

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 907

Short Title: Fair Housing Protections-Source of Income. (Public)

Sponsors: Representative Montgomery.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary, if favorable, Rules, Calendar, and Operations of the House

April 22, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE DISCRIMINATION AGAINST AN INDIVIDUAL BASED UPON THAT
3 INDIVIDUAL'S SOURCE OF INCOME IN A REAL ESTATE TRANSACTION A
4 VIOLATION OF THE STATE FAIR HOUSING ACT.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Chapter 41A of the General Statutes reads as rewritten:

7 **"§ 41A-1. Title.**

8 This Chapter shall be known and may be cited as the State Fair Housing Act.

9 **"§ 41A-2. Purpose.**

10 The purpose of this Chapter is to provide fair housing throughout the State of North Carolina.

11 **"§ 41A-3. Definitions.**

12 For the purposes of this Chapter, the following definitions apply:

13 ...

14 (5a) "Private assistance" means financial assistance received from a private source,
15 including a nonprofit organization, charitable organization, or any other
16 nongovernmental source.

17 ...

18 (7) "Real estate transaction" means the sale, exchange, rental, or lease of real
19 property;

20 (8) "Real property" means a building, structure, real estate, land, tenement,
21 leasehold, interest in real estate cooperatives, condominium, and
22 hereditament, corporeal and incorporeal, or any interest therein.

23 (9) "Source of income" means any lawful source of money paid directly,
24 indirectly, or on behalf of a renter or buyer of housing, including the
25 following:

26 a. Income derived from any lawful profession or occupation.

27 b. Income or rental payments derived from any government or private
28 assistance, grant, or loan program.

29 **"§ 41A-4. Unlawful discriminatory housing practices.**

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

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



- 1 (2) Discriminate against a person in the terms, conditions, or privileges of a real
2 estate transaction or in the furnishing of facilities or services in connection
3 therewith;
- 4 (2a), (2c) Repealed by Session Laws 2009-388, s. 1, effective October 1, 2009.
- 5 (3) Refuse to receive or fail to transmit a bona fide offer to engage in a real estate
6 transaction;
- 7 (4) Refuse to negotiate for a real estate transaction;
- 8 (5) Represent to a person that real property is not available for inspection, sale,
9 rental, or lease when in fact it is so available, or fail to bring a property listing
10 to his attention, or refuse to permit him to inspect real property;
- 11 (6) Make, print, circulate, post, or mail or cause to be so published a statement,
12 advertisement, or sign, or use a form or application for a real estate transaction,
13 or make a record or inquiry in connection with a prospective real estate
14 transaction, which indicates directly or indirectly, an intent to make a
15 limitation, specification, or discrimination with respect thereto;
- 16 (7) Offer, solicit, accept, use, or retain a listing of real property with the
17 understanding that any person may be discriminated against in a real estate
18 transaction or in the furnishing of facilities or services in connection
19 therewith; or
- 20 (8) Otherwise make unavailable or deny housing.
- 21 (b) Repealed by Session Laws 1989, c. 507, s. 2.
- 22 (b1) It is an unlawful discriminatory housing practice for any person or other entity whose
23 business includes engaging in residential real estate related transactions to discriminate against
24 any person in making available such a transaction, or in the terms and conditions of such a
25 transaction, because of race, color, religion, sex, national origin, handicapping condition, source
26 of income, or familial status. As used in this subsection, "residential real estate related
27 transaction" means:
- 28 (1) The making or purchasing of loans or providing financial assistance (i) for
29 purchasing, constructing, improving, repairing, or maintaining a dwelling, or
30 (ii) where the security is residential real estate; or
- 31 (2) The selling, brokering, or appraising of residential real estate.
- 32 The provisions of this subsection shall not prohibit any financial institution from using a loan
33 application which inquires into a person's financial and dependent obligations or from basing its
34 actions on the income or financial abilities of any person.
- 35 (c) It is an unlawful discriminatory housing practice for a person to induce or attempt to
36 induce another to enter into a real estate transaction from which such person may profit:
- 37 (1) By representing that a change has occurred, or may or will occur in the
38 composition of the residents of the block, neighborhood, or area in which the
39 real property is located with respect to race, color, religion, sex, national
40 origin, handicapping condition, source of income, or familial status of the
41 owners or occupants; or
- 42 (2) By representing that a change has resulted, or may or will result in the
43 lowering of property values, an increase in criminal or antisocial behavior, or
44 a decline in the quality of schools in the block, neighborhood, or area in which
45 the real property is located.
- 46 (d) It is an unlawful discriminatory housing practice to deny any person who is otherwise
47 qualified by State law access to or membership or participation in any real estate brokers'
48 organization, multiple listing service, or other service, organization, or facility relating to the
49 business of engaging in real estate transactions, or to discriminate in the terms or conditions of
50 such access, membership, or participation because of race, color, religion, sex, national origin,
51 handicapping condition, source of income, or familial status.

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

5 ...

6 (g) It is an unlawful discriminatory housing practice to discriminate in land-use decisions
7 or in the permitting of development based on race, color, religion, sex, national origin,
8 handicapping condition, familial status, source of income, or, except as otherwise provided by
9 law, the fact that a development or proposed development contains affordable housing units for
10 families or individuals with incomes below eighty percent (80%) of area median income. It is
11 not a violation of this Chapter if land-use decisions or permitting of development is based on
12 considerations of limiting high concentrations of affordable housing.

13 **"§ 41A-5. Proof of violation.**

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

- 15 (1) A person by his act or failure to act intends to discriminate against a person.
16 A person intends to discriminate if, in committing an unlawful discriminatory
17 housing practice described in G.S. 41A-4 he was motivated in full, or in any
18 part at all, by race, color, religion, sex, national origin, handicapping
19 condition, source of income, or familial status. An intent to discriminate may
20 be established by direct or circumstantial evidence.
- 21 (2) A person's act or failure to act has the effect, regardless of intent, of
22 discriminating, as set forth in G.S. 41A-4, against a person of a particular race,
23 color, religion, sex, national origin, handicapping condition, source of income,
24 or familial status. However, it is not a violation of this Chapter if a person
25 whose action or inaction has an unintended discriminatory effect, proves that
26 his action or inaction was motivated and justified by business necessity.

27 ...

28 **"§ 41A-6. Exemptions.**

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

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

1 "

2 **SECTION 2.** This act becomes effective December 1, 2019, and applies to real estate

3 transactions entered into on or after that date.