

ANTIDISCRIMINATION AMENDMENTS

2015 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.

Highlighted Provisions:

This bill:

- ▶ modifies definition provisions related to employment and housing discrimination, including defining "gender identity" and "sexual orientation";
- ▶ modifies powers of the division;
- ▶ includes sexual orientation and gender identity as prohibited bases for discrimination in employment;
- ▶ 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:

None

Utah Code Sections Affected:



28 AMENDS:

29 [34A-5-102](#), as last amended by Laws of Utah 2011, Chapter 413

30 [34A-5-104](#), as last amended by Laws of Utah 2012, Chapter 369

31 [34A-5-106](#), as last amended by Laws of Utah 2013, Chapter 278

32 [34A-5-107](#), as last amended by Laws of Utah 2008, Chapter 382

33 [57-21-2](#), as last amended by Laws of Utah 2010, Chapter 379

34 [57-21-3](#), as last amended by Laws of Utah 1993, Chapter 114

35 [57-21-5](#), as last amended by Laws of Utah 2011, Chapter 366

36 [57-21-6](#), as last amended by Laws of Utah 1993, Chapter 114

37 [57-21-7](#), as last amended by Laws of Utah 1993, Chapter 114



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

40 Section 1. Section [34A-5-102](#) is amended to read:

41 **[34A-5-102](#). Definitions -- Unincorporated entities.**

42 (1) As used in this chapter:

43 (a) "Affiliate" has the same meaning as defined in Section [16-6a-102](#).

44 ~~[(a)]~~ (b) "Apprenticeship" means a program for the training of apprentices including a
45 program providing the training of those persons defined as apprentices by Section [35A-6-102](#).

46 ~~[(b)]~~ (c) "Bona fide occupational qualification" means a characteristic applying to an
47 employee that:

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

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

50 ~~[(c)]~~ (d) "Court" means:

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

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

55 ~~[(d)]~~ (e) "Director" means the director of the division.

56 ~~[(e)]~~ (f) "Disability" means a physical or mental disability as defined and covered by
57 the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102.

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

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

60 ~~(h)~~ (i) (i) "Employer" means:

61 (A) the state;

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

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

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

67 (ii) "Employer" does not include:

68 (A) a religious organization or association;

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

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

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

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

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

79 (ii) holding the person out to be equipped to take an action described in Subsection
80 (1)~~(i)~~(j)(i).

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

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

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

- 90 (i) collective bargaining;
- 91 (ii) dealing with employers concerning grievances, terms or conditions of employment;
- 92 or
- 93 (iii) other mutual aid or protection in connection with employment.

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

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

- 98 (i) is also employed at that job; or
- 99 (ii) may be employed by the employer conducting the program during the course of the
 100 program, or when the program is completed.

101 ~~[(+)]~~ (p) "Person" means:

- 102 (i) one or more individuals, partnerships, associations, corporations, legal
 103 representatives, trusts or trustees, or receivers~~[-]~~;
- 104 (ii) the state; and ~~[all political subdivisions and agencies]~~
- 105 (iii) a political subdivision or agency of the state.

106 ~~[(+)]~~ (q) "Presiding officer" means the same as that term is defined in Section
 107 [63G-4-103](#).

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

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

- 114 (i) ~~[opposed any]~~ opposes an employment practice prohibited under this chapter; or
- 115 (ii) ~~[filed charges, testified, assisted, or participated]~~ files charges, testifies, assists, or
 116 participates in any way in ~~[any]~~ a proceeding, investigation, or hearing under this chapter.

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

119 ~~[(+)]~~ (u) "Unincorporated entity" means ~~(+)~~ an entity organized or doing business in the
 120 state that is not:

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

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

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

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

- 136 (i) is an active manager of the unincorporated entity;
137 (ii) directly or indirectly holds at least an 8% ownership interest in the unincorporated
138 entity; or
139 (iii) is not subject to supervision or control in the performance of work by:
140 (A) the unincorporated entity; or
141 (B) a person with whom the unincorporated entity contracts.
142 (c) As part of the rules made under Subsection (2)(b), the commission may define:
143 (i) "active manager";
144 (ii) "directly or indirectly holds at least an 8% ownership interest"; and
145 (iii) "subject to supervision or control in the performance of work."

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

147 **34A-5-104. Powers.**

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

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

- 152 (2) The division may:
- 153 (a) appoint and prescribe the duties of [~~investigators and other employees and agents~~
154 ~~that it~~] an investigator, other employee, or agent of the commission that the commission
155 considers necessary for the enforcement of this chapter;
- 156 (b) receive, reject, investigate, and pass upon [~~complaints~~] a complaint alleging:
- 157 (i) discrimination in:
- 158 (A) employment;
- 159 (B) an apprenticeship [~~programs~~] program;
- 160 (C) an on-the-job training [~~programs, and~~] program; or
- 161 (D) a vocational [~~schools~~] school; or
- 162 (ii) the existence of a discriminatory or prohibited employment practice by:
- 163 (A) a person;
- 164 (B) an employer;
- 165 (C) an employment agency;
- 166 (D) a labor organization;
- 167 (E) [~~the employees or members~~] an employee or member of an employment agency or
168 labor organization;
- 169 (F) a joint apprenticeship committee; and
- 170 (G) a vocational school;
- 171 (c) investigate and study the existence, character, causes, and extent of discrimination
172 [~~in~~]:
- 173 (i) in one or more of the following in this state:
- 174 (A) employment[;];
- 175 (B) apprenticeship programs[;];
- 176 (C) on-the-job training programs[;]; and
- 177 (D) vocational schools [~~in this state~~]; and
- 178 (ii) by:
- 179 [(i)] (A) employers;
- 180 [(ii)] (B) employment agencies;
- 181 [(iii)] (C) labor organizations;
- 182 [(iv)] (D) joint apprenticeship committees; and

- 183 ~~[(v)]~~ (E) vocational schools;
- 184 (d) formulate one or more plans for the elimination of discrimination by educational or
- 185 other means;
- 186 (e) hold ~~[hearings upon]~~ a hearing on a complaint made against:
- 187 (i) a person;
- 188 (ii) an employer;
- 189 (iii) an employment agency;
- 190 (iv) a labor organization;
- 191 (v) ~~[the employees or members]~~ an employee or member of an employment agency or
- 192 labor organization;
- 193 (vi) a joint apprenticeship committee; or
- 194 (vii) a vocational school;
- 195 (f) issue one or more publications and reports of investigations and research that:
- 196 (i) promote good will among the various racial, religious, and ethnic groups of the
- 197 state; and
- 198 (ii) minimize or eliminate discrimination in employment because of race, color, sex,
- 199 religion, national origin, age, ~~[or]~~ disability, sexual orientation, or gender identity;
- 200 (g) prepare and transmit to the governor, at least once each year, reports describing:
- 201 (i) ~~[its]~~ the division's proceedings, investigations, and hearings;
- 202 (ii) the outcome of those hearings;
- 203 (iii) decisions the division ~~[has rendered]~~ renders; and
- 204 (iv) the other work performed by the division;
- 205 (h) recommend policies to the governor, and submit recommendation to employers,
- 206 employment agencies, and labor organizations to implement those policies;
- 207 (i) recommend ~~[any]~~ legislation to the governor that the division considers necessary
- 208 concerning discrimination because of:
- 209 (A) race^[;]₂;
- 210 (B) sex^[;]₂;
- 211 (C) color^[;]₂;
- 212 (D) national origin^[;]₂;
- 213 (E) religion^[;]₂;

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

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

216 (H) sexual orientation; or

217 (I) gender identity; and

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

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

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

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

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

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

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

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

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

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

238 **34A-5-106. Discriminatory or prohibited employment practices -- Permitted**
239 **practices.**

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

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

245 because of:

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

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

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

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

269 (B) Notwithstanding Subsection (1)(a)(iii)(A):

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

273 (II) nothing in this section prohibits an employer and employee from agreeing to a rate
274 of pay or work schedule designed to protect the employee from loss of Social Security payment
275 or benefits if the employee is eligible for those payments.

- 276 (b) An employment agency may not:
- 277 (i) refuse to list and properly classify for employment, or refuse to refer an individual
- 278 for employment, in a known available job for which the individual is otherwise qualified,
- 279 because of:
- 280 (A) race;
 - 281 (B) color;
 - 282 (C) sex;
 - 283 (D) pregnancy, childbirth, or pregnancy-related conditions;
 - 284 (E) religion;
 - 285 (F) national origin;
 - 286 (G) age, if the individual is 40 years of age or older; [~~or~~]
 - 287 (H) disability; [~~or~~]
 - 288 (I) sexual orientation; or
 - 289 (J) gender identity; or
- 290 (ii) comply with a request from an employer for referral of [~~applicants~~] an applicant for
- 291 employment if the request indicates either directly or indirectly that the employer discriminates
- 292 in employment on account of:
- 293 (A) race;
 - 294 (B) color;
 - 295 (C) sex;
 - 296 (D) pregnancy, childbirth, or pregnancy-related conditions;
 - 297 (E) religion;
 - 298 (F) national origin;
 - 299 (G) age, if the individual is 40 years of age or older; [~~or~~]
 - 300 (H) disability[~~;~~];
 - 301 (I) sexual orientation; or
 - 302 (J) gender identity.
- 303 (c) (i) A labor organization may not for a reason listed in Subsection (1)(c)(ii):
- 304 (A) exclude [any] an individual otherwise qualified from full membership rights in the
 - 305 labor organization[~~;~~];
 - 306 (B) expel the individual from membership in the labor organization[~~;~~]; or

307 (C) otherwise discriminate against or harass [~~any of the labor organization's members~~]
 308 a member of the labor organization in full employment of work opportunity[~~;~~] or
 309 representation[~~;~~~~because of~~].

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

311 of:

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

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

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

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

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

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

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

319 (H) sexual orientation; or

320 (I) gender identity.

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

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

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

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

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

332 (A) race;

333 (B) color;

334 (C) religion;

335 (D) sex;

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

337 (F) national origin;

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

339 (H) disability; [or]

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

341 ~~Subsection (1)(d)(i):]~~

342 (I) sexual orientation; or

343 (J) gender identity.

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

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

346 or labor organization, may not:

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

348 discriminatory or prohibited employment practice;

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

350 order issued under this chapter; or

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

352 section.

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

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

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

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

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

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

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

360 (I) race;

361 (II) color;

362 (III) sex;

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

364 (V) religion;

365 (VI) national origin;

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

367 (VIII) disability;

368 (IX) sexual orientation; or

369 (X) gender identity;
370 (B) discriminate against or harass ~~[any]~~ a qualified person in that person's pursuit of
371 ~~[programs]~~ a program described in Subsection (1)(f)(i)(A)~~[-or to]~~ because of:

- 372 (I) race;
- 373 (II) color;
- 374 (III) sex;
- 375 (IV) pregnancy, childbirth, or pregnancy-related conditions;
- 376 (V) religion;
- 377 (VI) national origin;
- 378 (VII) age, if the individual is 40 years of age or older;

- 379 (VIII) disability;
- 380 (IX) sexual orientation; or

381 (X) gender identity;
382 ~~(C)~~ discriminate against ~~[such]~~ a qualified person in the terms, conditions, or privileges
383 of ~~[programs]~~ a program described in Subsection (1)(f)(i)(A), because of:

- 384 (I) race;
- 385 (II) color;
- 386 (III) sex;
- 387 (IV) pregnancy, childbirth, or pregnancy-related conditions;
- 388 (V) religion;
- 389 (VI) national origin;
- 390 (VII) age, if the individual is 40 years of age or older; ~~[or]~~

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

392 (IX) sexual orientation; or

393 (X) gender identity; or

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

399 (I) race;

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

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

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

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

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

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

429 (c) a restriction on the activities of [~~individuals licensed by the liquor authority with~~
 430 respect to persons] a person licensed in accordance with Title 32B, Alcoholic Beverage Control

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

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

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

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

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

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

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

452 (A) the employer's:

453 (I) spouse;

454 (II) child; or

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

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

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

461 (D) [~~any~~] a person whose education or training [~~was~~] is substantially financed by the

462 employer for a period of two years or more.

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

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

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

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

488 (a) under Subsection (6); and

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

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

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

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

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

498 **34A-5-107. Procedure for aggrieved person to file claim -- Investigations --**
499 **Adjudicative proceedings -- Conciliation -- Reconsideration -- Determination.**

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

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

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

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

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

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

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

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

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

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

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

523 and

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

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

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

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

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

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

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

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

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

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

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

553 (c) A party may file a written request to the Division of Adjudication for an evidentiary
554 hearing to review de novo the director's or the director's designee's determination and order

555 within 30 days of the date the determination and order is issued.

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

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

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

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

565 (ii) the respondent may amend its answer.

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

567 (i) during or after a hearing; and

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

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

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

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

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

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

580 (i) reinstatement;

581 (ii) back pay and benefits;

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

583 (iv) costs.

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

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

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

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

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

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

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

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

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

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

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

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

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

- 614 (a) race;
- 615 (b) color;
- 616 (c) sex;

- 617 (d) retaliation;
- 618 (e) pregnancy, childbirth, or pregnancy-related conditions;
- 619 (f) age;
- 620 (g) religion;
- 621 (h) national origin; ~~[or]~~
- 622 (i) disability~~[-];~~
- 623 (j) sexual orientation; or
- 624 (k) gender identity.

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

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

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

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

635 **57-21-2. Definitions.**

636 As used in this chapter:

637 (1) "Affiliate" means the same as that term is defined in Section [16-6a-102](#).

638 ~~[(1)]~~ (2) "Aggrieved person" includes ~~[any]~~ a person who:

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

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

642 ~~[(2)]~~ (3) "Commission" means the Labor Commission.

643 ~~[(3)]~~ (4) "Complainant" means an aggrieved person, including the director, who has
 644 commenced a complaint with the division.

645 ~~[(4)]~~ (5) "Conciliation" means the attempted resolution of ~~[issues]~~ an issue raised ~~[by]~~
 646 in a complaint of discriminatory housing practices by the investigation of the complaint
 647 through informal negotiations involving the complainant, the respondent, and the division.

648 ~~[(5)]~~ (6) "Conciliation agreement" means a written agreement setting forth the
649 resolution of the issues in conciliation.

650 ~~[(6)]~~ (7) "Conciliation conference" means the attempted resolution of ~~[issues]~~ an issue
651 raised ~~[by]~~ in a complaint or by the investigation of a complaint through informal negotiations
652 involving the complainant, the respondent, and the division. The conciliation conference is not
653 subject to Title 63G, Chapter 4, Administrative Procedures Act.

654 ~~[(7)]~~ (8) "Covered multifamily ~~[dwellings]"~~ dwelling" means:

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

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

658 ~~[(8)]~~ (9) "Director" means the director of the division or a designee.

659 ~~[(9)]~~ (10) (a) "Disability" means a physical or mental impairment that substantially
660 limits one or more of a person's major life activities, including a person having a record of such
661 an impairment or being regarded as having such an impairment.

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

665 ~~[(10)]~~ (11) "Discriminate" includes segregate or separate.

666 ~~[(11)]~~ (12) "Discriminatory housing practice" means an act that is unlawful under this
667 chapter.

668 ~~[(12)]~~ (13) "Division" means the Division of Antidiscrimination and Labor established
669 under the commission.

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

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

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

675 ~~[(14)]~~ (15) (a) "Familial status" means one or more individuals who have not attained
676 the age of 18 years being domiciled with:

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

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

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

683 (i) is pregnant;

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

686 (iii) is a single individual.

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

691 [~~(15)~~] (17) "National origin" means the place of birth of an individual or of any lineal
692 ancestors.

693 [~~(16)~~] (18) "Person" includes one or more:

694 (a) individuals[;];

695 (b) corporations[;];

696 (c) limited liability companies[;];

697 (d) partnerships[;];

698 (e) associations[;];

699 (f) labor organizations[;];

700 (g) legal representatives[;];

701 (h) mutual companies[;];

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

703 (j) trusts[;];

704 (k) unincorporated organizations[;];

705 (l) trustees[;];

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

707 (n) receivers[;]; and

708 (o) fiduciaries.

709 [~~(17)~~] (19) "Presiding officer" has the same meaning as provided in Section

710 63G-4-103.

711 [(18)] (20) "Real estate broker" or "salesperson" means a principal broker, an associate
712 broker, or a sales agent as those terms are defined in Section 61-2f-102.

713 [(19)] (21) "Respondent" means a person against whom a complaint of housing
714 discrimination has been initiated.

715 [(20)] (22) "Sex" means gender and includes pregnancy, childbirth, and disabilities
716 related to pregnancy or childbirth.

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

719 [(21)] (24) "Source of income" means the verifiable condition of being a recipient of
720 federal, state, or local assistance, including medical assistance, or of being a tenant receiving
721 federal, state, or local subsidies, including rental assistance or rent supplements.

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

723 **57-21-3. Exemptions.**

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

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

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

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

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

734 (e) the owner does not use [any] a discriminatory housing practice under Subsection
735 57-21-5(2) in the sale or rental of the dwelling.

736 (2) This chapter does not apply to a temporary or permanent residence facility
737 approved, operated, or owned by a nonprofit [or] organization, a charitable organization, or a
738 person in conjunction with a religious organization, association, society, or its affiliates,
739 including [any dormitory operated] a residence facility approved, operated, or owned by a
740 public or private educational institution, if the discrimination is by sex, sexual orientation,

741 gender identity, or familial status:

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

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

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

749 (a) the dwelling is designed for occupancy by four or fewer families~~;~~; and

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

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

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

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

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

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

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

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

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

768 (a) a lease~~;~~;

769 (b) a rental agreement~~;~~;

770 (c) a contract of purchase or sale~~;~~;

771 (d) a mortgage~~;~~;

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

773 (f) another financing agreement.

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

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

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

779 (i) for reasons of personal modesty or privacy~~;~~; or

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

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

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

788 (9) ~~[The provisions pertaining]~~ A provision of this chapter that pertains to familial
789 status ~~[do]~~ does not apply to the existence, development, sale, rental, advertisement, or
790 financing of ~~[any]~~ an apartment complex, condominium, or other housing development
791 designated as housing for older persons, as defined by Title VIII of the Civil Rights Act of
792 1968, as amended.

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

794 **57-21-5. Discriminatory practices enumerated.**

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

798 (a) (i) refuse to sell or rent after the making of a bona fide offer~~;~~;

799 (ii) refuse to negotiate for the sale or rental~~;~~; or

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

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

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

803 (ii) in providing facilities or services in connection with the dwelling; or
804 (c) represent to ~~[any]~~ a person that ~~[any]~~ a dwelling is not available for inspection, sale,
805 or rental when ~~[in fact]~~ the dwelling is available.

806 (2) It is a discriminatory housing practice:
807 (a) to:
808 (i) make a representation orally or in writing; ~~[or]~~
809 (ii) make, print, circulate, publish, post, or cause to be made, printed, circulated,
810 published, or posted ~~[any]~~ a notice, statement, or advertisement~~;~~; or ~~[to]~~
811 (iii) use any application form for the sale or rental of a dwelling~~;~~~~that~~; and
812 (b) if the action described in Subsection (2)(a) directly or indirectly expresses ~~[any]~~:
813 (i) a preference, limitation, or discrimination based on race, color, religion, sex,
814 national origin, familial status, source of income, ~~[or]~~ disability, sexual orientation, or gender
815 identity; or ~~[expresses any]~~
816 (ii) an intent to make ~~[any such]~~ a preference, limitation, or discrimination described in
817 Subsection (2)(b)(i).

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

823 (4) A discriminatory housing practice includes:
824 (a) a refusal to permit, at the expense of the person with a disability, reasonable
825 modifications of existing premises occupied or to be occupied by the person if the
826 modifications are necessary to afford that person full enjoyment of the premises, except that in
827 the case of a rental, the landlord, where it is reasonable to do so, may condition permission for
828 a modification on the renter agreeing to restore the interior of the premises, when reasonable, to
829 the condition that existed before the modification, reasonable wear and tear excepted;
830 (b) a refusal to make a reasonable ~~[accommodations in rules, policies, practices, or~~
831 ~~services when the accommodations]~~ accommodation in a rule, policy, practice, or service if the
832 accommodation may be necessary to afford the person equal opportunity to use and enjoy a
833 dwelling; and

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

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

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

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

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

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

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

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

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

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

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

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

859 **57-21-6. Discriminatory housing practices regarding residential real**
860 **estate-related transactions -- Discriminatory housing practices regarding the provisions**
861 **of brokerage services.**

862 (1) (a) It is a discriminatory housing practice for [~~any~~] a person whose business
863 includes engaging in residential real estate-related transactions to discriminate against [~~any~~] a
864 person in making available [~~such~~] a residential real estate-related transaction, or in the terms or

865 conditions of the residential real estate-related transaction, because of race, color, religion, sex,
 866 disability, familial status, source of income, [~~or~~] national origin, sexual orientation, or gender
 867 identity.

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

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

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

871 or

872 [~~(i)~~] (B) secured by residential real estate; or

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

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

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

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

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

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

887 **57-21-7. Prohibited conduct -- Aiding or abetting in discriminatory actions --**

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

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

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

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

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

893 or

894 (iii) because that person aided or encouraged any other person in the exercise or

895 enjoyment of [~~any~~] a right granted or protected under this chapter;

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

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

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

902 (e) resist, prevent, impede, or interfere with the director or [~~any~~] a division [~~employees~~
903 or representatives] employee or representative in the performance of duty under this chapter; or

904 (f) engage in any reprisal against [~~any~~] a person because that person:

905 (i) opposed a practice prohibited under this chapter; or

906 (ii) filed a complaint, testified, assisted, or participated in any manner in [~~any~~] an
907 investigation, proceeding, or hearing under this chapter.

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

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