, (ii) at least eighty percent (80%) of the units are
16 occupied by at least one person 55 years of age or older per unit; and
17 (iii) the publication of and adherence to policies and procedures which
18 demonstrate an intent by the owner or manager to provide housing for
19 persons 55 years or older. Housing satisfies the requirements of this
20 subdivision even though on October 1, 1989, under eighty percent
21 (80%) of the units in the housing facility are occupied by at least one
22 person 55 years or older per unit, provided that eighty percent (80%)
23 of the units that are occupied by new tenants after October 1, 1989, are
24 occupied by at least one person 55 years or older per unit until such
25 time as eighty percent (80%) of all the units in the housing facility are
26 occupied by at least one person 55 years or older. Housing facilities
27 newly constructed for first occupancy after October 1, 1989, shall
28 satisfy the requirements of this subdivision if (i) when twenty-five
29 percent (25%) of the units are occupied, eighty percent (80%) of the
30 occupied units are occupied by at least one person 55 years or older,
31 and thereafter (ii) eighty percent (80%) of all newly occupied units are
32 occupied by at least one person 55 years or older until such time as
33 eighty percent (80%) of all the units in the housing facility are
34 occupied by at least one person 55 years of age or older.

35 Housing satisfies the requirements of subdivisions (2) and (3) of this subsection even
36 though there are units occupied by employees of the housing facility who are under the
37 minimum age or family members of the employees residing in the same unit who are
38 under the minimum age, provided the employees perform substantial duties directly
39 related to the management of the housing."

40 Sec. 5. This act shall become effective October 1, 1989.