

By: Villarreal

H.B. No. 900

A BILL TO BE ENTITLED

AN ACT

relating to the prohibition of certain discrimination based on sexual orientation or gender identity or expression.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This Act may be cited as the "Freedom from Workplace and Housing Discrimination Act."

SECTION 2. Title 4, Civil Practice and Remedies Code, is amended by adding Chapter 94 to read as follows:

CHAPTER 94. LIABILITY ARISING FROM DISCRIMINATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 94.001. DEFINITIONS. In this chapter:

(1) "Aggrieved person" includes any person who:

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

(B) believes that he or she will be injured by a discriminatory practice that is about to occur.

(2) "Discriminatory practice" means an act prohibited by this chapter.

(3) "Dwelling" means:

(A) any building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residency by one or more families; or

(B) any vacant land that is offered for sale or lease for the construction or location of a building, structure, or

1 part of a building or structure described by Paragraph (A).

2 (4) "Employer" means a person that employs 15 or more
3 employees. The term includes an agent designated by an employer.

4 (5) "Gender identity or expression" means having or
5 being perceived as having gender-related identity, appearance,
6 expression, or behavior, whether or not that identity, appearance,
7 expression, or behavior is different from that commonly associated
8 with the person's actual or perceived sex.

9 (6) "Labor organization" means a labor organization
10 engaged in an industry affecting commerce that has 15 or more
11 members. The term includes:

12 (A) an organization, an agency, or an employee
13 representation committee, group, association, or plan engaged in an
14 industry affecting commerce in which employees participate and that
15 exists for the purpose, in whole or in part, of dealing with
16 employers concerning grievances, labor disputes, wages, rates of
17 pay, hours, or other terms or conditions of employment;

18 (B) a conference, general committee, joint or
19 system board, or joint council that is subordinate to a national or
20 international labor organization; and

21 (C) an agent of a labor organization.

22 (7) "Person" means an individual, corporation,
23 association, partnership, organization, or other public or private
24 legal entity.

25 (8) "Religious organization" means:

26 (A) a religious corporation, association, or
27 society; or

1 (B) a school, institution of higher education, or
2 other educational institution, not otherwise a religious
3 organization, that:

4 (i) is wholly or substantially controlled,
5 managed, owned, or supported by a religious organization; or

6 (ii) has a curriculum directed toward the
7 propagation of a particular religion.

8 (9) "Sexual orientation" means:

9 (A) having a preference for heterosexuality,
10 homosexuality, or bisexuality;

11 (B) having a history of such a preference; or

12 (C) being identified or perceived as having such
13 a preference.

14 [Sections 94.002-94.050 reserved for expansion]

15 SUBCHAPTER B. EMPLOYMENT DISCRIMINATION PROHIBITED

16 Sec. 94.051. EMPLOYER. An employer commits a
17 discriminatory practice and a violation of this chapter if the
18 employer, because of the sexual orientation or gender identity or
19 expression of an individual:

20 (1) refuses to hire or employ the individual;

21 (2) bars or discharges the individual from employment;

22 or

23 (3) otherwise discriminates against the individual in
24 compensation or other terms, conditions, or privileges of
25 employment.

26 Sec. 94.052. EMPLOYMENT AGENCY. An employment agency
27 commits a discriminatory practice and a violation of this chapter

1 if the employment agency, because of the sexual orientation or
2 gender identity or expression of an applicant for employment
3 through the agency:

4 (1) fails or refuses to classify the applicant
5 properly;

6 (2) fails or refuses to refer the applicant for
7 positions of employment; or

8 (3) otherwise discriminates against the applicant.

9 Sec. 94.053. LABOR ORGANIZATION. A labor organization
10 commits a discriminatory practice and a violation of this chapter
11 if the labor organization, because of the sexual orientation or
12 gender identity or expression of an individual:

13 (1) excludes the individual from full membership
14 rights;

15 (2) expels the individual from its membership; or

16 (3) otherwise discriminates against:

17 (A) a member of the organization;

18 (B) an employer; or

19 (C) an individual employed by an employer.

20 Sec. 94.054. EMPLOYMENT ADVERTISEMENTS. A person commits
21 a discriminatory practice and a violation of this chapter if the
22 person advertises employment opportunities in a manner designed to
23 restrict the employment in a manner that discriminates against
24 individuals solely because of sexual orientation or gender identity
25 or expression.

26 [Sections 94.055-94.100 reserved for expansion]

1 SUBCHAPTER C. DISCRIMINATION IN PUBLIC ACCOMMODATIONS PROHIBITED

2 Sec. 94.101. PUBLIC ACCOMMODATIONS. A person commits a
3 discriminatory practice and a violation of this chapter if the
4 person, because of the sexual orientation or gender identity or
5 expression of an individual:

6 (1) denies that individual full and equal
7 accommodations in any place of public accommodation in this state,
8 subject only to the conditions and limitations established by law
9 and applicable to all persons; or

10 (2) otherwise discriminates, segregates, or separates
11 based on sexual orientation or gender identity or expression.

12 [Sections 94.102-94.150 reserved for expansion]

13 SUBCHAPTER D. HOUSING DISCRIMINATION PROHIBITED

14 Sec. 94.151. REFUSAL TO SELL OR RENT. A person commits a
15 discriminatory practice and a violation of this chapter if the
16 person, because of the sexual orientation or gender identity or
17 expression of an individual:

18 (1) refuses to sell or rent a dwelling to the
19 individual after the making of a bona fide offer by the individual;

20 (2) refuses to negotiate for the sale or rental of a
21 dwelling to the individual;

22 (3) refuses to make available or otherwise denies a
23 dwelling to the individual; or

24 (4) discriminates against the individual in the terms,
25 conditions, or privileges of the sale or rental of a dwelling, or
26 the provision of services or facilities in connection with such a
27 sale or rental.

1 Sec. 94.152. REAL ESTATE-RELATED TRANSACTIONS. A person
2 who engages in real estate-related transactions commits a
3 discriminatory practice and a violation of this chapter if, because
4 of the sexual orientation or gender identity or expression of an
5 individual, the person discriminates against the individual in
6 making available such a transaction.

7 Sec. 94.153. REAL ESTATE SERVICES AND ORGANIZATION. A
8 person who engages in real estate-related transactions commits a
9 discriminatory practice and a violation of this chapter if, because
10 of the sexual orientation or gender identity or expression of an
11 individual, the person:

12 (1) denies the individual access to or membership or
13 participation in any multiple-listing service, real estate brokers
14 organization, or other service, organization, or facility relating
15 to the business of selling or renting dwellings; or

16 (2) discriminates against the individual in the terms
17 or conditions of the access, membership, or participation described
18 by Subdivision (1) of this section.

19 Sec. 94.154. COERCION. A person commits a discriminatory
20 practice and a violation of this chapter if:

21 (1) because of the sexual orientation or gender
22 identity or expression of an individual, the person coerces,
23 intimidates, threatens, or interferes with the individual in the
24 exercise or enjoyment of a right granted or protected by this
25 subchapter; or

26 (2) the person coerces, intimidates, threatens, or
27 interferes with an individual because the individual has exercised

1 or enjoyed, or aided or encouraged any other person in the exercise
2 or enjoyment of, a right granted or protected by this subchapter.

3 Sec. 94.155. PUBLICATIONS. A person commits a
4 discriminatory practice and a violation of this chapter if the
5 person makes, prints, or publishes, or causes to be made, printed,
6 or published, any notice, statement, or advertisement with respect
7 to the sale or rental of a dwelling that indicates any preference,
8 limitation, or discrimination based on sexual orientation or gender
9 identity or expression, or an intention to make such a preference,
10 limitation, or discrimination.

11 Sec. 94.156. STEERING PROHIBITED. (a) A person commits a
12 discriminatory practice and a violation of this chapter if the
13 person, because of the sexual orientation or gender identity or
14 expression of an individual, represents to the individual that a
15 dwelling is not available for inspection, sale, or rental if the
16 dwelling is in fact available.

17 (b) A person violates this section if the person restricts
18 or attempts to restrict the choices offered to any buyer or renter,
19 including potential buyers or renters, because of the sexual
20 orientation or gender identity or expression of the buyer or
21 renter.

22 Sec. 94.157. ENTRY INTO NEIGHBORHOOD. A person commits a
23 discriminatory practice and a violation of this chapter if the
24 person, for profit, induces or attempts to induce any person to sell
25 or rent a dwelling by representations regarding the entry or
26 prospective entry into the neighborhood in which the dwelling is
27 located of an individual of a particular sexual orientation or

1 gender identity or expression.

2 Sec. 94.158. EXEMPTIONS. (a) This subchapter does not
3 apply to:

4 (1) the rental of a room or rooms in a dwelling if the
5 owner actually maintains and occupies part of the living quarters
6 of the dwelling as the owner's residence; or

7 (2) a unit in a dwelling containing living quarters
8 occupied or intended to be occupied by not more than four families
9 living independently of each other, if the owner actually maintains
10 and occupies one of the units as the owner's residence.

11 (b) This subchapter does not limit or affect the
12 applicability of any reasonable state statute or municipal
13 ordinance that restricts the maximum number of persons permitted to
14 occupy a dwelling.

15 (c) This subchapter does not prohibit a person engaged in
16 the business of furnishing appraisals of real property from
17 considering factors other than sexual orientation or gender
18 identity or expression in making the appraisal.

19 [Sections 94.159-94.200 reserved for expansion]

20 SUBCHAPTER E. EXEMPTIONS

21 Sec. 94.201. RELIGIOUS ORGANIZATION. (a) Except as
22 provided by Subsection (b), this chapter does not apply to a
23 religious organization.

24 (b) This chapter applies to activities conducted by a
25 religious organization for profit to the extent that those
26 activities are subject to federal taxation under Section 511(a),
27 Internal Revenue Code of 1986, as that section existed on September

1 1, 2007.

2 [Sections 94.202-94.250 reserved for expansion]

3 SUBCHAPTER F. CAUSE OF ACTION

4 Sec. 94.251. CIVIL ACTION. An aggrieved person may file a
5 civil action in district court not later than the second year after
6 the occurrence of the termination of an alleged discriminatory
7 practice under this chapter to obtain appropriate relief with
8 respect to the discriminatory practice.

9 Sec. 94.252. RELIEF GRANTED. In an action under this
10 subchapter, if the court finds that a discriminatory practice has
11 occurred or is about to occur, the court may award to the plaintiff:

12 (1) actual and punitive damages;

13 (2) reasonable attorney's fees;

14 (3) court costs; and

15 (4) subject to Section 94.253, any permanent or
16 temporary injunction, temporary restraining order, or other order,
17 including an order enjoining the defendant from engaging in the
18 practice or ordering other appropriate action.

19 Sec. 94.253. EFFECT OF RELIEF GRANTED. Relief granted
20 under this subchapter does not affect a contract, sale,
21 encumbrance, or lease that:

22 (1) was consummated before the granting of the relief;

23 and

24 (2) involved a bona fide purchaser, encumbrancer, or
25 tenant who did not have actual notice of the filing of a civil
26 action under this subchapter.

27 SECTION 3. This Act takes effect September 1, 2007.