

By: Farrar

H.B. No. 2215

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. Title 4, Civil Practice and Remedies Code, is amended by adding Chapter 100E to read as follows:

CHAPTER 100E. LIABILITY ARISING FROM DISCRIMINATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 100E.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 residence 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 part of a building or structure described by Paragraph (A).

(4) "Gender identity or expression" means having or

1 being perceived as having gender-related identity, appearance,  
2 expression, or behavior, whether or not that identity, appearance,  
3 expression, or behavior is different from that commonly associated  
4 with the person's actual or perceived sex.

5 (5) "Public accommodation" means a business or other  
6 entity that offers to the general public food, shelter, recreation,  
7 or amusement, or any other goods, service, privilege, facility, or  
8 accommodation.

9 (6) "Religious organization" means:

10 (A) a religious corporation, association, or  
11 society; or

12 (B) a school, institution of higher education, or  
13 other educational institution, not otherwise a religious  
14 organization, that:

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

17 (ii) has a curriculum directed toward the  
18 propagation of a particular religion.

19 (7) "Sexual orientation" means:

20 (A) having a preference for heterosexuality,  
21 homosexuality, or bisexuality;

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

23 (C) being identified or perceived as having such  
24 a preference.

25 [Sections 100E.002-100E.050 reserved for expansion]

26 SUBCHAPTER B. DISCRIMINATION IN PUBLIC ACCOMMODATIONS PROHIBITED

27 Sec. 100E.051. PUBLIC ACCOMMODATIONS. A person commits a

1 discriminatory practice and a violation of this chapter if the  
2 person, because of the sexual orientation or gender identity or  
3 expression of an individual:

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

8 (2) otherwise discriminates against or segregates or  
9 separates the individual based on sexual orientation or gender  
10 identity or expression.

11 [Sections 100E.052-100E.100 reserved for expansion]

12 SUBCHAPTER C. HOUSING DISCRIMINATION PROHIBITED

13 Sec. 100E.101. REFUSAL TO SELL OR RENT. A person commits a  
14 discriminatory practice and a violation of this chapter if the  
15 person, because of the sexual orientation or gender identity or  
16 expression of an individual:

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

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

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

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

27 Sec. 100E.102. REAL ESTATE-RELATED TRANSACTIONS. A person

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

6 Sec. 100E.103. REAL ESTATE SERVICES AND ORGANIZATION. A  
7 person who engages in real estate-related transactions commits a  
8 discriminatory practice and a violation of this chapter if, because  
9 of the sexual orientation or gender identity or expression of an  
10 individual, the person:

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

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

18 Sec. 100E.104. COERCION. A person commits a discriminatory  
19 practice and a violation of this chapter if:

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

25 (2) the person coerces, intimidates, threatens, or  
26 interferes with an individual because the individual has exercised  
27 or enjoyed, or aided or encouraged any other person in the exercise

1 or enjoyment of, a right granted or protected by this subchapter.

2 Sec. 100E.105. PUBLICATIONS. A person commits a  
3 discriminatory practice and a violation of this chapter if the  
4 person makes, prints, or publishes, or causes to be made, printed,  
5 or published, any notice, statement, or advertisement with respect  
6 to the sale or rental of a dwelling that indicates any preference,  
7 limitation, or discrimination based on sexual orientation or gender  
8 identity or expression, or an intention to make such a preference,  
9 limitation, or discrimination.

10 Sec. 100E.106. STEERING PROHIBITED. (a) A person commits  
11 a discriminatory practice and a violation of this chapter if the  
12 person, because of the sexual orientation or gender identity or  
13 expression of an individual, represents to the individual that a  
14 dwelling is not available for inspection, sale, or rental if the  
15 dwelling is in fact available.

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

21 Sec. 100E.107. ENTRY INTO NEIGHBORHOOD. A person commits a  
22 discriminatory practice and a violation of this chapter if the  
23 person, for profit, induces or attempts to induce any person to sell  
24 or rent a dwelling by representations regarding the entry or  
25 prospective entry into the neighborhood in which the dwelling is  
26 located of an individual of a particular sexual orientation or  
27 gender identity or expression.

1       Sec. 100E.108. EXEMPTIONS. (a) This subchapter does not  
2 apply to:

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

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

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

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

18       [Sections 100E.109-100E.150 reserved for expansion]

19                           SUBCHAPTER D. EXEMPTIONS

20       Sec. 100E.151. RELIGIOUS ORGANIZATION. (a) Except as  
21 provided by Subsection (b), this chapter does not apply to a  
22 religious organization.

23       (b) This chapter applies to activities conducted by a  
24 religious organization for profit to the extent that those  
25 activities are subject to federal taxation under Section 511(a),  
26 Internal Revenue Code of 1986, as that section existed on September  
27 1, 2009.

1 [Sections 100E.152-100E.200 reserved for expansion]

2 SUBCHAPTER E. CAUSE OF ACTION

3 Sec. 100E.201. CIVIL ACTION. An aggrieved person may file  
4 a civil action in district court not later than the second  
5 anniversary of the occurrence of the termination of an alleged  
6 discriminatory practice under this chapter to obtain appropriate  
7 relief with respect to the discriminatory practice.

8 Sec. 100E.202. RELIEF GRANTED. In an action under this  
9 subchapter, if the court finds that a discriminatory practice has  
10 occurred or is about to occur, the court may award to the plaintiff:

11 (1) actual and punitive damages;

12 (2) reasonable attorney's fees;

13 (3) court costs; and

14 (4) subject to Section 100E.203, any permanent or  
15 temporary injunction, temporary restraining order, or other order,  
16 including an order enjoining the defendant from engaging in the  
17 practice or ordering other appropriate action.

18 Sec. 100E.203. EFFECT OF RELIEF GRANTED. Relief granted  
19 under this subchapter does not affect a contract, sale,  
20 encumbrance, or lease that:

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

22 and

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

26 SECTION 2. This Act takes effect September 1, 2009.