SPONSOR: Rep. Phillips & Rep. Bush & Sen. Hoffner &
Sen. Townsend
Reps. Lambert, Harris, Minor-Brown, Romer, Bolden;
Sen. Lockman

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 439
AS AMENDED BY
HOUSE AMENDMENT NO. 1
AND
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLES 6 AND 25 OF THE DELAWARE CODE RELATING TO HOUSING STATUS DISCRIMINATION IN HOUSING AND PROPERTY.

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

Section 1. Amend Chapter 46, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

Chapter 46. FAIR HOUSING ACT

§ 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,~~ orientation, disability, or housing status 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.

§ 4602. Definitions.

As used in this chapter:

(18) "Housing status" means an individual, family, or youth's current overnight residence regardless of permanence or habitability.

§ 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.~~ identity, disability, or housing status.

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(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.~~ identity, disability, or housing status.

(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~~ identity, disability, or housing status, 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~~ identity, ~~disability~~ disability, or housing status 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~~ identity, ~~disability.~~ disability, or housing status.

(6) ~~[Repealed].~~ The rights provided under this subsection do not preclude a landlord's consideration of any other factor not enumerated herein that is permissible under State or federal law.

§ 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~~ identity, ~~disability.~~ disability, or housing status.

(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~~ identity, ~~disability.~~ disability, or housing status.

§ 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~~ identity, ~~disability.~~ disability, or housing status.

§ 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~~ identity, ~~disability.~~ disability, or housing status. 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.

§ 4619. Prohibition of intimidation, violations and penalties.

Whoever, whether or not acting under color of law, by force or threat of force wilfully 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~~ age, ~~disability~~ disability, or housing status 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~~ age, ~~disability~~ disability, or housing status in any of the activities, services, organizations or facilities described in paragraph (1) of this section; 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~~ age, ~~disability~~ disability, or housing status 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 2. Amend § 9605, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

§ 9605. Recordation of instruments.

(b) (1) A recorder may not knowingly record or receive for filing any contract, mortgage, lease, deed or conveyance, or any other indenture or agreement affecting real property that contains any promise, covenant, or restriction that limits, restrains, prohibits, or otherwise provides against the sale, gift, transfer, assignment, conveyance, ownership, lease, rental, use, or occupancy of real property to or by any person because of race, color, creed, religion, sex, sexual orientation, gender identity, disability, age, marital status, familial status, source of income, national origin, ~~or ancestry.~~ ancestry, or housing status. For purposes of this paragraph (b)(1):

a. "Housing status" means as defined in section 4602 of Title 6.

Section 3. Amend § 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~~ occupation, housing status 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~~ occupation, housing status or has a child or children in the family.

(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~~ occupation, or housing

status of the senior citizen and without regard to whether or not the senior citizen has a dependent child or children in the residence.

Section 4. Amend § 5141, Title 25 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

§ 5141. Definitions.

The following words, terms and phrases, when used in this part, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(16) "Housing status" means as defined in section 4602 of Title 6.