

ANTIDISCRIMINATION AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen H. Urquhart

House Sponsor:

LONG TITLE

General Description:

This bill modifies the Utah Antidiscrimination Act and the Utah Fair Housing Act to address discrimination, including discrimination on the basis of sexual orientation and gender identity.

Highlighted Provisions:

This bill:

- ▶ modifies definition provisions related to employment and housing discrimination, including defining "gender identity" and "sexual orientation";
- ▶ modifies powers of division;
- ▶ includes sexual orientation and gender identity as prohibited bases for discrimination in employment;
- ▶ addresses dress and grooming standards and shared facilities;
- ▶ addresses exclusive remedy;
- ▶ modifies exemptions to the Utah Fair Housing Act;
- ▶ includes sexual orientation and gender identity as prohibited bases for discriminatory housing practices; and
- ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:



28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **34A-5-102**, as last amended by Laws of Utah 2011, Chapter 413

32 **34A-5-104**, as last amended by Laws of Utah 2012, Chapter 369

33 **34A-5-106**, as last amended by Laws of Utah 2013, Chapter 278

34 **34A-5-107**, as last amended by Laws of Utah 2008, Chapter 382

35 **57-21-2**, as last amended by Laws of Utah 2010, Chapter 379

36 **57-21-3**, as last amended by Laws of Utah 1993, Chapter 114

37 **57-21-5**, as last amended by Laws of Utah 2011, Chapter 366

38 **57-21-6**, as last amended by Laws of Utah 1993, Chapter 114

39 **57-21-7**, as last amended by Laws of Utah 1993, Chapter 114



41 *Be it enacted by the Legislature of the state of Utah:*

42 Section 1. Section **34A-5-102** is amended to read:

43 **34A-5-102. Definitions -- Unincorporated entities.**

44 (1) As used in this chapter:

45 (a) "Affiliate" is as defined in Section **16-6a-102**.

46 ~~(a)~~ (b) "Apprenticeship" means a program for the training of apprentices including a
47 program providing the training of those persons defined as apprentices by Section **35A-6-102**.

48 ~~(b)~~ (c) "Bona fide occupational qualification" means a characteristic applying to an
49 employee that:

50 (i) is necessary to the operation of the employer's business; or

51 (ii) is the essence of the ~~employee's~~ employer's business.

52 ~~(c)~~ (d) "Court" means:

53 (i) the district court in the judicial district of the state in which the asserted unfair
54 employment practice ~~occurred~~ occurs; or

55 (ii) if ~~this~~ the district court is not in session at that time, a judge of the court described
56 in Subsection (1)~~(c)~~(d)(i).

57 ~~(d)~~ (e) "Director" means the director of the division.

58 ~~(e)~~ (f) "Disability" means a physical or mental disability as defined and covered by

59 the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102.

60 [~~(f)~~] (g) "Division" means the Division of Antidiscrimination and Labor.

61 [~~(g)~~] (h) "Employee" means [~~any~~] a person applying with or employed by an employer.

62 [~~(h)~~] (i) "Employer" means:

63 (A) the state;

64 (B) [~~any~~] a political subdivision;

65 (C) a board, commission, department, institution, school district, trust, or agent of the
66 state or [~~its~~] a political [~~subdivisions~~] subdivision of the state; or

67 (D) a person employing 15 or more employees within the state for each working day in
68 each of 20 calendar weeks or more in the current or preceding calendar year.

69 (ii) "Employer" does not include:

70 (A) a religious organization or association;

71 (B) a religious corporation sole; [~~or~~]

72 (C) [~~any~~] a corporation or association constituting an affiliate, a wholly owned
73 subsidiary, or an agency of any religious organization or association or religious corporation
74 sole[~~;~~]; or

75 (D) an organization engaged in public or private expression if employing an individual
76 would affect in a significant way the organization's ability to advocate public or private
77 viewpoints protected by the freedom of expressive association described in decisions of the
78 United States Supreme Court or the Utah Supreme Court.

79 [~~(i)~~] (j) "Employment agency" means [~~any~~] a person:

80 (i) undertaking to procure employees or opportunities to work for any other person; or

81 (ii) holding the person out to be equipped to take an action described in Subsection

82 (1)[~~(i)~~](j)(i).

83 (k) "Gender identity" means an individual's internal sense of gender, without regard to
84 the individual's designated sex at birth. Evidence of gender identity may include an
85 individual's self-identification, as well as the individual's gender-related appearance,
86 mannerisms, and other gender-related characteristics.

87 [~~(j)~~] (l) "Joint apprenticeship committee" means [~~any~~] an association of representatives
88 of a labor organization and an employer providing, coordinating, or controlling an apprentice
89 training program.

90 ~~[(k)]~~ (m) "Labor organization" means ~~[any]~~ an organization that exists for the purpose
91 in whole or in part of:

92 (i) collective bargaining;

93 (ii) dealing with employers concerning grievances, terms or conditions of employment;

94 or

95 (iii) other mutual aid or protection in connection with employment.

96 ~~[(h)]~~ (n) "National origin" means the place of birth, domicile, or residence of an
97 individual or of an individual's ancestors.

98 ~~[(m)]~~ (o) "On-the-job training program" means ~~[any]~~ a program designed to instruct a
99 person who, while learning the particular job for which the person is receiving instruction:

100 (i) is also employed at that job; or

101 (ii) may be employed by the employer conducting the program during the course of the
102 program, or when the program is completed.

103 ~~[(n)]~~ (p) "Person" means:

104 (i) one or more individuals, partnerships, associations, corporations, legal
105 representatives, trusts or trustees, or receivers~~;~~;

106 (ii) the state; and ~~[all political subdivisions and agencies]~~

107 (iii) a political subdivision or agency of the state.

108 ~~[(o)]~~ (q) "Presiding officer" means the same as that term is defined in Section
109 [63G-4-103](#).

110 ~~[(p)]~~ (r) "Prohibited employment practice" means a practice specified as
111 discriminatory, and therefore unlawful, in Section [34A-5-106](#).

112 ~~[(q)]~~ (s) "Retaliate" means the taking of adverse action by an employer, employment
113 agency, labor organization, apprenticeship program, on-the-job training program, or vocational
114 school against one of its employees, applicants, or members because the employee, applicant,
115 or member ~~[has]~~:

116 (i) ~~[opposed any]~~ opposes an employment practice prohibited under this chapter; or

117 (ii) ~~[filed charges, testified, assisted, or participated]~~ files charges, testifies, assists, or
118 participates in any way in ~~[any]~~ a proceeding, investigation, or hearing under this chapter.

119 (t) "Sexual orientation" means an individual's actual or perceived orientation as
120 heterosexual, homosexual, or bisexual.

121 ~~[(r)]~~ (u) "Unincorporated entity" means an entity organized or doing business in the
122 state that is not:

- 123 (i) an individual;
- 124 (ii) a corporation; or
- 125 (iii) publicly traded.

126 ~~[(s)]~~ (v) "Vocational school" means ~~[any]~~ a school or institution conducting a course of
127 instruction, training, or retraining to prepare individuals to follow an occupation or trade, or to
128 pursue a manual, technical, industrial, business, commercial, office, personal services, or other
129 nonprofessional occupations.

130 (2) (a) For purposes of this chapter, an unincorporated entity that is required to be
131 licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, is presumed to
132 be the employer of each individual who, directly or indirectly, holds an ownership interest in
133 the unincorporated entity.

134 (b) Pursuant to rules made by the commission in accordance with Title 63G, Chapter 3,
135 Utah Administrative Rulemaking Act, an unincorporated entity may rebut the presumption
136 under Subsection (2)(a) for an individual by establishing by clear and convincing evidence that
137 the individual:

- 138 (i) is an active manager of the unincorporated entity;
- 139 (ii) directly or indirectly holds at least an 8% ownership interest in the unincorporated
140 entity; or
- 141 (iii) is not subject to supervision or control in the performance of work by:
 - 142 (A) the unincorporated entity; or
 - 143 (B) a person with whom the unincorporated entity contracts.

144 (c) As part of the rules made under Subsection (2)(b), the commission may define:

- 145 (i) "active manager";
- 146 (ii) "directly or indirectly holds at least an 8% ownership interest"; and
- 147 (iii) "subject to supervision or control in the performance of work."

148 Section 2. Section **34A-5-104** is amended to read:

149 **34A-5-104. Powers.**

150 (1) (a) The commission has jurisdiction over the subject of employment practices and
151 discrimination made unlawful by this chapter.

152 (b) The commission may adopt, publish, amend, and rescind rules, consistent with, and
153 for the enforcement of this chapter.

154 (2) The division may:

155 (a) appoint and prescribe the duties of [~~investigators and other employees and agents~~
156 ~~that it~~] an investigator, other employee, or agent of the commission that the commission
157 considers necessary for the enforcement of this chapter;

158 (b) receive, reject, investigate, and pass upon [~~complaints~~] a complaint alleging:

159 (i) discrimination in:

160 (A) employment;

161 (B) an apprenticeship [~~programs~~] program;

162 (C) an on-the-job training [~~programs; and~~] program; or

163 (D) a vocational [~~schools~~] school; or

164 (ii) the existence of a discriminatory or prohibited employment practice by:

165 (A) a person;

166 (B) an employer;

167 (C) an employment agency;

168 (D) a labor organization;

169 (E) [~~the employees or members~~] an employee or member of an employment agency or
170 labor organization;

171 (F) a joint apprenticeship committee; and

172 (G) a vocational school;

173 (c) investigate and study the existence, character, causes, and extent of discrimination

174 [~~it~~];

175 (i) in one or more of the following in this state:

176 (A) employment[;];

177 (B) apprenticeship programs[;];

178 (C) on-the-job training programs[;]; and

179 (D) vocational schools [~~in this state~~]; and

180 (ii) by:

181 [(i)] (A) employers;

182 [(i)] (B) employment agencies;

- 183 [~~(iii)~~] (C) labor organizations;
- 184 [~~(iv)~~] (D) joint apprenticeship committees; and
- 185 [~~(v)~~] (E) vocational schools;
- 186 (d) formulate one or more plans for the elimination of discrimination by educational or
- 187 other means;
- 188 (e) hold [~~hearings upon~~] a hearing on a complaint made against:
- 189 (i) a person;
- 190 (ii) an employer;
- 191 (iii) an employment agency;
- 192 (iv) a labor organization;
- 193 (v) [~~the employees or members~~] an employee or member of an employment agency or
- 194 labor organization;
- 195 (vi) a joint apprenticeship committee; or
- 196 (vii) a vocational school;
- 197 (f) issue one or more publications and reports of investigations and research that:
- 198 (i) promote good will among the various racial, religious, and ethnic groups of the
- 199 state; and
- 200 (ii) minimize or eliminate discrimination in employment because of race, color, sex,
- 201 religion, national origin, age, [~~or~~] disability, sexual orientation, or gender identity;
- 202 (g) prepare and transmit to the governor, at least once each year, reports describing:
- 203 (i) [~~its~~] the division's proceedings, investigations, and hearings;
- 204 (ii) the outcome of those hearings;
- 205 (iii) decisions the division [~~has rendered~~] renders; and
- 206 (iv) the other work performed by the division;
- 207 (h) recommend policies to the governor, and submit recommendation to employers,
- 208 employment agencies, and labor organizations to implement those policies;
- 209 (i) recommend [~~any~~] legislation to the governor that the division considers necessary
- 210 concerning discrimination because of:
- 211 (A) race[;];
- 212 (B) sex[;];
- 213 (C) color[;];

214 (D) national origin~~[;]~~;

215 (E) religion~~[;]~~;

216 (F) age~~[, or]~~;

217 (G) disability [~~to the governor that it considers necessary, and~~];

218 (H) sexual orientation; or

219 (I) gender identity; and

220 (j) within the limits of ~~[any]~~ appropriations made for its operation, cooperate with other
221 agencies or organizations, both public and private, in the planning and conducting of
222 educational programs designed to eliminate discriminatory practices prohibited under this
223 chapter.

224 (3) The division shall investigate an alleged discriminatory ~~[practices]~~ practice
225 involving ~~[officers or employees]~~ an officer or employee of state government if requested to do
226 so by the Career Service Review Office.

227 (4) (a) In ~~[any]~~ a hearing held under this chapter, the division may:

228 (i) subpoena witnesses and compel their attendance at the hearing;

229 (ii) administer oaths and take the testimony of ~~[any]~~ a person under oath; and

230 (iii) compel ~~[any]~~ a person to produce for examination ~~[any books, papers]~~ a book,
231 paper, or other information relating to the matters raised by the complaint.

232 (b) The division director or a hearing examiner appointed by the division director may
233 conduct ~~[hearings]~~ a hearing.

234 (c) If a witness fails or refuses to obey a subpoena issued by the division, the division
235 may petition the district court to enforce the subpoena.

236 (d) ~~[In the event]~~ If a witness asserts a privilege against self-incrimination, testimony
237 and evidence from the witness may be compelled pursuant to Title 77, Chapter 22b, Grants of
238 Immunity.

239 Section 3. Section **34A-5-106** is amended to read:

240 **34A-5-106. Discriminatory or prohibited employment practices -- Permitted**
241 **practices.**

242 (1) It is a discriminatory or prohibited employment practice to take ~~[any]~~ an action
243 described in Subsections (1)(a) through (f).

244 (a) (i) An employer may not refuse to hire, promote, discharge, demote, or terminate

245 [~~any~~] a person, or to retaliate against, harass, or discriminate in matters of compensation or in
 246 terms, privileges, and conditions of employment against [~~any~~] a person otherwise qualified,
 247 because of:

- 248 (A) race;
- 249 (B) color;
- 250 (C) sex;
- 251 (D) pregnancy, childbirth, or pregnancy-related conditions;
- 252 (E) age, if the individual is 40 years of age or older;
- 253 (F) religion;
- 254 (G) national origin; [~~or~~]
- 255 (H) disability[~~;~~];
- 256 (I) sexual orientation; or
- 257 (J) gender identity.

258 (ii) A person may not be considered "otherwise qualified," unless that person possesses
 259 the following required by an employer for any particular job, job classification, or position:

- 260 (A) education;
- 261 (B) training;
- 262 (C) ability, with or without reasonable accommodation;
- 263 (D) moral character;
- 264 (E) integrity;
- 265 (F) disposition to work;
- 266 (G) adherence to reasonable rules and regulations; and
- 267 (H) other job related qualifications required by an employer.

268 (iii) [~~(A)~~] As used in this chapter, "to discriminate in matters of compensation" means
 269 the payment of differing wages or salaries to employees having substantially equal experience,
 270 responsibilities, and skill for the particular job.

271 [~~(B)~~] (iv) Notwithstanding Subsection (1)(a)(iii)[~~(A)~~]:

272 [~~(H)~~] (A) nothing in this chapter prevents [~~increases~~] an increase in pay as a result of
 273 longevity with the employer, if the salary [~~increases are~~] increase is uniformly applied and
 274 available to all employees on a substantially proportional basis; and

275 [~~(H)~~] (B) nothing in this section prohibits an employer and employee from agreeing to

276 a rate of pay or work schedule designed to protect the employee from loss of Social Security
277 payment or benefits if the employee is eligible for those payments.

278 (b) An employment agency may not:

279 (i) refuse to list and properly classify for employment, or refuse to refer an individual
280 for employment, in a known available job for which the individual is otherwise qualified,
281 because of:

282 (A) race;

283 (B) color;

284 (C) sex;

285 (D) pregnancy, childbirth, or pregnancy-related conditions;

286 (E) religion;

287 (F) national origin;

288 (G) age, if the individual is 40 years of age or older; [~~or~~]

289 (H) disability; [~~or~~]

290 (I) sexual orientation; or

291 (J) gender identity; or

292 (ii) comply with a request from an employer for referral of [~~applicants~~] an applicant for
293 employment if the request indicates either directly or indirectly that the employer discriminates
294 in employment on account of:

295 (A) race;

296 (B) color;

297 (C) sex;

298 (D) pregnancy, childbirth, or pregnancy-related conditions;

299 (E) religion;

300 (F) national origin;

301 (G) age, if the individual is 40 years of age or older; [~~or~~]

302 (H) disability[~~;~~];

303 (I) sexual orientation; or

304 (J) gender identity.

305 (c) (i) A labor organization may not for a reason listed in Subsection (1)(c)(ii):

306 (A) exclude [~~any~~] an individual otherwise qualified from full membership rights in the

307 labor organization[;];

308 (B) expel the individual from membership in the labor organization[;]; or

309 (C) otherwise discriminate against or harass [~~any of the labor organization's members~~]

310 a member of the labor organization in full employment of work opportunity[;] or

311 representation[~~, because of~~].

312 (ii) A labor organization may not take an action listed in this Subsection (1)(c) because

313 of:

314 ~~[(i)]~~ (A) race;

315 ~~[(ii)]~~ (B) sex;

316 ~~[(iii)]~~ (C) pregnancy, childbirth, or pregnancy-related conditions;

317 ~~[(iv)]~~ (D) religion;

318 ~~[(v)]~~ (E) national origin;

319 ~~[(vi)]~~ (F) age, if the individual is 40 years of age or older; [~~or~~]

320 ~~[(vii)]~~ (G) disability[;];

321 (H) sexual orientation; or

322 (I) gender identity.

323 (d) (i) Unless based upon a bona fide occupational qualification, or required by and
324 given to an agency of government for a security [~~reasons~~] reason, an employer, employment
325 agency, or labor organization may not do the following if the statement, advertisement,
326 publication, form, or inquiry violates Subsection (1)(d)(ii):

327 (A) print, [~~or~~] circulate, or cause to be printed or circulated, [~~any~~] a statement,
328 advertisement, or publication[;];

329 (B) use [~~any~~] a form of application for employment or membership[;]; or

330 (C) make any inquiry in connection with prospective employment or membership.

331 (ii) This Subsection (1)(d) applies to a statement, advertisement, publication, form, or
332 inquiry that expresses, either directly or indirectly[~~:(i) any~~], a limitation, specification, or
333 discrimination, or the intent to make a limitation, specification, or discrimination as to:

334 (A) race;

335 (B) color;

336 (C) religion;

337 (D) sex;

338 (E) pregnancy, childbirth, or pregnancy-related conditions;

339 (F) national origin;

340 (G) age, if the individual is 40 years of age or older; [or]

341 (H) disability;

342 [~~(ii) the intent to make any limitation, specification, or discrimination described in~~

343 ~~Subsection (1)(d)(i);]~~

344 (I) sexual orientation; or

345 (J) gender identity.

346 (e) A person, whether or not an employer, an employment agency, a labor organization,

347 or [~~the employees or members~~] an employee or member of an employer, employment agency,

348 or labor organization, may not:

349 (i) aid, incite, compel, or coerce the doing of an act defined in this section to be a

350 discriminatory or prohibited employment practice;

351 (ii) obstruct or prevent [~~any~~] a person from complying with this chapter, or [~~any~~] an

352 order issued under this chapter; or

353 (iii) attempt, either directly or indirectly, to commit [~~any~~] an act prohibited in this

354 section.

355 (f) (i) An employer, labor organization, joint apprenticeship committee, or vocational

356 school, providing, coordinating, or controlling an apprenticeship [~~programs~~] program, or

357 providing, coordinating, or controlling an on-the-job training [~~programs~~] program, instruction,

358 training, or retraining [~~programs~~] program may not:

359 (A) deny to, or withhold from, [~~any~~] a qualified person, the right to be admitted to, or

360 participate in [~~any~~] an apprenticeship training program, on-the-job-training program, or other

361 occupational instruction, training, or retraining program because of:

362 (I) race;

363 (II) color;

364 (III) sex;

365 (IV) pregnancy, childbirth, or pregnancy-related conditions;

366 (V) religion;

367 (VI) national origin;

368 (VII) age, if the individual is 40 years of age or older; [or]

369 (VIII) disability;

370 (IX) sexual orientation; or

371 (X) gender identity;

372 (B) discriminate against or harass [~~any~~] a qualified person in that person's pursuit of

373 [~~programs~~] a program described in Subsection (1)(f)(i)(A)~~[-or to]~~ because of:

374 (I) race;

375 (II) color;

376 (III) sex;

377 (IV) pregnancy, childbirth, or pregnancy-related conditions;

378 (V) religion;

379 (VI) national origin;

380 (VII) age, if the individual is 40 years of age or older;

381 (VIII) disability;

382 (IX) sexual orientation; or

383 (X) gender identity;

384 (C) discriminate against [~~such~~] a qualified person in the terms, conditions, or privileges

385 of [~~programs~~] a program described in Subsection (1)(f)(i)(A), because of:

386 (I) race;

387 (II) color;

388 (III) sex;

389 (IV) pregnancy, childbirth, or pregnancy-related conditions;

390 (V) religion;

391 (VI) national origin;

392 (VII) age, if the individual is 40 years of age or older; [~~or~~]

393 (VIII) disability; [~~or~~]

394 (IX) sexual orientation; or

395 (X) gender identity; or

396 [~~(D)~~] (D) except as provided in Subsection (1)(f)(ii), print, publish, or cause to be

397 printed or published, [~~any~~] a notice or advertisement relating to employment by the employer,

398 or membership in or [~~any~~] a classification or referral for employment by a labor organization,

399 or relating to [~~any~~] a classification or referral for employment by an employment agency,

400 indicating ~~[any]~~ a preference, limitation, specification, or discrimination based on:

- 401 (I) race;
- 402 (II) color;
- 403 (III) sex;
- 404 (IV) pregnancy, childbirth, or pregnancy-related conditions;
- 405 (V) religion;
- 406 (VI) national origin;
- 407 (VII) age, if the individual is 40 years of age or older; ~~[or]~~
- 408 (VIII) disability[-];
- 409 (IX) sexual orientation; or
- 410 (X) gender identity.

411 (ii) Notwithstanding Subsection (1)(f)(i)~~[(C)]~~(D), if the following is a bona fide
412 occupational qualification for employment, a notice or advertisement described in Subsection
413 (1)(f)(i)~~[(C)]~~(D) may indicate a preference, limitation, specification, or discrimination based
414 on:

- 415 (A) race;
- 416 (B) color;
- 417 (C) religion;
- 418 (D) sex;
- 419 (E) pregnancy, childbirth, or pregnancy-related conditions;
- 420 (F) age;
- 421 (G) national origin; ~~[or]~~
- 422 (H) disability[-];
- 423 (I) sexual orientation; or
- 424 (J) gender identity.

425 (2) ~~[Nothing contained in]~~ Subsections (1)(a) through (1)(f) ~~[shall]~~ may not be
426 construed to prevent:

427 (a) the termination of employment of an individual who, with or without reasonable
428 accommodation, is physically, mentally, or emotionally unable to perform the duties required
429 by that individual's employment;

430 (b) the variance of insurance premiums or coverage on account of age; or

431 (c) a restriction on the activities [~~of individuals licensed by the liquor authority with~~
432 ~~respect to persons~~] a person licensed in accordance with Title 32B, Alcoholic Beverage Control
433 Act, with respect to an individual who is under 21 years of age.

434 (3) (a) It is not a discriminatory or prohibited employment practice:

435 (i) for an employer to hire and employ [~~employees~~] an employee, for an employment
436 agency to classify or refer for employment [~~any~~] an individual, for a labor organization to
437 classify its membership or to classify or refer for employment [~~any~~] an individual, or for an
438 employer, labor organization, or joint labor-management committee controlling an
439 apprenticeship or other training or retraining [~~programs~~] program to admit or employ [~~any~~] an
440 individual in [~~any such~~] the program[;] on the basis of religion, sex, pregnancy, childbirth, or
441 pregnancy-related conditions, age, national origin, [~~or~~] disability, sexual orientation, or gender
442 identity in those certain instances [~~where~~] when religion, sex, pregnancy, childbirth, or
443 pregnancy-related conditions, age, if the individual is 40 years of age or older, national origin,
444 [~~or~~] disability, sexual orientation, or gender identity is a bona fide occupational qualification
445 reasonably necessary to the normal operation of that particular business or enterprise;

446 (ii) for a school, college, university, or other educational institution to hire and employ
447 [~~employees~~] an employee of a particular religion if:

448 (A) the school, college, university, or other educational institution is, in whole or in
449 substantial part, owned, supported, controlled, or managed by a particular religious corporation,
450 association, or society; or

451 (B) the curriculum of the school, college, university, or other educational institution is
452 directed toward the propagation of a particular religion; or

453 (iii) for an employer to give preference in employment to:

454 (A) the employer's:

455 (I) spouse;

456 (II) child; or

457 (III) son-in-law or daughter-in-law;

458 (B) [~~any~~] a person for whom the employer is or would be liable to furnish financial
459 support if [~~those persons~~] the person were unemployed;

460 (C) [~~any~~] a person to whom the employer during the preceding six months [~~has~~
461 ~~furnished~~] furnishes more than one-half of total financial support regardless of whether or not

462 the employer was or is legally obligated to furnish support; or

463 (D) ~~[any]~~ a person whose education or training ~~[was]~~ is substantially financed by the
464 employer for a period of two years or more.

465 (b) Nothing in this chapter applies to ~~[any]~~ a business or enterprise on or near an Indian
466 reservation with respect to ~~[any]~~ a publicly announced employment practice of the business or
467 enterprise under which preferential treatment is given to ~~[any]~~ an individual because that
468 individual is a native American Indian living on or near an Indian reservation.

469 (c) Nothing in this chapter ~~[shall]~~ may be interpreted to require ~~[any]~~ an employer,
470 employment agency, labor organization, vocational school, joint labor-management committee,
471 or apprenticeship program subject to this chapter to grant preferential treatment to ~~[any]~~ an
472 individual or to ~~[any]~~ a group because of the race, color, religion, sex, age, national origin, ~~[or]~~
473 disability, sexual orientation, or gender identity of the individual or group on account of an
474 imbalance ~~[which]~~ that may exist with respect to the total number or percentage of persons of
475 ~~[any]~~ a race, color, religion, sex, age, national origin, ~~[or]~~ disability, sexual orientation, or
476 gender identity employed by ~~[any]~~ an employer, referred or classified for employment by an
477 employment agency or labor organization, admitted to membership or classified by ~~[any]~~ a
478 labor organization, or admitted to or employed in, any apprenticeship or other training
479 program, in comparison with the total number or percentage of persons of that race, color,
480 religion, sex, age, national origin, ~~[or]~~ disability, sexual orientation, or gender identity in any
481 community or county or in the available work force in any community or county.

482 (4) It is not a discriminatory or prohibited practice with respect to age to observe the
483 terms of a bona fide seniority system or any bona fide employment benefit plan such as a
484 retirement, pension, or insurance plan that is not a subterfuge to evade the purposes of this
485 chapter, except that ~~[no such]~~ an employee benefit plan ~~[shall]~~ may not excuse the failure to
486 hire an individual.

487 (5) Notwithstanding Subsection (4), or ~~[any other statutory provision]~~ another statute to
488 the contrary, a person may not be subject to involuntary termination or retirement from
489 employment on the basis of age alone, if the individual is 40 years of age or older, except:

490 (a) under Subsection (6); and

491 (b) when age is a bona fide occupational qualification.

492 (6) Nothing in this section prohibits compulsory retirement of an employee who has

493 attained at least 65 years of age, and who, for the two-year period immediately before
494 retirement, is employed in a bona fide executive or a high policymaking position, if:

495 (a) that employee is entitled to an immediate nonforfeitable annual retirement benefit
496 from the employee's employer's pension, profit-sharing, savings, or deferred compensation
497 plan, or any combination of those plans; and

498 (b) the benefit described in Subsection (6)(a) equals, in the aggregate, at least \$44,000.

499 (7) (a) This chapter may not be interpreted to prohibit an employer from requiring an
500 employee, during the employee's hours at work, to adhere to reasonable dress or grooming
501 standards not prohibited by other provisions of federal, state, or local law, if the employer
502 permits any employee who has undergone gender transition before the time of application for
503 employment, and any employee who notifies the employer that the employee has undergone or
504 is undergoing gender transition after the time of application for employment, to adhere to the
505 same dress or grooming standards for the gender to which the employee has transitioned or is
506 transitioning.

507 (b) For the purposes of this Subsection (7), if an employer has reason to believe that an
508 applicant's or employee's gender identity is not sincerely held, the employer may require the
509 applicant or employee to provide evidence of that gender identity. A person may prove the
510 person's gender identity by providing evidence, including medical history, care or treatment of
511 the gender identity, consistent and uniform assertion of the gender identity, or any other
512 evidence that the gender identity is sincerely held or not being asserted for an improper
513 purpose.

514 (8) (a) This chapter may not be interpreted to prohibit an employer from requiring an
515 employee, during the employee's hours at work, to use restrooms, shower facilities, or dressing
516 facilities that are consistent with the employee's gender identity.

517 (b) It is a discriminatory and prohibited employment practice to deny an employee
518 access to restrooms, shower facilities, or dressing facilities that are consistent with the
519 employee's gender identity, as established with the employer at the later of:

520 (i) the time of the application for employment; or

521 (ii) after notification to the employer that the employee has undergone or is undergoing
522 gender transition.

523 (c) For the purposes of this Subsection (8), if an employer has reason to believe that an

524 applicant's or employee's gender identity is not sincerely held, the employer may require the
525 applicant or employee to provide evidence of that gender identity. A person may prove the
526 person's gender identity by providing evidence, including medical history, care or treatment of
527 the gender identity, consistent and uniform assertion of the gender identity, or any other
528 evidence that the gender identity is sincerely held or not being asserted for an improper
529 purpose.

530 Section 4. Section 34A-5-107 is amended to read:

531 **34A-5-107. Procedure for aggrieved person to file claim -- Investigations --**
532 **Adjudicative proceedings -- Conciliation -- Reconsideration -- Determination.**

533 (1) (a) [~~Any~~] A person claiming to be aggrieved by a discriminatory or prohibited
534 employment practice may, or that person's attorney or agent may, make, sign, and file with the
535 division a request for agency action.

536 (b) [~~Every~~] A request for agency action shall be verified under oath or affirmation.

537 (c) A request for agency action made under this section shall be filed within 180 days
538 after the alleged discriminatory or prohibited employment practice [~~occurred~~] occurs.

539 (d) The division may transfer a request for agency action filed with the division
540 pursuant to this section to the federal Equal Employment Opportunity Commission in
541 accordance with [~~the provisions of any~~] a work-share agreement that is:

542 (i) between the division and the Equal Employment Opportunity Commission; and

543 (ii) in effect on the day on which the request for agency action is transferred.

544 (2) [~~Any~~] An employer, labor organization, joint apprenticeship committee, or
545 vocational school who has an employee or member who refuses or threatens to refuse to
546 comply with this chapter may file with the division a request for agency action asking the
547 division for assistance to obtain the employee's or member's compliance by conciliation or
548 other remedial action.

549 (3) (a) Before a hearing is set or held as part of any adjudicative proceeding, the
550 division shall promptly assign an investigator to attempt a settlement between the parties by
551 conference, conciliation, or persuasion.

552 (b) If no settlement is reached, the investigator shall make a prompt impartial
553 investigation of all allegations made in the request for agency action.

554 (c) The division and its staff, agents, and employees:

555 (i) shall conduct every investigation in fairness to all parties and agencies involved;
556 and

557 (ii) may not attempt a settlement between the parties if it is clear that no discriminatory
558 or prohibited employment practice has occurred.

559 (d) An aggrieved party may withdraw the request for agency action prior to the
560 issuance of a final order.

561 (4) (a) If the initial attempts at settlement are unsuccessful, and the investigator
562 uncovers insufficient evidence during the investigation to support the allegations of a
563 discriminatory or prohibited employment practice set out in the request for agency action, the
564 investigator shall formally report these findings to the director or the director's designee.

565 (b) Upon receipt of the investigator's report described in Subsection (4)(a), the director
566 or the director's designee may issue a determination and order for dismissal of the adjudicative
567 proceeding.

568 (c) A party may make a written request to the Division of Adjudication for an
569 evidentiary hearing to review de novo the director's or the director's designee's determination
570 and order within 30 days of the date the determination and order for dismissal is issued.

571 (d) If the director or the director's designee receives no timely request for a hearing, the
572 determination and order issued by the director or the director's designee becomes the final order
573 of the commission.

574 (5) (a) If the initial attempts at settlement are unsuccessful and the investigator
575 uncovers sufficient evidence during the investigation to support the allegations of a
576 discriminatory or prohibited employment practice set out in the request for agency action, the
577 investigator shall formally report these findings to the director or the director's designee.

578 (b) (i) Upon receipt of the investigator's report described in Subsection (5)(a), the
579 director or the director's designee may issue a determination and order based on the
580 investigator's report.

581 (ii) A determination and order issued under this Subsection (5)(b) shall:

582 (A) direct the respondent to cease any discriminatory or prohibited employment
583 practice; and

584 (B) provide relief to the aggrieved party as the director or the director's designee
585 determines is appropriate.

586 (c) A party may file a written request to the Division of Adjudication for an evidentiary
587 hearing to review de novo the director's or the director's designee's determination and order
588 within 30 days of the date the determination and order is issued.

589 (d) If the director or the director's designee receives no timely request for a hearing, the
590 determination and order issued by the director or the director's designee in accordance with
591 Subsection (5)(b) becomes the final order of the commission.

592 (6) In ~~[any]~~ an adjudicative proceeding to review the director's or the director's
593 designee's determination that a prohibited employment practice has occurred, the division shall
594 present the factual and legal basis of the determination or order issued under Subsection (5).

595 (7) (a) ~~[Prior to]~~ Before the commencement of an evidentiary hearing:

596 (i) the party filing the request for agency action may reasonably and fairly amend any
597 allegation; and

598 (ii) the respondent may amend its answer.

599 (b) An amendment permitted under this Subsection (7) may be made:

600 (i) during or after a hearing; and

601 (ii) only with permission of the presiding officer.

602 (8) (a) If, upon all the evidence at a hearing, the presiding officer finds that a
603 respondent has not engaged in a discriminatory or prohibited employment practice, the
604 presiding officer shall issue an order dismissing the request for agency action containing the
605 allegation of a discriminatory or prohibited employment practice.

606 (b) The presiding officer may order that the respondent be reimbursed by the
607 complaining party for the respondent's ~~[attorneys']~~ attorney fees and costs.

608 (9) If upon all the evidence at the hearing, the presiding officer finds that a respondent
609 has engaged in a discriminatory or prohibited employment practice, the presiding officer shall
610 issue an order requiring the respondent to:

611 (a) cease ~~[any]~~ a discriminatory or prohibited employment practice; and

612 (b) provide relief to the complaining party, including:

613 (i) reinstatement;

614 (ii) back pay and benefits;

615 (iii) ~~[attorneys']~~ attorney fees; and

616 (iv) costs.

617 (10) Conciliation between the parties is to be urged and facilitated at all stages of the
618 adjudicative process.

619 (11) (a) Either party may file with the Division of Adjudication a written request for
620 review before the commissioner or Appeals Board of the order issued by the presiding officer
621 in accordance with:

622 (i) Section 63G-4-301; and

623 (ii) Chapter 1, Part 3, Adjudicative Proceedings.

624 (b) If there is no timely request for review, the order issued by the presiding officer
625 becomes the final order of the commission.

626 (12) An order of the commission under Subsection (11)(a) is subject to judicial review
627 as provided in:

628 (a) Section 63G-4-403; and

629 (b) Chapter 1, Part 3, Adjudicative Proceedings.

630 (13) The commission [~~shall have authority to~~] may make rules concerning procedures
631 under this chapter in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
632 Act.

633 (14) The commission and its staff may not divulge or make public [~~any~~] information
634 gained from [~~any~~] an investigation, settlement negotiation, or proceeding before the
635 commission except as provided in Subsections (14)(a) through (d).

636 (a) Information used by the director or the director's designee in making [~~any~~] a
637 determination may be provided to all interested parties for the purpose of preparation for and
638 participation in proceedings before the commission.

639 (b) General statistical information may be disclosed provided the identities of the
640 individuals or parties are not disclosed.

641 (c) Information may be disclosed for inspection by the attorney general or other legal
642 representatives of the state or the commission.

643 (d) Information may be disclosed for information and reporting requirements of the
644 federal government.

645 (15) The procedures contained in this section are the exclusive remedy under state law
646 for employment discrimination based upon:

647 (a) race;

- 648 (b) color;
- 649 (c) sex;
- 650 (d) retaliation;
- 651 (e) pregnancy, childbirth, or pregnancy-related conditions;
- 652 (f) age;
- 653 (g) religion;
- 654 (h) national origin; ~~[or]~~
- 655 (i) disability~~[-];~~
- 656 (j) sexual orientation; or
- 657 (k) gender identity.

658 (16) (a) The commencement of an action under federal law for relief based upon ~~[any]~~
 659 an act prohibited by this chapter bars the commencement or continuation of [any] an
 660 adjudicative proceeding before the commission in connection with the same [claims] claim
 661 under this chapter.

662 (b) The transfer of a request for agency action to the Equal Employment Opportunity
 663 Commission in accordance with Subsection (1)(d) is considered the commencement of an
 664 action under federal law for purposes of Subsection (16)(a).

665 (c) Nothing in this Subsection (16) is intended to alter, amend, modify, or impair the
 666 exclusive remedy provision set forth in Subsection (15).

667 Section 5. Section **57-21-2** is amended to read:

668 **57-21-2. Definitions.**

669 As used in this chapter:

670 (1) "Affiliate" is as defined in Section 16-6a-102.

671 ~~[(1)]~~ (2) "Aggrieved person" includes [any] a person who:

672 (a) claims to have been injured by a discriminatory housing practice; or

673 (b) believes that the person will be injured by a discriminatory housing practice that is
 674 about to occur.

675 ~~[(2)]~~ (3) "Commission" means the Labor Commission.

676 ~~[(3)]~~ (4) "Complainant" means an aggrieved person, including the director, who has
 677 commenced a complaint with the division.

678 ~~[(4)]~~ (5) "Conciliation" means the attempted resolution of [issues] an issue raised [by]

679 in a complaint of discriminatory housing practices by the investigation of the complaint
680 through informal negotiations involving the complainant, the respondent, and the division.

681 ~~[(5)]~~ (6) "Conciliation agreement" means a written agreement setting forth the
682 resolution of the issues in conciliation.

683 ~~[(6)]~~ (7) "Conciliation conference" means the attempted resolution of ~~[issues]~~ an issue
684 raised ~~[by]~~ in a complaint or by the investigation of a complaint through informal negotiations
685 involving the complainant, the respondent, and the division. The conciliation conference is not
686 subject to Title 63G, Chapter 4, Administrative Procedures Act.

687 ~~[(7)]~~ (8) "Covered multifamily ~~[dwellings]"~~ dwelling" means:

688 (a) buildings consisting of four or more dwelling units if the buildings have one or
689 more elevators; and

690 (b) ground floor units in other buildings consisting of four or more dwelling units.

691 ~~[(8)]~~ (9) "Director" means the director of the division or a designee.

692 ~~[(9)]~~ (10) (a) "Disability" means a physical or mental impairment that substantially
693 limits one or more of a person's major life activities, including a person having a record of such
694 an impairment or being regarded as having such an impairment.

695 (b) "Disability" does not include current illegal use of, or addiction to, any federally
696 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
697 Sec. 802.

698 ~~[(10)]~~ (11) "Discriminate" includes segregate or separate.

699 ~~[(11)]~~ (12) "Discriminatory housing practice" means an act that is unlawful under this
700 chapter.

701 ~~[(12)]~~ (13) "Division" means the Division of Antidiscrimination and Labor established
702 under the commission.

703 ~~[(13)-(a)]~~ (14) "Dwelling" means ~~[any]~~:

704 (a) a building or structure, or a portion of a building or structure, occupied as, ~~[or]~~
705 designed as, or intended for occupancy as, a residence of one or more families~~[-]; or~~

706 (b) ~~["Dwelling" also includes]~~ vacant land that is offered for sale or lease for the
707 construction or location of a dwelling as described in Subsection ~~[(13)]~~ (14)(a).

708 ~~[(14)]~~ (15) (a) "Familial status" means one or more individuals who have not attained
709 the age of 18 years being domiciled with:

710 (i) a parent or another person having legal custody of the [~~individual~~] one or more
711 individuals; or

712 (ii) the designee of the parent or other person having custody, with the written
713 permission of the parent or other person.

714 (b) The protections afforded against discrimination on the basis of familial status [~~shall~~
715 ~~apply to any~~] applies to a person who:

716 (i) is pregnant;

717 (ii) is in the process of securing legal custody of any individual who has not attained
718 the age of 18 years; or

719 (iii) is a single individual.

720 (16) "Gender identity" means an individual's internal sense of gender, without regard to
721 the individual's designated sex at birth. Evidence of gender identity may include an
722 individual's self-identification, as well as the individual's gender-related appearance,
723 mannerisms, and other gender-related characteristics.

724 [~~(15)~~] (17) "National origin" means the place of birth of an individual or of any lineal
725 ancestors.

726 [~~(16)~~] (18) "Person" includes one or more:

727 (a) individuals[;];

728 (b) corporations[;];

729 (c) limited liability companies[;];

730 (d) partnerships[;];

731 (e) associations[;];

732 (f) labor organizations[;];

733 (g) legal representatives[;];

734 (h) mutual companies[;];

735 (i) joint-stock companies[;];

736 (j) trusts[;];

737 (k) unincorporated organizations[;];

738 (l) trustees[;];

739 (m) trustees in cases under the United States Bankruptcy Code[;];

740 (n) receivers[;]; and

741 (o) fiduciaries.

742 [(17)] (19) "Presiding officer" has the same meaning as provided in Section
743 63G-4-103.

744 [(18)] (20) "Real estate broker" or "salesperson" means a principal broker, an associate
745 broker, or a sales agent as those terms are defined in Section 61-2f-102.

746 [(19)] (21) "Respondent" means a person against whom a complaint of housing
747 discrimination has been initiated.

748 [(20)] (22) "Sex" means gender and includes pregnancy, childbirth, and disabilities
749 related to pregnancy or childbirth.

750 (23) "Sexual orientation" means an individual's actual or perceived orientation as
751 heterosexual, homosexual, or bisexual.

752 [(21)] (24) "Source of income" means the verifiable condition of being a recipient of
753 federal, state, or local assistance, including medical assistance, or of being a tenant receiving
754 federal, state, or local subsidies, including rental assistance or rent supplements.

755 Section 6. Section 57-21-3 is amended to read:

756 **57-21-3. Exemptions.**

757 (1) This chapter does not apply to [any] a single-family dwelling unit sold or rented by
758 its owner if:

759 (a) the owner is not a partnership, association, corporation, or other business entity;

760 (b) the owner does not own [any] an interest in four or more single-family dwelling
761 units held for sale or lease at the same time;

762 (c) during a 24-month period, the owner does not sell two or more single-family
763 dwelling units in which the owner was not residing or was not the most recent resident at the
764 time of sale;

765 (d) the owner does not retain or use the facilities or services of [any] a real estate
766 broker or salesperson; and

767 (e) the owner does not use [any] a discriminatory housing practice under Subsection
768 57-21-5(2) in the sale or rental of the dwelling.

769 (2) This chapter does not apply to a temporary or permanent residence facility,
770 approved, operated, or owned by a nonprofit [or] organization, a charitable organization, or a
771 person in conjunction with a religious organization, association, society, or its affiliates,

772 including ~~[any dormitory operated]~~ a residence facility approved, operated, or owned by a
 773 public or private educational institution, if the discrimination is by sex, sexual orientation,
 774 gender identity, or familial status:

775 (a) for reasons of personal modesty or privacy; or

776 (b) in the furtherance of a religious institution's free exercise of religious rights under
 777 the First Amendment of the ~~[United States]~~ Constitution of the United States or the Utah
 778 Constitution.

779 (3) This chapter, except for Subsection 57-21-5(2), does not apply to the rental of a
 780 room in ~~[the]~~ a single family dwelling by an owner-occupant of ~~[a]~~ the single-family dwelling
 781 to another person if:

782 (a) the dwelling is designed for occupancy by four or fewer families~~[-];~~ and

783 (b) the owner-occupant resides in one of the units.

784 (4) ~~[This]~~ Unless membership in a religion is restricted by race, color, sex, or national
 785 origin, this chapter does not prohibit a religious organization, association, or society, or ~~[any]~~ a
 786 nonprofit institution or organization operated, supervised, or controlled by or in conjunction
 787 with a religious organization, association, or society, from:

788 (a) limiting the sale, rental, or occupancy of ~~[dwellings]~~ a dwelling it owns or operates
 789 for primarily noncommercial purposes to persons of the same religion~~[-];~~ or ~~[from]~~

790 (b) giving preference to ~~[such]~~ persons~~[-, unless membership in the religion is restricted~~
 791 ~~by race, color, sex, or national origin]~~ of the same religion.

792 (5) ~~[This]~~ (a) If the conditions of Subsection (5)(b) are met, this chapter does not
 793 prohibit a private club not open to the public, including ~~[fraternities and sororities]~~ a fraternity
 794 or sorority associated with ~~[institutions]~~ an institution of higher education, from:

795 (i) limiting the rental or occupancy of lodgings to members; or ~~[from]~~

796 (ii) giving preference to its members~~[-, but].~~

797 (b) This Subsection (5) applies only if ~~[it]~~ a private club owns or operates the lodgings
 798 as an incident to its primary purpose and not for a commercial purpose.

799 (6) This chapter does not prohibit distinctions based on inability to fulfill the terms and
 800 conditions, including financial obligations, of:

801 (a) a lease~~[-];~~

802 (b) a rental agreement~~[-];~~

803 (c) a contract of purchase or sale~~[-];~~

804 (d) a mortgage~~[-];~~

805 (e) a trust deed~~[-, or other];~~ or

806 (f) another financing agreement.

807 (7) This chapter does not prohibit ~~[any]~~ a nonprofit educational institution from:

808 (a) requiring its single students to live in housing approved, operated, or owned by the
809 nonprofit educational institution;

810 (b) segregating housing that the nonprofit educational institution approves, operates, or
811 owns on the basis of sex or familial status or both;

812 (i) for reasons of personal modesty or privacy~~[-];~~ or

813 (ii) in the furtherance of a religious institution's free exercise of religious rights under
814 the First Amendment of the ~~[United States]~~ Constitution of the United States; or

815 (c) otherwise assisting ~~[others]~~ another person in making sex-segregated housing
816 available to students as may be permitted by regulations implementing the federal Fair Housing
817 Amendments Act of 1988 and Title IX of the Education Amendments of 1972.

818 (8) This chapter does not prohibit ~~[any]~~ a reasonable local, state, or federal
819 ~~[restrictions]~~ restriction regarding the maximum number of occupants permitted to occupy a
820 dwelling.

821 (9) ~~[The provisions pertaining]~~ A provision of this chapter that pertains to familial
822 status ~~[do]~~ does not apply to the existence, development, sale, rental, advertisement, or
823 financing of ~~[any]~~ an apartment complex, condominium, or other housing development
824 designated as housing for older persons, as defined by Title VIII of the Civil Rights Act of
825 1968, as amended.

826 Section 7. Section **57-21-5** is amended to read:

827 **57-21-5. Discriminatory practices enumerated.**

828 (1) It is a discriminatory housing practice to do any of the following because of a
829 person's race, color, religion, sex, national origin, familial status, source of income, ~~[or]~~
830 disability, sexual orientation, or gender identity:

831 (a) (i) refuse to sell or rent after the making of a bona fide offer~~[-];~~

832 (ii) refuse to negotiate for the sale or rental~~[-];~~ or

833 (iii) otherwise deny or make unavailable ~~[any]~~ a dwelling from any person;

834 (b) discriminate against ~~[any]~~ a person in the terms, conditions, or privileges:
835 (i) of the sale or rental of ~~[any]~~ a dwelling; or
836 (ii) in providing facilities or services in connection with the dwelling; or
837 (c) represent to ~~[any]~~ a person that ~~[any]~~ a dwelling is not available for inspection, sale,
838 or rental when ~~[in fact]~~ the dwelling is available.

839 (2) It is a discriminatory housing practice:
840 (a) to:
841 (i) make a representation orally or in writing; ~~[or]~~
842 (ii) make, print, circulate, publish, post, or cause to be made, printed, circulated,
843 published, or posted ~~[any]~~ a notice, statement, or advertisement~~[-];~~ or ~~[to]~~
844 (iii) use any application form for the sale or rental of a dwelling~~[-, that];~~ and
845 (b) if the action described in Subsection (2)(a) directly or indirectly expresses ~~[any]~~:
846 (i) a preference, limitation, or discrimination based on race, color, religion, sex,
847 national origin, familial status, source of income, ~~[or]~~ disability, sexual orientation, or gender
848 identity; or ~~[expresses any]~~
849 (ii) an intent to make ~~[any such]~~ a preference, limitation, or discrimination described in
850 Subsection (2)(b)(i).

851 (3) It is a discriminatory housing practice to induce or attempt to induce, for profit,
852 ~~[any]~~ a person to buy, sell, or rent ~~[any]~~ a dwelling by making ~~[representations]~~ a
853 representation about the entry or prospective entry into the neighborhood of one or more
854 persons of a particular race, color, religion, sex, national origin, familial status, source of
855 income, ~~[or]~~ disability, sexual orientation, or gender identity.

856 (4) A discriminatory housing practice includes:
857 (a) a refusal to permit, at the expense of the person with a disability, reasonable
858 modifications of existing premises occupied or to be occupied by the person if the
859 modifications are necessary to afford that person full enjoyment of the premises, except that in
860 the case of a rental, the landlord, where it is reasonable to do so, may condition permission for
861 a modification on the renter agreeing to restore the interior of the premises, when reasonable, to
862 the condition that existed before the modification, reasonable wear and tear excepted;
863 (b) a refusal to make a reasonable ~~[accommodations in rules, policies, practices, or~~
864 services when the accommodations] accommodation in a rule, policy, practice, or service if the

865 accommodation may be necessary to afford the person equal opportunity to use and enjoy a
866 dwelling; and

867 (c) in connection with the design and construction of covered multifamily dwellings for
868 first occupancy after March 13, 1991, a failure to design and construct [~~those~~] the covered
869 multifamily dwellings in a manner that:

870 (i) the covered multifamily dwellings have at least one building entrance on an
871 accessible route, unless it is impracticable to have one because of the terrain or unusual
872 characteristics of the site; and

873 (ii) with respect to covered multifamily dwellings with a building entrance on an
874 accessible route:

875 (A) the public use and common use portions of the covered multifamily dwelling are
876 readily accessible to and usable by a person with a disability;

877 (B) all the doors designed to allow passage into and within the covered multifamily
878 dwellings are sufficiently wide to allow passage by a person with a disability who is in a
879 wheelchair; and

880 (C) all premises within these covered multifamily dwellings contain the following
881 features of adaptive design:

882 (I) an accessible route into and through the covered multifamily dwelling;

883 (II) light switches, electrical outlets, thermostats, and other environmental controls in
884 accessible locations;

885 (III) reinforcements in the bathroom walls to allow later installation of grab bars; and

886 (IV) kitchens and bathrooms such that an individual in a wheelchair can maneuver
887 about and use the space.

888 (5) This section also applies to discriminatory housing practices because of race, color,
889 religion, sex, national origin, familial status, source of income, [~~or~~] disability, sexual
890 orientation, or gender identity based upon a person's association with another person.

891 Section 8. Section **57-21-6** is amended to read:

892 **57-21-6. Discriminatory housing practices regarding residential real**
893 **estate-related transactions -- Discriminatory housing practices regarding the provisions**
894 **of brokerage services.**

895 (1) (a) It is a discriminatory housing practice for [~~any~~] a person whose business

896 includes engaging in residential real estate-related transactions to discriminate against [any] a
 897 person in making available [such] a residential real estate-related transaction, or in the terms or
 898 conditions of the residential real estate-related transaction, because of race, color, religion, sex,
 899 disability, familial status, source of income, [or] national origin, sexual orientation, or gender
 900 identity.

901 (b) Residential real estate-related transactions include:

902 [(a)] (i) making or purchasing loans or providing other financial assistance:

903 [(i)] (A) for purchasing, constructing, improving, repairing, or maintaining a dwelling;

904 or

905 [(ii)] (B) secured by residential real estate; or

906 [(b)] (ii) selling, brokering, or appraising residential real property.

907 (2) It is a discriminatory housing practice to, because of race, color, religion, sex,
 908 disability, familial status, source of income, national origin, sexual orientation, or gender
 909 identity:

910 (a) deny [any] a person access to, or membership or participation in, [any] a
 911 multiple-listing service, real estate brokers' organization, or other service, organization, or
 912 facility relating to the business of selling or renting dwellings; or [to]

913 (b) discriminate against [any] a person in the terms or conditions of access,
 914 membership, or participation in the organization, service, or facility [~~because of race, color,~~
 915 ~~religion, sex, disability, familial status, source of income, or national origin~~].

916 (3) This section also applies to a discriminatory housing [~~practices~~] practice because of
 917 race, color, religion, sex, national origin, familial status, source of income, [or] disability,
 918 sexual orientation, or gender identity based upon a person's association with another person.

919 Section 9. Section **57-21-7** is amended to read:

920 **57-21-7. Prohibited conduct -- Aiding or abetting in discriminatory actions --**
 921 **Obstruction of division investigation -- Reprisals.**

922 (1) It is a discriminatory housing practice to do any of the following:

923 (a) coerce, intimidate, threaten, or interfere with [any] a person:

924 (i) in the exercise or enjoyment of [any] a right granted or protected under this chapter;

925 (ii) because that person exercised [any] a right granted or protected under this chapter;

926 or

- 927 (iii) because that person aided or encouraged any other person in the exercise or
928 enjoyment of [~~any~~] a right granted or protected under this chapter;
- 929 (b) aid, abet, incite, compel, or coerce a person to engage in [~~any of the practices~~] a
930 practice prohibited by this chapter;
- 931 (c) attempt to aid, abet, incite, compel, or coerce a person to engage in [~~any of the~~
932 ~~practices~~] a practice prohibited by this chapter;
- 933 (d) obstruct or prevent [~~any~~] a person from complying with this chapter, or any order
934 issued under this chapter;
- 935 (e) resist, prevent, impede, or interfere with the director or [~~any~~] a division [~~employees~~
936 ~~or representatives~~] employee or representative in the performance of duty under this chapter; or
- 937 (f) engage in any reprisal against [~~any~~] a person because that person:
- 938 (i) opposed a practice prohibited under this chapter; or
- 939 (ii) filed a complaint, testified, assisted, or participated in any manner in [~~any~~] an
940 investigation, proceeding, or hearing under this chapter.
- 941 (2) This section also applies to discriminatory housing practices because of race, color,
942 religion, sex, national origin, familial status, source of income, [~~or~~] disability, sexual
943 orientation, or gender identity based upon a person's association with another person.

Legislative Review Note

as of 10-18-13 11:22 AM

Office of Legislative Research and General Counsel