

CHAPTER 355
FORMERLY
SENATE BILL NO. 179
AS AMENDED BY
SENATE AMENDMENT NO. 3
AND
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLES 6 AND 25 OF THE DELAWARE CODE RELATING TO FAIR HOUSING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Section 4601, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

§4601. Declaration of purpose and construction.

(a) Purpose. -- This chapter is intended to eliminate, as to housing offered to the public for sale, rent or exchange, discrimination based upon race, color, national origin, religion, creed, sex, marital status, familial status, source of income, age, sexual orientation or disability, and to provide an administrative procedure through which disputes concerning the same may effectively and expeditiously be resolved with fairness and due process for all parties concerned.

Section 2. Amend Section 4602, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline and redesignating accordingly:

§4602. Definitions.

(25) “Source of income” means any lawful source of money paid directly, indirectly, or on behalf of a renter or buyer of housing including:

a. Income derived from any lawful profession or occupation;

b. Income or rental payments derived from any government or private assistance, grant, or loan program.

Section 3. Amend Section 4603, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§4603. Discrimination in sale or rental of housing and other prohibited practices.

(b) Except as exempted by § 4607 of this title, it shall be unlawful:

(1) To discriminate in the sale or rental, to refuse to sell or rent, to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, national origin, religion, creed, sex, marital status, familial status, source of income, age, sexual orientation, gender identity or disability.

(2) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, national origin, religion, creed, sex, marital status, familial status, source of income, age, sexual orientation, gender identity or disability.

(3) To make, print or publish, or cause to be made, printed or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, national origin, religion, creed, sex, marital status, familial status, source of income, age, sexual orientation, gender identity or disability, or an intention to make any such preference, limitation or discrimination. However, nothing in this chapter restricts the inclusion of information about the availability of housing accessible to persons with a disability in advertising of dwellings.

(4) To represent to any person because of race, color, national origin, religion, creed, sex, marital status, familial status, source of income, age, sexual orientation, gender identity or disability that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

(5) To induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, national

origin, religion, creed, sex, marital status, familial status, source of income, age, sexual orientation, gender identity or disability.

Section 4. Amend Section 4604, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4604. Discrimination in residential real estate-related transactions.

(a) In general. -- It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, national origin, religion, creed, sex, marital status, familial status, source of income, age, sexual orientation, gender identity or disability.

(b) Appraisal exemption. -- Nothing in this chapter prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, national origin, religion, creed, sex, marital status, familial status, source of income, age, sexual orientation, gender identity or disability.

Section 5. Amend Section 4605, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4605. Discrimination in provision of brokerage services.

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling, exchanging or renting dwellings, or to discriminate against the person in the terms or conditions of such access, membership, or participation, on account of race, color, national origin, religion, creed, sex, marital status, familial status, source of income, age, sexual orientation, gender identity or disability.

Section 6. Amend Section 4607, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§4607. Exemptions in certain situations.

(c) Nothing in this chapter limits the applicability of any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling as long as they are applied to all occupants and do not operate to discriminate or have the effect of discriminating on the basis of race, color, national origin, religion, creed, sex, marital status, familial status, source of income, age, sexual orientation, gender identity or disability. Nor does any provision in this chapter regarding familial status or age apply with respect to housing for older persons as defined in § 4602(17) of this title.

(h) The prohibitions in this chapter against discrimination based on source of income shall not limit the ability of any person to consider the sufficiency or sustainability of income, or the credit rating of a renter or buyer, so long as sufficiency or sustainability of income, and the credit requirements, are applied in a commercially reasonable manner and without regard to source of income.

(i) The prohibitions in this chapter against discrimination based on source of income shall not limit the ability of any housing authority or related agency having oversight over the provision of housing assistance from prohibiting such authority's employees or agents from renting housing to persons who receive such assistance, where such prohibition is intended to prevent conflicts of interest or the appearance of impropriety, nor shall this chapter prohibit such agents and employees from complying with any such prohibition on renting housing to persons receiving such assistance.

(j) A landlord is not required to participate in any government sponsored rental assistance program, voucher, or certificate system. A landlord's non-participation in any government sponsored rental assistance program, voucher, or certificate system may not serve as the basis for any administrative or judicial proceeding under this chapter.

(k) The prohibitions in this chapter against discrimination based on source of income shall not limit the ability of a landlord participating in any government sponsored rental assistance program, voucher, or certificate system from reserving rental units for tenants who qualify for such governmental program.

Section 7. Amend Section 4619, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4619. Prohibition of intimidation, violations and penalties.

Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with:

(1) Any person because of race, color, national origin, religion, creed, sex, sexual orientation, gender identity, marital status, familial status, source of income, age or disability and because he or she is or has been selling, purchasing, renting, financing, occupying or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for participating in any service, organization or facility relating to the business of selling or renting dwellings; or

(2) Any person because he or she is or has been, or in order to intimidate such person or any other person or any class of persons from:

a. Participating, without discrimination on account of race, color, national origin, religion, creed, sex, sexual orientation, gender identity, marital status, familial status, source of income, age or disability in any of the activities, services, organizations or facilities described in paragraph (1) of this section; or

b. Affording another person or class of persons opportunity or protection so to participate; or

(3) Because any citizen is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, national origin, religion, creed, sex, sexual orientation, gender identity, marital status, familial status, source of income, age or disability in any of the activities, services, organizations or facilities described in paragraph (1) of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate, that citizen shall be fined for each such act not more than \$2,500, or imprisoned not more than 1 year, or both, and if bodily injury results shall be fined for each such act not more than \$10,000, or imprisoned not more than 10 years, or both; and, if death results, for each such act shall be subject to imprisonment for any term of years or for life.

Section 8. Amend Section 5116, Title 25 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5116. Fair housing provisions.

(a) No person, being an owner or agent of any real estate, house, apartment or other premises, shall refuse or decline to rent, subrent, sublease, assign or cancel any existing rental agreement to or of any tenant or any person by reason of race, creed, religion, marital status, color, sex, sexual orientation, gender identity, national origin, disability, age, source of income, or occupation or because the tenant or person has a child or children in the family.

(b) No person shall demand or receive a greater sum as rent for the use and occupancy of any premises because the person renting or desiring to rent the premises is of a particular race, creed, religion, marital status, color, sex, sexual orientation, gender identity, national origin, disability, age, source of income, or occupation or has a child or children in the family.

(c) In the event of discrimination under this section, the tenant may recover damages sustained as a result of the landlord's action, including, but not limited to, reasonable expenditures necessary to obtain adequate substitute housing.

(d) Notwithstanding subsection (a) of this section relating to age discrimination, and consistent with federal and state fair housing acts, a landlord may make rental units available exclusively for rental by senior citizens. A senior citizen rental unit shall be available for rent solely to senior citizens, without regard to race, creed, religion, marital status, color, sex, sexual orientation, gender identity, national origin, disability, source of income, or occupation of the senior citizen and without regard to whether or not the senior citizen has a dependent child or children in the residence.

(e) A landlord not be required to participate in any government sponsored rental assistance program, voucher, or certificate system. A landlord's non-participation in any government sponsored rental assistance

program, voucher, or certificate system may not serve as the basis for any administrative or judicial proceeding under this chapter.

(f) The prohibitions in this section against discrimination based on source of income shall not limit the ability of a landlord participating in any government sponsored rental assistance program, voucher, or certificate system from reserving rental units for tenants who qualify for such governmental program.

(g) The prohibitions in this chapter against discrimination based on source of income shall not limit the ability of any landlord or prospective landlord to consider the sufficiency or sustainability of income of, or the credit rating of, a tenant or prospective tenant, so long as sufficiency or sustainability of income, and the credit requirements, are applied in a commercially reasonable manner and without regard to source of income.

Section 9. Amend Section 5141, Title 25 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline and redesignating accordingly:

(30) "Source of income" shall have the meaning given in §4602 of Title 6.

Approved August 03, 2016