

**UTAH FAIR HOUSING AND EMPLOYMENT**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Benjamin M. McAdams**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

- ▶ modifies definition provisions related to employment and housing discrimination, including defining "gender identity" and "sexual orientation";
- ▶ includes sexual orientation and gender identity as a consideration in appointments to the Antidiscrimination and Labor Advisory Council;
- ▶ includes sexual orientation and gender identity as a prohibited basis for discrimination in employment;
- ▶ modifies exemptions to the Utah Fair Housing Act;
- ▶ includes sexual orientation and gender identity as a prohibited basis for discriminatory housing practices; and
- ▶ makes technical and conforming amendments.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None



28 **Utah Code Sections Affected:**

29 AMENDS:

- 30 **34A-5-102**, as last amended by Laws of Utah 2008, Chapter 382
- 31 **34A-5-104**, as last amended by Laws of Utah 1999, Chapter 161
- 32 **34A-5-105**, as last amended by Laws of Utah 2010, Chapter 286
- 33 **34A-5-106**, as last amended by Laws of Utah 2003, Chapter 65
- 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 1993, Chapter 114
- 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

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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.**

44 As used in this chapter:

45 (1) "Apprenticeship" means a program for the training of [~~apprentices~~] an apprentice  
46 including a program providing the training of [~~those persons defined as apprentices~~] a person  
47 defined as an apprentice by Section 35A-6-102.

48 (2) "Bona fide occupational qualification" means a characteristic applying to an  
49 employee:

50 (a) that is necessary to the operation of the employee's employer's business; or

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

52 (3) "Court" means:

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

55 (b) if [~~this~~] the district court is not in session at that time, a judge of the court described  
56 in Subsection (3)(a).

57 (4) "Director" means the director of the division.

58 (5) "Disability" means a physical or mental disability as defined and covered by the

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

60 (6) "Division" means the Division of Antidiscrimination and Labor.

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

62 (8) (a) "Employer" means:

63 (i) the state;

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

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

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

69 (b) "Employer" does not include:

70 (i) a religious organization or association;

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

72 (iii) [~~any~~] a corporation or association constituting a wholly owned subsidiary or  
73 agency of any religious organization or association or religious corporation sole[-]; or

74 (iv) an expressive association if employing an individual would significantly burden  
75 the expressive association's rights of expressive association under decisions of the United  
76 States Supreme Court.

77 (9) "Employment agency" means [~~any~~] a person:

78 (a) undertaking to procure [~~employees or opportunities~~] an employee or an opportunity  
79 to work for [~~any other~~] another person within the state; or

80 (b) holding itself out to be equipped to take an action described in Subsection (9)(a).

81 (10) "Gender identity" means an individual's actual or perceived gender identity,  
82 including the individual's gender-related appearance, mannerisms, or other gender-related  
83 characteristics, without regard to the individual's physiology.

84 [~~(10)~~] (11) "Joint apprenticeship committee" means [~~any~~] an association of  
85 representatives of a labor organization and an employer providing, coordinating, or controlling  
86 an apprentice training program.

87 [~~(11)~~] (12) "Labor organization" means [~~any~~] an organization that exists for the  
88 purpose in whole or in part of:

89 (a) collective bargaining;

90 (b) dealing with ~~[employers]~~ an employer concerning grievances, terms, or conditions  
91 of employment; or

92 (c) other mutual aid or protection in connection with employment.

93 ~~[(12)]~~ (13) "National origin" means the place of birth, domicile, or residence of an  
94 individual or of an individual's ancestors.

95 ~~[(13)]~~ (14) "On-the-job-training program" means ~~[any]~~ a program designed to instruct a  
96 person who, while learning the particular job for which the person is receiving instruction:

97 (a) is also employed at that job; or

98 (b) may be employed by the employer conducting the program;

99 (i) during the course of the program[;]; or

100 (ii) when the program is completed.

101 ~~[(14)]~~ (15) "Person" means:

102 (a) one or more;

103 (i) individuals[;];

104 (ii) partnerships[;];

105 (iii) associations[;];

106 (iv) corporations[;];

107 (v) legal representatives[;];

108 (vi) trusts or trustees[;]; or

109 (vii) receivers[;];

110 (b) the state ~~[and all political subdivisions and agencies];~~ or

111 (c) a political subdivision or agency of the state.

112 ~~[(15)]~~ (16) "Presiding officer" ~~[means the same as that term]~~ is as defined in Section  
113 63G-4-103.

114 ~~[(16)]~~ (17) "Prohibited employment practice" means a practice specified as  
115 discriminatory, and therefore unlawful[;] in Section 34A-5-106.

116 ~~[(17)]~~ (18) "Retaliate" means the taking of adverse action;

117 (a) by:

118 (i) an employer[;];

119 (ii) an employment agency[;];

120 (iii) a labor organization[;];

121 (iv) an apprenticeship program[;];  
 122 (v) an on-the-job training program[;]; or  
 123 (vi) a vocational school [~~against one of its employees, applicants, or members because~~  
 124 ~~the employee, applicant, or member~~];

125 [~~(a) has opposed any~~]  
 126 (b) against an employee, applicant, or member of a person described in Subsection  
 127 (18)(a); and

128 (c) because the employee, applicant, or member:  
 129 (i) opposes an employment practice prohibited under this chapter; or  
 130 [~~(b) filed charges, testified, assisted, or participated~~]  
 131 (ii) files charges, testifies, assists, or participates in any way in [~~any~~] a proceeding,  
 132 investigation, or hearing under this chapter.

133 (19) "Sexual orientation" means an individual's actual or perceived orientation as  
 134 heterosexual, homosexual, or bisexual.

135 [~~(18)~~] (20) "Vocational school" means [~~any~~] a school or institution conducting a course  
 136 of instruction, training, or retraining to prepare [~~individuals~~] an individual to:

137 (a) follow an occupation or trade[;]; or [~~to~~]  
 138 (b) pursue a manual, technical, industrial, business, commercial, office, personal  
 139 services, or other nonprofessional occupations.

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

141 **34A-5-104. Powers.**

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

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

146 (2) The division may:

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

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

151 (i) discrimination in:

- 152 (A) employment;
- 153 (B) an apprenticeship [~~programs~~] program;
- 154 (C) an on-the-job training [~~programs; and~~] program; or
- 155 (D) a vocational [~~schools~~] school; or
- 156 (ii) the existence of a discriminatory or prohibited employment practice by:
- 157 (A) a person;
- 158 (B) an employer;
- 159 (C) an employment agency;
- 160 (D) a labor organization;
- 161 (E) [~~the employees or members~~] an employee or member of an employment agency or
- 162 labor organization;
- 163 (F) a joint apprenticeship committee; and
- 164 (G) a vocational school;
- 165 (c) investigate and study the existence, character, causes, and extent of discrimination
- 166 [~~in~~]:
- 167 (i) in one or more of the following in this state:
- 168 (A) employment[~~;~~];
- 169 (B) apprenticeship programs[~~;~~];
- 170 (C) on-the-job training programs[~~;~~]; and
- 171 (D) vocational schools [~~in this state~~]; and
- 172 (ii) by:
- 173 [(+)] (A) employers;
- 174 [(+)] (B) employment agencies;
- 175 [(+)] (C) labor organizations;
- 176 [(+)] (D) joint apprenticeship committees; and
- 177 [(+)] (E) vocational schools;
- 178 (d) formulate one or more plans for the elimination of discrimination by educational or
- 179 other means;
- 180 (e) hold [~~hearings upon~~] a hearing on a complaint made against:
- 181 (i) a person;
- 182 (ii) an employer;

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

214 educational programs designed to eliminate discriminatory practices prohibited under this  
215 chapter.

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

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

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

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

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

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

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

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

231 Section 3. Section **34A-5-105** is amended to read:

232 **34A-5-105. Antidiscrimination and Labor Advisory Council -- Membership --**  
233 **Appointment -- Term -- Powers and duties -- Chair.**

234 (1) There is created an Antidiscrimination and Labor Advisory Council consisting of:

235 (a) 13 voting members appointed by the commissioner as follows:

236 (i) three employer representatives;

237 (ii) three employee representatives;

238 (iii) two representatives of persons who seek to rent or purchase [~~dwellings~~] a  
239 dwelling, as defined in Section 57-21-2;

240 (iv) two representatives of persons who:

241 (A) sell or rent dwellings; and

242 (B) are subject to Title 57, Chapter 21, Utah Fair Housing Act; and

243 (v) three representatives of the general public; and

244 (b) the commissioner or the commissioner's designee as a nonvoting member of the



245 council.

246 (2) In making [~~the appointments~~] an appointment under Subsection (1), the  
247 commissioner shall consider representation of the following protected classes:

248 (a) race;

249 (b) color;

250 (c) national origin;

251 (d) [~~gender~~] sex;

252 (e) religion;

253 (f) age;

254 (g) persons with disabilities;

255 (h) sexual orientation;

256 (i) gender identity;

257 [~~(h)~~] (j) familial status as defined in Section 57-21-2; and

258 [~~(i)~~] (k) source of income as defined in Section 57-21-2.

259 (3) The division shall provide any necessary staff support for the council.

260 (4) (a) Except as required by Subsection (4)(b), as terms of current council members  
261 expire, the commissioner shall appoint each new member or reappointed member to a four-year  
262 term.

263 (b) Notwithstanding the requirements of Subsection (4)(a), the commissioner shall, at  
264 the time of appointment or reappointment, adjust the length of terms to ensure that the terms of  
265 council members are staggered so that approximately half of the council is appointed every two  
266 years.

267 (5) (a) When a vacancy occurs in the membership for any reason, the commissioner  
268 shall appoint a replacement [~~shall be appointed~~] for the unexpired term.

269 (b) The commissioner shall terminate the term of a council member who ceases to be  
270 representative as designated by the original appointment.

271 (6) A member may not receive compensation or benefits for the member's service, but  
272 may receive per diem and travel expenses in accordance with:

273 (a) Section 63A-3-106;

274 (b) Section 63A-3-107; and

275 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and

276 63A-3-107.

277 (7) (a) The advisory council shall:

278 (i) offer advice on issues requested by:

279 (A) the commission;

280 (B) the division; or

281 (C) the Legislature; and

282 (ii) make recommendations to the commission and division regarding issues related to:

283 (A) employment discrimination;

284 (B) housing discrimination; and

285 (C) the administration by the commission of:

286 (I) the provisions of Title 34, Labor in General, that are administered by the  
287 commission;

288 (II) [~~Title 34A, Chapter 5, Utah Antidiscrimination Act~~] this chapter; and

289 (III) Title 57, Chapter 21, Utah Fair Housing Act.

290 (b) The council shall [~~confer~~] meet at least quarterly for the purpose of advising the  
291 commission, division, and the Legislature regarding issues described in Subsection (7)(a).

292 (8) (a) The commissioner or the commissioner's designee shall serve as chair of the  
293 council.

294 (b) The chair [~~is charged with the responsibility of calling~~] shall call the necessary  
295 meetings.

296 Section 4. Section **34A-5-106** is amended to read:

297 **34A-5-106. Discriminatory or prohibited employment practices -- Permitted**  
298 **practices.**

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

301 (a) (i) An employer may not refuse to hire, promote, discharge, demote, or terminate  
302 [~~any~~] a person, or to retaliate against, harass, or discriminate in matters of compensation or in  
303 terms, privileges, and conditions of employment against [~~any~~] a person otherwise qualified,  
304 because of:

305 (A) race;

306 (B) color;

- 307 (C) sex;
- 308 (D) pregnancy, childbirth, or pregnancy-related conditions;
- 309 (E) age, if the individual is 40 years of age or older;
- 310 (F) religion;
- 311 (G) national origin; [~~or~~]
- 312 (H) disability[-];
- 313 (I) sexual orientation; or
- 314 (J) gender identity.

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

- 317 (A) education;
- 318 (B) training;
- 319 (C) ability, with or without reasonable accommodation;
- 320 (D) moral character;
- 321 (E) integrity;
- 322 (F) disposition to work;
- 323 (G) adherence to reasonable rules and regulations; and
- 324 (H) other job related qualifications required by an employer.

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

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

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

332 [~~(H)~~] (B) nothing in this section prohibits an employer and employee from agreeing to  
 333 a rate of pay or work schedule designed to protect the employee from loss of Social Security  
 334 payment or benefits if the employee is eligible for those payments.

335 (b) An employment agency may not:

336 (i) refuse to list and properly classify for employment, or refuse to refer an individual  
 337 for employment, in a known available job for which the individual is otherwise qualified,

338 because of:

- 339 (A) race;
- 340 (B) color;
- 341 (C) sex;
- 342 (D) pregnancy, childbirth, or pregnancy-related conditions;
- 343 (E) religion;
- 344 (F) national origin;
- 345 (G) age, if the individual is 40 years of age or older; [or]
- 346 (H) disability; [or]
- 347 (I) sexual orientation; or
- 348 (J) gender identity; or

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

- 352 (A) race;
- 353 (B) color;
- 354 (C) sex;
- 355 (D) pregnancy, childbirth, or pregnancy-related conditions;
- 356 (E) religion;
- 357 (F) national origin;
- 358 (G) age, if the individual is 40 years of age or older; [or]
- 359 (H) disability[;];
- 360 (I) sexual orientation; or
- 361 (J) gender identity.

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

- 363 (A) exclude [any] an individual otherwise qualified from full membership rights in the  
 364 labor organization[;];
- 365 (B) expel the individual from membership in the labor organization[;]; or
- 366 (C) otherwise discriminate against or harass [any] a member of the labor  
 367 [organization's members] organization in full employment of work opportunity, or  
 368 representation[; because of:].

369 (ii) A labor organization may not take an action listed in this Subsection (1)(c) because  
370 of:

- 371 [~~(i)~~] (A) race;
- 372 [~~(ii)~~] (B) sex;
- 373 [~~(iii)~~] (C) pregnancy, childbirth, or pregnancy-related conditions;
- 374 [~~(iv)~~] (D) religion;
- 375 [~~(v)~~] (E) national origin;
- 376 [~~(vi)~~] (F) age, if the individual is 40 years of age or older; [~~or~~]
- 377 [~~(vii)~~] (G) disability[~~;~~];
- 378 (H) sexual orientation; or
- 379 (I) gender identity.

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

- 384 (A) print, [~~or~~] circulate, or cause to be printed or circulated, [~~any~~] a statement,  
385 advertisement, or publication[~~;~~];
- 386 (B) use [~~any~~] a form of application for employment or membership[~~;~~]; or
- 387 (C) make [~~any~~] an inquiry in connection with prospective employment or membership.
- 388 (ii) This Subsection (1)(d) applies to a statement, advertisement, publication, form, or  
389 inquiry that expresses, either directly or indirectly[~~:(i) any~~], a limitation, specification, or  
390 discrimination, or the intent to make a limitation, specification, or discrimination as to:

- 391 (A) race;
- 392 (B) color;
- 393 (C) religion;
- 394 (D) sex;
- 395 (E) pregnancy, childbirth, or pregnancy-related conditions;
- 396 (F) national origin;
- 397 (G) age, if the individual is 40 years of age or older; [~~or~~]
- 398 (H) disability;
- 399 (I) sexual orientation; or

400 (J) gender identity.

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

402 ~~Subsection (1)(d)(i).]~~

403 (e) A person, whether or not an employer, an employment agency, a labor organization,  
404 or [~~the employees or members~~] an employee or member of an employer, employment agency,  
405 or labor organization, may not:

406 (i) aid, incite, compel, or coerce the doing of an act defined in this section to be a  
407 discriminatory or prohibited employment practice;

408 (ii) obstruct or prevent [~~any~~] a person from complying with this chapter, or [~~any~~] an  
409 order issued under this chapter; or

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

412 (f) (i) An employer, labor organization, joint apprenticeship committee, or vocational  
413 school, providing, coordinating, or controlling an apprenticeship [~~programs~~] program, or  
414 providing, coordinating, or controlling an on-the-job-training [~~programs~~] program, instruction,  
415 training, or retraining [~~programs~~] program, may not:

416 (A) deny to, or withhold from, [~~any~~] a qualified person, the right to be admitted to, or  
417 participate in [~~any~~] an apprenticeship training program, on-the-job-training program, or other  
418 occupational instruction, training, or retraining program because of:

419 (I) race;

420 (II) color;

421 (III) sex;

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

423 (V) religion;

424 (VI) national origin;

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

426 (VIII) disability;

427 (IX) sexual orientation; or

428 (X) gender identity;

429 (B) discriminate against or harass [~~any~~] a qualified person in that person's pursuit of  
430 [~~programs~~] a program described in Subsection (1)(f)(i)(A)[~~, or to~~] because of:

- 431 (I) race;
- 432 (II) color;
- 433 (III) sex;
- 434 (IV) pregnancy, childbirth, or pregnancy-related conditions;
- 435 (V) religion;
- 436 (VI) national origin;
- 437 (VII) age, if the individual is 40 years of age or older;
- 438 (VIII) disability;
- 439 (IX) sexual orientation; or
- 440 (X) gender identity;

441 (C) discriminate against [such] a qualified person in the terms, conditions, or privileges  
 442 of [programs] a program described in Subsection (1)(f)(i)(A), because of:

- 443 (I) race;
- 444 (II) color;
- 445 (III) sex;
- 446 (IV) pregnancy, childbirth, or pregnancy-related conditions;
- 447 (V) religion;
- 448 (VI) national origin;
- 449 (VII) age, if the individual is 40 years of age or older; [or]
- 450 (VIII) disability; [or]
- 451 (IX) sexual orientation; or
- 452 (X) gender identity; or

453 [~~C~~] (D) except as provided in Subsection (1)(f)(ii), print, publish, or cause to be  
 454 printed or published, [any] a notice or advertisement relating to employment by the employer,  
 455 or membership in or [any] a classification or referral for employment by a labor organization,  
 456 or relating to [any] a classification or referral for employment by an employment agency,  
 457 indicating [any] a preference, limitation, specification, or discrimination based on:

- 458 (I) race;
- 459 (II) color;
- 460 (III) sex;
- 461 (IV) pregnancy, childbirth, or pregnancy-related conditions;

462 (V) religion;

463 (VI) national origin;

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

465 (VIII) disability[-];

466 (IX) sexual orientation; or

467 (X) gender identity.

468 (ii) Notwithstanding Subsection (1)(f)(i)[(C)](D), if the following is a bona fide

469 occupational qualification for employment, a notice or advertisement described in Subsection

470 (1)(f)(i)[(C)](D) may indicate a preference, limitation, specification, or discrimination based

471 on:

472 (A) race;

473 (B) color;

474 (C) religion;

475 (D) sex;

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

477 (F) age;

478 (G) national origin; [or]

479 (H) disability[-];

480 (I) sexual orientation; or

481 (J) gender identity.

482 (2) [~~Nothing contained in~~] Subsections (1)(a) through (1)(f) [~~shall~~] may not be

483 construed to prevent:

484 (a) the termination of employment of an individual who, with or without reasonable

485 accommodation, is physically, mentally, or emotionally unable to perform the duties required

486 by that individual's employment;

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

488 (c) a restriction on the activities of [~~individuals licensed by the liquor authority with~~

489 ~~respect to persons~~] a person licensed in accordance with Title 32A, Alcoholic Beverage

490 Control Act, with respect to an individual who is under 21 years of age.

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

492 (i) for an employer to hire and employ [~~employees;~~] an employee for an employment



493 agency to classify or refer for employment [~~any~~] an individual, for a labor organization to  
 494 classify its membership or to classify or refer for employment [~~any~~] an individual, or for an  
 495 employer, labor organization, or joint labor-management committee controlling an  
 496 apprenticeship or other training or retraining [~~programs~~] program to admit or employ [~~any~~] an  
 497 individual in [~~any such~~] the program, on the basis of religion, sex, pregnancy, childbirth, or  
 498 pregnancy-related conditions, age, national origin, [~~or~~] disability, sexual orientation, or gender  
 499 identity in those certain instances [~~where~~] when religion, sex, pregnancy, childbirth, or  
 500 pregnancy-related conditions, age, if the individual is 40 years of age or older, national origin,  
 501 [~~or~~] disability, sexual orientation, or gender identity is a bona fide occupational qualification  
 502 reasonably necessary to the normal operation of that particular business or enterprise;

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

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

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

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

511 (A) the employer's:

512 (I) spouse;

513 (II) child; or

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

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

517 (C) [~~any~~] a person to whom the employer during the preceding six months [~~has~~  
 518 ~~furnished~~] furnishes more than one-half of total financial support regardless of whether or not  
 519 the employer was or is legally obligated to furnish support; or

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

522 (b) Nothing in this chapter applies to [~~any~~] a business or enterprise on or near an Indian  
 523 reservation with respect to [~~any~~] a publicly announced employment practice of the business or

524 enterprise under which preferential treatment is given to [~~any~~] an individual because that  
525 individual is a native American Indian living on or near an Indian reservation.

526 (c) Nothing in this chapter [~~shall~~] may be interpreted to require [~~any~~] an employer,  
527 employment agency, labor organization, vocational school, joint labor-management committee,  
528 or apprenticeship program subject to this chapter to grant preferential treatment to [~~any~~] an  
529 individual or to [~~any~~] a group because of the race, color, religion, sex, age, national origin, [~~or~~]  
530 disability, sexual orientation, or gender identity of the individual or group on account of an  
531 imbalance [~~which~~] that may exist with respect to the total number or percentage of persons of  
532 [~~any~~] a race, color, religion, sex, age, national origin, [~~or~~] disability, sexual orientation, or  
533 gender identity employed by [~~any~~] an employer, referred or classified for employment by an  
534 employment agency or labor organization, admitted to membership or classified by [~~any~~] a  
535 labor organization, or admitted to or employed in, any apprenticeship or other training  
536 program, in comparison with the total number or percentage of persons of that race, color,  
537 religion, sex, age, national origin, [~~or~~] disability, sexual orientation, or gender identity in any  
538 community or county or in the available work force in any community or county.

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

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

- 547 (a) under Subsection (6);  
548 (b) under Section 67-5-8; and  
549 (c) when age is a bona fide occupational qualification.

550 (6) Nothing in this section prohibits compulsory retirement of an employee who has  
551 attained at least 65 years of age, and who, for the two-year period immediately before  
552 retirement, is employed in a bona fide executive or a high policymaking position, if:

- 553 (a) that employee is entitled to an immediate nonforfeitable annual retirement benefit  
554 from the employee's employer's pension, profit-sharing, savings, or deferred compensation

555 plan, or any combination of those plans; and

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

557 Section 5. Section **34A-5-107** is amended to read:

558 **34A-5-107. Procedure for aggrieved person to file claim -- Investigations --**

559 **Adjudicative proceedings -- Conciliation -- Reconsideration -- Determination.**

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

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

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

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

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

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

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

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

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

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

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

583 and

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

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

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

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

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

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

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

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

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

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

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

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

616 (d) If the director or the director's designee receives no timely request for a hearing, the

617 determination and order issued by the director or the director's designee in accordance with  
618 Subsection (5)(b) becomes the final order of the commission.

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

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

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

625 (ii) the respondent may amend its answer.

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

627 (i) during or after a hearing; and

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

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

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

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

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

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

640 (i) reinstatement;

641 (ii) back pay and benefits;

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

643 (iv) costs.

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

646 (11) (a) Either party may file with the Division of Adjudication a written request for  
647 review before the commissioner or Appeals Board of the order issued by the presiding officer

648 in accordance with:

- 649 (i) Section 63G-4-301; and
- 650 (ii) Chapter 1, Part 3, Adjudicative Proceedings.

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

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

- 655 (a) Section 63G-4-403; and
- 656 (b) Chapter 1, Part 3, Adjudicative Proceedings.

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

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

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

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

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

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

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

- 674 (a) race;
- 675 (b) color;
- 676 (c) sex;
- 677 (d) retaliation;
- 678 (e) pregnancy, childbirth, or pregnancy-related conditions;

- 679 (f) age;  
 680 (g) religion;  
 681 (h) national origin; [or]  
 682 (i) disability[=];  
 683 (j) sexual orientation; or  
 684 (k) gender identity.

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

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

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

694 Section 6. Section **57-21-2** is amended to read:

695 **57-21-2. Definitions.**

696 As used in this chapter:

697 (1) "Aggrieved person" includes [any] a person who:

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

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

701 (2) "Commission" means the Labor Commission.

702 (3) "Complainant" means an aggrieved person, including the director, who has  
 703 commenced a complaint with the division.

704 (4) "Conciliation" means the attempted resolution of [issues] an issue raised [by] in a  
 705 complaint of discriminatory housing practices by the investigation of the complaint through  
 706 informal negotiations involving the complainant, the respondent, and the division.

707 (5) "Conciliation agreement" means a written agreement setting forth the resolution of  
 708 the issues in conciliation.

709 (6) "Conciliation conference" means the attempted resolution of [issues] an issue raised

710 [by] in a complaint [~~or~~] by the investigation of a complaint through informal negotiations  
711 involving the complainant, the respondent, and the division. The conciliation conference is not  
712 subject to Title 63G, Chapter 4, Administrative Procedures Act.

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

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

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

717 (8) "Director" means the director of the division or a designee.

718 (9) (a) "Disability" means a physical or mental impairment that substantially limits one  
719 or more of a person's major life activities, including a person having a record of such an  
720 impairment or being regarded as having such an impairment.

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

724 (10) "Discriminate" includes segregate or separate.

725 (11) "Discriminatory housing practice" means an act that is unlawful under this  
726 chapter.

727 (12) "Division" means the Division of Antidiscrimination and Labor established under  
728 the commission.

729 (13) [~~(a)~~] "Dwelling" means [~~any~~]:

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

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

734 (14) (a) "Familial status" means one or more individuals who have not attained the age  
735 of 18 years being domiciled with:

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

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

740 (b) The protections afforded against discrimination on the basis of familial status [~~shall~~



741 ~~apply to any]~~ applies to a person who:

742 (i) is pregnant;

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

745 (iii) is a single individual.

746 (15) "Gender identity" means an individual's actual or perceived gender identity,  
747 including the individual's gender-related appearance, mannerisms, or other gender-related  
748 characteristics, without regard to the individual's physiology.

749 ~~[(15)]~~ (16) "National origin" means the place of birth of an individual or of any lineal  
750 ancestors.

751 ~~[(16)]~~ (17) "Person" includes one or more:

752 (a) individuals[;];

753 (b) corporations[;];

754 (c) limited liability companies[;];

755 (d) partnerships[;];

756 (e) associations[;];

757 (f) labor organizations[;];

758 (g) legal representatives[;];

759 (h) mutual companies[;];

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

761 (j) trusts[;];

762 (k) unincorporated organizations[;];

763 (l) trustees[;];

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

765 (n) receivers[;]; and

766 (o) fiduciaries.

767 ~~[(17)]~~ (18) "Presiding officer" has the same meaning as provided in Section  
768 63G-4-103.

769 ~~[(18)]~~ (19) "Real estate broker" or "salesperson" means a principal broker, an associate  
770 broker, or a sales agent as those terms are defined in Section 61-2f-102.

771 ~~[(19)]~~ (20) "Respondent" means a person against whom a complaint of housing

772 discrimination has been initiated.

773 [~~20~~] (21) "Sex" means gender and includes pregnancy, childbirth, and disabilities  
774 related to pregnancy or childbirth.

775 (22) "Sexual orientation" means an individual's actual or perceived orientation as  
776 heterosexual, homosexual, or bisexual.

777 [~~21~~] (23) "Source of income" means the verifiable condition of being a recipient of  
778 federal, state, or local assistance, including medical assistance, or of being a tenant receiving  
779 federal, state, or local subsidies, including rental assistance or rent supplements.

780 Section 7. Section **57-21-3** is amended to read:

781 **57-21-3. Exemptions.**

782 (1) This chapter does not apply to ~~any~~ a single-family dwelling unit sold or rented by  
783 its owner if:

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

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

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

790 (d) the owner does not retain or use the facilities or services of ~~any~~ a real estate  
791 broker or salesperson; and

792 (e) the owner does not use ~~any~~ a discriminatory housing practice under Subsection  
793 57-21-5(2) in the sale or rental of the dwelling.

794 (2) This chapter does not apply to a temporary or permanent residence facility operated  
795 by a nonprofit or charitable organization, including ~~any~~ a dormitory operated by a public or  
796 private educational institution, if the discrimination is by sex or familial status;

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

798 (b) in the furtherance of a religious institution's free exercise of religious rights under  
799 the First Amendment of the United States Constitution.

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

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

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

805 (4) [~~This~~] Unless membership in a religion is restricted by race, color, sex, or national  
 806 origin, sexual orientation, or gender identity, this chapter does not prohibit a religious  
 807 organization[;] or association, [~~or society;~~] or [~~any~~] a nonprofit institution or organization  
 808 operated, supervised, or controlled by or in conjunction with a religious organization[;] or  
 809 association, [~~or society;~~] from:

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

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

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

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

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

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

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

823 (a) a lease[;];

824 (b) a rental agreement[;];

825 (c) a contract of purchase or sale[;];

826 (d) a mortgage[;];

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

828 (f) another financing agreement.

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

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

832 (b) segregating housing that the nonprofit education institution approves, operates, or  
 833 owns on the basis of sex or familial status or both;

834 (i) for reasons of personal modesty or privacy[;]; or  
 835 (ii) in the furtherance of a religious institution's free exercise of religious rights under

836 the First Amendment of the [~~United States~~] Constitution of the United States; or

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

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

843 (9) [~~The provisions pertaining~~] A provision of this chapter that pertains to familial  
 844 status [~~do~~] does not apply to the existence, development, sale, rental, advertisement, or  
 845 financing of [~~any~~] an apartment complex, condominium, or other housing development  
 846 designated as housing for older persons, as defined by Title VIII of the Civil Rights Act of  
 847 1968, as amended.

848 Section 8. Section **57-21-5** is amended to read:

849 **57-21-5. Discriminatory practices enumerated -- Protected persons, classes**  
 850 **enumerated.**

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

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

855 (ii) refuse to negotiate for the sale or rental[;]; or

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

857 (b) discriminate against [~~any~~] a person in the terms, conditions, or privileges:

858 (i) of the sale or rental of [~~any~~] a dwelling; or

859 (ii) in providing facilities or services in connection with the dwelling; or

860 (c) represent to [~~any~~] a person that [~~any~~] a dwelling is not available for inspection, sale,  
 861 or rental when [~~in fact~~] the dwelling is available.

862 (2) It is a discriminatory housing practice:

863 (a) to:

864 (i) make a representation orally or in writing; [~~or~~]

865 (ii) make, print, circulate, publish, post, or cause to be made, printed, circulated,  
866 published, or posted [~~any~~] a notice, statement, or advertisement[~~;~~]; or [~~to~~]

867 (iii) use any application form for the sale or rental of a dwelling[~~, that~~]; and

868 (b) if the action described in Subsection (2)(a) directly or indirectly expresses [~~any~~]:

869 (i) a preference, limitation, or discrimination based on race, color, religion, sex,  
870 national origin, familial status, source of income, [~~or~~] disability, sexual orientation, or gender  
871 identity; or [~~expresses any~~]

872 (ii) an intent to make any such preference, limitation, or discrimination.

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

878 (4) A discriminatory housing practice includes:

879 (a) a refusal to permit, at the expense of the disabled person, a reasonable  
880 [~~modifications~~] modification of existing premises occupied or to be occupied by the person if  
881 the [~~modifications are~~] modification is necessary to afford that person full enjoyment of the  
882 premises, except that in the case of a rental, the landlord, [~~where~~] when it is reasonable to do  
883 so, may condition permission for a modification on the renter agreeing to restore the interior of  
884 the premises, when reasonable, to the condition that existed before the modification, reasonable  
885 wear and tear excepted;

886 (b) a refusal to make a reasonable [~~accommodations in rules, policies, practices, or~~  
887 ~~services when the accommodations~~] accommodation in a rule, policy, practice, or service if the  
888 accommodation may be necessary to afford the person equal opportunity to use and enjoy a  
889 dwelling; and

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

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

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

898 (A) the public use and common use portions of the covered multifamily dwelling are  
899 readily accessible to and usable by disabled persons;

900 (B) all the doors designed to allow passage into and within the covered multifamily  
901 dwellings are sufficiently wide to allow passage by disabled persons in wheelchairs; and

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

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

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

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

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

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

913 Section 9. Section **57-21-6** is amended to read:

914 **57-21-6. Discriminatory housing practices regarding residential real**  
915 **estate-related transactions -- Discriminatory housing practices regarding the provisions**  
916 **of brokerage services.**

917 (1) (a) It is a discriminatory housing practice for [~~any~~] a person whose business  
918 includes engaging in residential real [~~estate-related~~] estate related transactions to discriminate  
919 against [~~any~~] a person in making available [~~such~~] a residential real estate related transaction, or  
920 in the terms or conditions of the residential real estate related transaction, because of race,  
921 color, religion, sex, disability, familial status, source of income, [~~or~~] national origin, sexual  
922 orientation, or gender identity.

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

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

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

926 or

927           ~~[(f)]~~ (B) secured by residential real estate; or

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

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

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

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

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

941           Section 10. Section **57-21-7** is amended to read:

942           **57-21-7. Prohibited conduct -- Aiding or abetting in discriminatory actions --**

943 **Obstruction of division investigation -- Reprisals.**

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

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

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

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

948 or

949           (iii) because that person aided or encouraged any other person in the exercise or  
950 enjoyment of ~~[any]~~ a right granted or protected under this chapter;

951           (b) aid, abet, incite, compel, or coerce a person to engage in ~~[any of the practices]~~ a  
952 practice prohibited by this chapter;

953           (c) attempt to aid, abet, incite, compel, or coerce a person to engage in ~~[any of the~~  
954 ~~practices]~~ a practice prohibited by this chapter;

955           (d) obstruct or prevent ~~[any]~~ a person from complying with this chapter, or any order  
956 issued under this chapter;

957           (e) resist, prevent, impede, or interfere with the director or ~~[any]~~ a division ~~[employees~~

958 ~~or representatives]~~ employee or representative in the performance of duty under this chapter; or  
959 (f) engage in any reprisal against [~~any~~] a person because that person:  
960 (i) opposed a practice prohibited under this chapter; or  
961 (ii) filed a complaint, testified, assisted, or participated in any manner in [~~any~~] an  
962 investigation, proceeding, or hearing under this chapter.  
963 (2) This section also applies to discriminatory housing practices because of race, color,  
964 religion, sex, national origin, familial status, source of income, [~~or~~] disability, sexual  
965 orientation, or gender identity based upon a person's association with another person.

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**Legislative Review Note**  
as of 2-1-11 6:51 PM

**Office of Legislative Research and General Counsel**



# FISCAL NOTE

S.B. 148

SHORT TITLE: **Utah Fair Housing and Employment**

SPONSOR: **McAdams, B.**

2011 GENERAL SESSION, STATE OF UTAH

## STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

## LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments.

## DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.