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UTAH FAIR HOUSING ACT AMENDMENTS
2024 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Kirk A. Cullimore
House Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill requires a good faith effort in resolving matters before the Labor Commission under the Utah Fair Housing Act.

Highlighted Provisions:

This bill:

- ▶ eliminates an exemption in the Utah Fair Housing Act;
- ▶ codifies a good faith requirement for a legal representative to attempt resolution of a matter before the Labor Commission; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 57-21-3**, as last amended by Laws of Utah 2015, Chapter 13
- 57-21-10**, as last amended by Laws of Utah 2019, Chapter 100

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

Section 1. Section **57-21-3** is amended to read:

57-21-3 . Exemptions -- Sale by private individuals -- Nonprofit organizations -- Noncommercial transactions.

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

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

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

31 ~~[(e)]~~ (b) during a 24-month period, the owner does not sell two or more single-family
32 dwelling units in which the owner was not residing or was not the most recent
33 resident at the time of sale;

34 ~~[(d)]~~ (c) the owner does not retain or use the facilities or services of a real estate broker
35 or salesperson; and

36 ~~[(e)]~~ (d) the owner does not use a discriminatory housing practice under Subsection
37 57-21-5(2) in the sale or rental of the dwelling.

38 (2) This chapter does not apply to a dwelling or a temporary or permanent residence facility
39 if:

40 (a) the discrimination is by sex, sexual orientation, gender identity, or familial status for
41 reasons of personal modesty or privacy, or in the furtherance of a religious
42 institution's free exercise of religious rights under the First Amendment of the United
43 States Constitution or the Utah Constitution; and

44 (b) the dwelling or the temporary or permanent residence facility is:

45 (i) operated by a nonprofit or charitable organization;

46 (ii) owned by, operated by, or under contract with a religious organization, a religious
47 association, a religious educational institution, or a religious society;

48 (iii) owned by, operated by, or under contract with an affiliate of an entity described
49 in Subsection (2)(b)(ii); or

50 (iv) owned by or operated by a person under contract with an entity described in
51 Subsection (2)(b)(ii).

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

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

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

57 (4) (a) (i) Unless membership in a religion is restricted by race, color, sex, or national
58 origin, this chapter does not prohibit an entity described in Subsection (4)(a)(ii)
59 from:

60 (A) limiting the sale, rental, or occupancy of a dwelling or temporary or
61 permanent residence facility the entity owns or operates for primarily
62 noncommercial purposes to persons of the same religion; or

- 63 (B) giving preference to persons of the same religion when selling, renting, or
64 selecting occupants for a dwelling, or a temporary or permanent residence
65 facility, the entity owns or operates for primarily noncommercial purposes.
- 66 (ii) The following entities are entitled to the exemptions described in Subsection
67 (4)(a)(i):
- 68 (A) a religious organization, association, or society; or
69 (B) a nonprofit institution or organization operated, supervised, or controlled by or
70 in conjunction with a religious organization, association, or society.
- 71 (b) (i) This chapter does not prohibit an entity described in Subsection (4)(b)(ii) from:
72 (A) limiting the sale, rental, or occupancy of a dwelling, or a temporary or
73 permanent residence facility, the entity owns or operates to persons of a
74 particular religion, sex, sexual orientation, or gender identity; or
75 (B) giving preference to persons of a particular religion, sex, sexual orientation, or
76 gender identity when selling, renting, or selecting occupants for a dwelling, or
77 a temporary or permanent residence facility, the entity owns or operates.
- 78 (ii) The following entities are entitled to the exemptions described in Subsection
79 (4)(b)(i):
- 80 (A) an entity described in Subsection (4)(a)(ii); and
81 (B) a person who owns a dwelling, or a temporary or permanent residence facility,
82 that is under contract with an entity described in Subsection (4)(a)(ii).
- 83 (5) (a) If the conditions of Subsection (5)(b) are met, this chapter does not prohibit a
84 private club not open to the public, including a fraternity or sorority associated with
85 an institution of higher education, from:
- 86 (i) limiting the rental or occupancy of lodgings to members; or
87 (ii) giving preference to its members.
- 88 (b) This Subsection (5) applies only if the private club owns or operates the lodgings as
89 an incident to its primary purpose and not for a commercial purpose.
- 90 (6) This chapter does not prohibit distinctions based on inability to fulfill the terms and
91 conditions, including financial obligations, of a lease, rental agreement, contract of
92 purchase or sale, mortgage, trust deed, or other financing agreement.
- 93 (7) This chapter does not prohibit a nonprofit educational institution from:
- 94 (a) requiring its single students to live in a dwelling, or a temporary or permanent
95 residence facility, that is owned by, operated by, or under contract with the nonprofit
96 educational institution;

- 97 (b) segregating a dwelling, or a temporary or permanent residence facility, that is owned
 98 by, operated by, or under contract with the nonprofit educational institution on the
 99 basis of sex or familial status or both:
- 100 (i) for reasons of personal modesty or privacy; or
 101 (ii) in the furtherance of a religious institution's free exercise of religious rights under
 102 the First Amendment of the United States Constitution or the Utah Constitution; or
- 103 (c) otherwise assisting another person in making a dwelling, or a temporary or
 104 permanent residence facility, available to students on a sex-segregated basis as may
 105 be permitted by:
- 106 (i) regulations implementing the federal Fair Housing Amendments Act of 1988;
 107 (ii) Title IX of the Education Amendments of 1972; or
 108 (iii) other applicable law.
- 109 (8) This chapter does not prohibit any reasonable local, state, or federal restriction
 110 regarding the maximum number of occupants permitted to occupy a dwelling.
- 111 (9) A provision of this chapter that pertains to familial status does not apply to the
 112 existence, development, sale, rental, advertisement, or financing of an apartment
 113 complex, condominium, or other housing development designated as housing for older
 114 persons, as defined by Title VIII of the Civil Rights Act of 1968, as amended.
- 115 Section 2. Section **57-21-10** is amended to read:
- 116 **57-21-10 . Judicial election or formal adjudicative hearing.**
- 117 (1) (a) If, pursuant to Subsection 57-21-9(6) or (7)(b)(ii), the director issues a written
 118 determination, a party to the complaint may obtain de novo review of the
 119 determination by submitting a written request for a formal adjudicative hearing to be
 120 conducted by the commission's Division of Adjudication in accordance with Title
 121 34A, Chapter 1, Part 3, Adjudicative Proceedings, to the director within 30 days after
 122 the day on which the director issues the determination.
- 123 (b) If the director does not receive a timely request for review, the director's
 124 determination becomes the final order of the commission and is not subject to further
 125 agency action or direct judicial review.
- 126 (2) If a party files a timely request for review pursuant to Subsection (1):
- 127 (a) any party to the complaint may elect to have the de novo review take place in a civil
 128 action in the district court rather than in a formal adjudicative hearing with the
 129 Division of Adjudication by filing an election with the commission in accordance
 130 with rules established by the commission pursuant to Title 63G, Chapter 3, Utah

- 131 Administrative Rulemaking Act, regarding the form and time period for the election;
- 132 (b) the complainant shall file a complaint for review in the forum selected pursuant to
- 133 Subsection (2)(a) within 30 days after the completion of the forum selection process;
- 134 and
- 135 (c) the commission shall determine whether the director's determination is supported by
- 136 substantial evidence.
- 137 (3) (a) The commission shall provide legal representation on behalf of the aggrieved
- 138 person, including the filing of a complaint for review as required by Subsection
- 139 (2)(b),~~[to support and enforce the director's determination]~~ in the de novo review
- 140 proceeding, if:
- 141 (i) in accordance with Subsection 57-21-9(7)(b)(ii), the director issued a written
- 142 determination finding reasonable cause to believe that a discriminatory housing
- 143 practice had occurred, or was about to occur; and
- 144 (ii) under Subsection (2)(c), the commission determines that the director's
- 145 determination under 57-21-9(7)(b)(ii) is supported by substantial evidence.
- 146 (b) An attorney who provides legal representation under Subsection (3)(a) shall consult
- 147 with the parties in good faith and attempt to resolve the matter based upon a review
- 148 of the facts, witnesses, evidence, and the likelihood of success.
- 149 ~~[(b)]~~ (c) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, the
- 150 commission's determination, under Subsection (2)(c), regarding the existence or
- 151 nonexistence of substantial evidence to support the director's determination is not
- 152 subject to further agency action or direct judicial review.
- 153 (4) Upon timely application, an aggrieved person may intervene with respect to the issues
- 154 to be determined in a formal adjudicative hearing or in a civil action brought under this
- 155 section.
- 156 (5) If a formal adjudicative hearing is elected:
- 157 (a) the presiding officer shall commence the formal adjudicative hearing within 150 days
- 158 after the day on which a request for review of the director's determination is filed,
- 159 unless it is impracticable to do so;
- 160 (b) the investigator who investigated the matter may not participate:
- 161 (i) in the formal adjudicative hearing, except as a witness; or
- 162 (ii) in the deliberations of the presiding officer;
- 163 (c) any party to the complaint may file a written request to the Division of Adjudication
- 164 for review of the presiding officer's order in accordance with Section 63G-4-301 and

- 165 Title 34A, Chapter 1, Part 3, Adjudicative Proceedings; and
166 (d) a final order of the commission under this section is subject to judicial review as
167 provided in Section 63G-4-403 and Title 34A, Chapter 1, Part 3, Adjudicative
168 Proceedings.
- 169 (6) If a civil action is elected, the commission is barred from continuing or commencing
170 any adjudicative proceeding in connection with the same claims under this chapter.
- 171 (7) (a) The commission shall make final administrative disposition of the complaint
172 alleging a discriminatory housing practice within one year after the complainant filed
173 the complaint, unless it is impracticable to do so.
- 174 (b) If the commission is unable to make final administrative disposition within the time
175 period described in Subsection (7)(a), the commission shall notify the complainant,
176 respondent, and any other interested party in writing of the reasons for the delay.

177 Section 3. **Effective date.**

178 This bill takes effect on May 1, 2024.