

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:



28 **57-21-3. Exemptions -- Sale by private individuals -- Nonprofit organizations --**
29 **Noncommercial transactions.**

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

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

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

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

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

40 ~~[(e)]~~ (d) the owner does not use a discriminatory housing practice under Subsection
41 [57-21-5\(2\)](#) in the sale or rental of the dwelling.

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

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

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

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

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

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

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

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

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

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

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

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

66 (B) giving preference to persons of the same religion when selling, renting, or selecting
67 occupants for a dwelling, or a temporary or permanent residence facility, the entity owns or
68 operates for primarily noncommercial purposes.

69 (ii) The following entities are entitled to the exemptions described in Subsection
70 (4)(a)(i):

71 (A) a religious organization, association, or society; or

72 (B) a nonprofit institution or organization operated, supervised, or controlled by or in
73 conjunction with a religious organization, association, or society.

74 (b) (i) This chapter does not prohibit an entity described in Subsection (4)(b)(ii) from:

75 (A) limiting the sale, rental, or occupancy of a dwelling, or a temporary or permanent
76 residence facility, the entity owns or operates to persons of a particular religion, sex, sexual
77 orientation, or gender identity; or

78 (B) giving preference to persons of a particular religion, sex, sexual orientation, or
79 gender identity when selling, renting, or selecting occupants for a dwelling, or a temporary or
80 permanent residence facility, the entity owns or operates.

81 (ii) The following entities are entitled to the exemptions described in Subsection
82 (4)(b)(i):

83 (A) an entity described in Subsection (4)(a)(ii); and

84 (B) a person who owns a dwelling, or a temporary or permanent residence facility, that
85 is under contract with an entity described in Subsection (4)(a)(ii).

86 (5) (a) If the conditions of Subsection (5)(b) are met, this chapter does not prohibit a
87 private club not open to the public, including a fraternity or sorority associated with an
88 institution of higher education, from:

89 (i) limiting the rental or occupancy of lodgings to members; or

90 (ii) giving preference to its members.

91 (b) This Subsection (5) applies only if the private club owns or operates the lodgings as
92 an incident to its primary purpose and not for a commercial purpose.

93 (6) This chapter does not prohibit distinctions based on inability to fulfill the terms and
94 conditions, including financial obligations, of a lease, rental agreement, contract of purchase or
95 sale, mortgage, trust deed, or other financing agreement.

96 (7) This chapter does not prohibit a nonprofit educational institution from:

97 (a) requiring its single students to live in a dwelling, or a temporary or permanent
98 residence facility, that is owned by, operated by, or under contract with the nonprofit
99 educational institution;

100 (b) segregating a dwelling, or a temporary or permanent residence facility, that is
101 owned by, operated by, or under contract with the nonprofit educational institution on the basis
102 of sex or familial status or both:

103 (i) for reasons of personal modesty or privacy; or

104 (ii) in the furtherance of a religious institution's free exercise of religious rights under
105 the First Amendment of the United States Constitution or the Utah Constitution; or

106 (c) otherwise assisting another person in making a dwelling, or a temporary or
107 permanent residence facility, available to students on a sex-segregated basis as may be
108 permitted by:

109 (i) regulations implementing the federal Fair Housing Amendments Act of 1988;

110 (ii) Title IX of the Education Amendments of 1972; or

111 (iii) other applicable law.

112 (8) This chapter does not prohibit any reasonable local, state, or federal restriction
113 regarding the maximum number of occupants permitted to occupy a dwelling.

114 (9) A provision of this chapter that pertains to familial status does not apply to the
115 existence, development, sale, rental, advertisement, or financing of an apartment complex,
116 condominium, or other housing development designated as housing for older persons, as
117 defined by Title VIII of the Civil Rights Act of 1968, as amended.

118 Section 2. Section **57-21-10** is amended to read:

119 **57-21-10. Judicial election or formal adjudicative hearing.**

120 (1) (a) If, pursuant to Subsection **57-21-9(6)** or **(7)(b)(ii)**, the director issues a written

121 determination, a party to the complaint may obtain de novo review of the determination by
122 submitting a written request for a formal adjudicative hearing to be conducted by the
123 commission's Division of Adjudication in accordance with Title 34A, Chapter 1, Part 3,
124 Adjudicative Proceedings, to the director within 30 days after the day on which the director
125 issues the determination.

126 (b) If the director does not receive a timely request for review, the director's
127 determination becomes the final order of the commission and is not subject to further agency
128 action or direct judicial review.

129 (2) If a party files a timely request for review pursuant to Subsection (1):

130 (a) any party to the complaint may elect to have the de novo review take place in a civil
131 action in the district court rather than in a formal adjudicative hearing with the Division of
132 Adjudication by filing an election with the commission in accordance with rules established by
133 the commission pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
134 regarding the form and time period for the election;

135 (b) the complainant shall file a complaint for review in the forum selected pursuant to
136 Subsection (2)(a) within 30 days after the completion of the forum selection process; and

137 (c) the commission shall determine whether the director's determination is supported
138 by substantial evidence.

139 (3) (a) The commission shall provide legal representation on behalf of the aggrieved
140 person, including the filing of a complaint for review as required by Subsection (2)(b), [~~to~~
141 ~~support and enforce the director's determination~~] in the de novo review proceeding, if:

142 (i) in accordance with Subsection 57-21-9(7)(b)(ii), the director issued a written
143 determination finding reasonable cause to believe that a discriminatory housing practice had
144 occurred, or was about to occur; and

145 (ii) under Subsection (2)(c), the commission determines that the director's
146 determination under 57-21-9(7)(b)(ii) is supported by substantial evidence.

147 (b) An attorney who provides legal representation under Subsection (3)(a) shall consult
148 with the parties in good faith and attempt to resolve the matter based upon a review of the
149 facts, witnesses, evidence, and the likelihood of success.

150 [~~(b)~~] (c) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, the
151 commission's determination, under Subsection (2)(c), regarding the existence or nonexistence

152 of substantial evidence to support the director's determination is not subject to further agency
153 action or direct judicial review.

154 (4) Upon timely application, an aggrieved person may intervene with respect to the
155 issues to be determined in a formal adjudicative hearing or in a civil action brought under this
156 section.

157 (5) If a formal adjudicative hearing is elected:

158 (a) the presiding officer shall commence the formal adjudicative hearing within 150
159 days after the day on which a request for review of the director's determination is filed, unless it
160 is impracticable to do so;

161 (b) the investigator who investigated the matter may not participate:

162 (i) in the formal adjudicative hearing, except as a witness; or

163 (ii) in the deliberations of the presiding officer;

164 (c) any party to the complaint may file a written request to the Division of Adjudication
165 for review of the presiding officer's order in accordance with Section 63G-4-301 and Title 34A,
166 Chapter 1, Part 3, Adjudicative Proceedings; and

167 (d) a final order of the commission under this section is subject to judicial review as
168 provided in Section 63G-4-403 and Title 34A, Chapter 1, Part 3, Adjudicative Proceedings.

169 (6) If a civil action is elected, the commission is barred from continuing or
170 commencing any adjudicative proceeding in connection with the same claims under this
171 chapter.

172 (7) (a) The commission shall make final administrative disposition of the complaint
173 alleging a discriminatory housing practice within one year after the complainant filed the
174 complaint, unless it is impracticable to do so.

175 (b) If the commission is unable to make final administrative disposition within the time
176 period described in Subsection (7)(a), the commission shall notify the complainant, respondent,
177 and any other interested party in writing of the reasons for the delay.

178 **Section 3. Effective date.**

179 This bill takes effect on May 1, 2024.