

HB 71: Utah Fair Housing Act Amendments

Representative Collard

Bill Summary

HB 71 amends the Utah Fair Housing Act to conform with its federal counterpart. All indications show that the “and” in the current code was an unintentional deviation from the federal language.

What does HB 71 do?

Utah’s current code includes “and,” where the federal code includes “or.” This bill only makes one change: it swaps the “and” in Utah’s statute for an “or.”

Why should this change be made?

HB 71 is a technical change that adds clarity. The current discrepancy makes it unclear whether all of the items listed in (a) through (c) are required for a discriminatory housing practice to exist under the Utah Fair Housing Act. It also makes it unclear whether the Utah act should be interpreted by courts differently than the federal act.

How do we know the current statutory language was unintended?

The floor sponsor for the original bill stated that the purpose of the legislation was to “bring Utah’s housing law into compliance with the federal act” and to “follow[] the federal statute exactly.”¹ This indicates that the deviation from the federal statute’s language was unintentional.

There was also no discussion of the “and” deviation in any of the floor time recordings when Utah originally passed the state’s Fair Housing law in 1992. Thus, there is no indication from legislative history that the discrepancy was intended.

Are there any negative repercussions that could come from making this change?

There is no case law indicating that this portion of the Utah statute should be interpreted differently from the federal Fair Housing Act.² This bill would merely clarify that the legislature intends that a discriminatory housing practice under Utah’s statute means the same thing as it means under the federal analog.

¹ 1992 Gen. Sess. Senate Floor Debate - Day 45 (Feb. 26, 1992).

² *See, e.g., Malibu Inv. Co. v. Sparks*, 2000 UT 30, ¶ 22, 996 P.2d 1043 (implying that only one of the three listed items is sufficient to establish a “discriminatory action” under the Utah Fair Housing Act).