

By: Rose

H.B. No. 3479

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the prohibition of housing discrimination on the basis
3 of an individual's criminal history and to the enforcement of that
4 prohibition.

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

6 SECTION 1. Section 2306.111, Government Code, is amended by
7 adding Subsection (j) to read as follows:

8 (j) The department by rule shall:

9 (1) adopt policies to ensure that each housing
10 development that receives financial assistance administered by the
11 department, including financial assistance from the proceeds of
12 bonds issued by the department, accepts as tenants individuals who
13 are protected under Section 301.0045, Property Code; and

14 (2) establish enforcement mechanisms with respect to
15 those housing developments that refuse to accept as tenants
16 individuals described by Subdivision (1).

17 SECTION 2. Section 2306.358(d), Government Code, is amended
18 to read as follows:

19 (d) Subsection (c)(3)(C) does not prohibit an organization
20 from requiring a tenant applicant who receives public assistance to
21 meet the organization's standard criteria for occupancy, including
22 [such] criteria relating to [as] satisfactory creditworthiness and
23 [lack of] criminal history, to the extent permitted under Section
24 2306.111(j).

1 SECTION 3. Section 392.055, Local Government Code, is
2 amended by adding Subsection (c) to read as follows:

3 (c) A housing authority shall adopt policies to ensure that
4 each housing project operated by the authority, including projects
5 owned or operated by a public facility corporation created by the
6 authority under Chapter 303, accepts as tenants individuals who are
7 protected under Section 301.0045, Property Code.

8 SECTION 4. Section 92.352, Property Code, is amended by
9 adding Subsections (c) and (d) to read as follows:

10 (c) A landlord who rejects an applicant must provide the
11 applicant a written statement detailing the reasons the applicant
12 was rejected.

13 (d) A landlord who rejects an applicant based on the
14 applicant's criminal history must provide the applicant with an
15 opportunity to present any mitigating information concerning the
16 criminal history.

17 SECTION 5. Subchapter A, Chapter 301, Property Code, is
18 amended by adding Section 301.0045 to read as follows:

19 Sec. 301.0045. CRIMINAL HISTORY. (a) Except as provided by
20 Subsection (b), a discriminatory act is committed because of a
21 person's criminal history if that act is committed with respect to
22 criminal history based solely on one or more final convictions that
23 each occurred more than three years before the date of the
24 applicable act.

25 (b) An act is not considered discriminatory for the purposes
26 of this section if the act is committed with respect to a person's
27 criminal history based on a final conviction of any of the

1 following:

2 (1) an offense requiring registration as a sex
3 offender under Chapter 62, Code of Criminal Procedure;

4 (2) an offense under Section 20.04, Penal Code,
5 regardless of whether the offense is a reportable conviction or
6 adjudication for purposes of Chapter 62, Code of Criminal
7 Procedure;

8 (3) an offense under Section 19.02, 19.03, 20A.02,
9 20A.03, 22.04, 22.041, 25.07, 25.072, or 42.072, Penal Code; or

10 (4) an offense involving family violence, as defined
11 by Section 71.004, Family Code.

12 SECTION 6. Sections 301.021(a) and (b), Property Code, are
13 amended to read as follows:

14 (a) A person may not refuse to sell or rent, after the making
15 of a bona fide offer, refuse to negotiate for the sale or rental of,
16 or in any other manner make unavailable or deny a dwelling to
17 another because of race, color, religion, sex, familial status,
18 [~~or~~] national origin, or criminal history.

19 (b) A person may not discriminate against another in the
20 terms, conditions, or privileges of sale or rental of a dwelling or
21 in providing services or facilities in connection with a sale or
22 rental of a dwelling because of race, color, religion, sex,
23 familial status, [~~or~~] national origin, or criminal history.

24 SECTION 7. Section 301.022, Property Code, is amended to
25 read as follows:

26 Sec. 301.022. PUBLICATION. A person may not make, print, or
27 publish or effect the making, printing, or publishing of a notice,

1 statement, or advertisement that is about the sale or rental of a
2 dwelling and that indicates any preference, limitation, or
3 discrimination or the intention to make a preference, limitation,
4 or discrimination because of race, color, religion, sex,
5 disability, familial status, [~~or~~] national origin, or criminal
6 history.

7 SECTION 8. Section 301.023, Property Code, is amended to
8 read as follows:

9 Sec. 301.023. INSPECTION. A person may not represent to
10 another because of race, color, religion, sex, disability, familial
11 status, [~~or~~] national origin, or criminal history that a dwelling
12 is not available for inspection for sale or rental when the dwelling
13 is available for inspection.

14 SECTION 9. Section 301.024, Property Code, is amended to
15 read as follows:

16 Sec. 301.024. ENTRY INTO NEIGHBORHOOD. A person may not,
17 for profit, induce or attempt to induce another to sell or rent a
18 dwelling by representations regarding the entry or prospective
19 entry into a neighborhood of a person of a particular race, color,
20 religion, sex, disability, familial status, [~~or~~] national origin,
21 or criminal history.

22 SECTION 10. Section 301.026(a), Property Code, is amended
23 to read as follows:

24 (a) A person whose business includes engaging in
25 residential real estate related transactions may not discriminate
26 against another in making a real estate related transaction
27 available or in the terms or conditions of a real estate related

1 transaction because of race, color, religion, sex, disability,
2 familial status, [~~or~~] national origin, or criminal history.

3 SECTION 11. Section 301.027, Property Code, is amended to
4 read as follows:

5 Sec. 301.027. BROKERAGE SERVICES. A person may not deny
6 another access to, or membership or participation in, a
7 multiple-listing service, real estate brokers' organization, or
8 other service, organization, or facility relating to the business
9 of selling or renting dwellings, or discriminate against a person
10 in the terms or conditions of access, membership, or participation
11 in such an organization, service, or facility because of race,
12 color, religion, sex, disability, familial status, [~~or~~] national
13 origin, or criminal history.

14 SECTION 12. Sections 301.042(a) and (c), Property Code, are
15 amended to read as follows:

16 (a) This chapter does not prohibit a religious
17 organization, association, or society or a nonprofit institution or
18 organization operated, supervised, or controlled by or in
19 conjunction with a religious organization, association, or society
20 from:

21 (1) limiting the sale, rental, or occupancy of
22 dwellings that it owns or operates for other than a commercial
23 purpose to persons of the same religion; or

24 (2) giving preference to persons of the same religion,
25 unless membership in the religion is restricted because of race,
26 color, [~~or~~] national origin, or criminal history.

27 (c) This chapter does not prohibit a person engaged in the

1 business of furnishing appraisals of real property from considering
2 in those appraisals factors other than race, color, religion, sex,
3 disability, familial status, [~~or~~] national origin, or criminal
4 history.

5 SECTION 13. Section 301.068, Property Code, is amended to
6 read as follows:

7 Sec. 301.068. REFERRAL TO MUNICIPALITY. (a) Subject to
8 Subsection (b), the [~~The~~] commission may defer proceedings under
9 this chapter and refer a complaint to a municipality that has been
10 certified by the federal Department of Housing and Urban
11 Development as a substantially equivalent fair housing agency.

12 (b) The commission may not defer proceedings and refer a
13 complaint under Subsection (a) to a municipality in which the
14 alleged discrimination occurred if:

15 (1) the complaint alleges discrimination based on
16 criminal history; and

17 (2) the municipality does not have laws prohibiting
18 the alleged discrimination.

19 SECTION 14. Section 301.171(a), Property Code, is amended
20 to read as follows:

21 (a) A person commits an offense if the person, without
22 regard to whether the person is acting under color of law, by force
23 or threat of force intentionally intimidates or interferes with a
24 person:

25 (1) because of the person's race, color, religion,
26 sex, disability, familial status, [~~or~~] national origin, or criminal
27 history and because the person is or has been selling, purchasing,

1 renting, financing, occupying, or contracting or negotiating for
2 the sale, purchase, rental, financing, or occupation of any
3 dwelling or applying for or participating in a service,
4 organization, or facility relating to the business of selling or
5 renting dwellings; or

6 (2) because the person is or has been or to intimidate
7 the person from:

8 (A) participating, without discrimination
9 because of race, color, religion, sex, disability, familial status,
10 ~~or~~ national origin, or criminal history, in an activity, service,
11 organization, or facility described by Subdivision (1); ~~or~~

12 (B) affording another person opportunity or
13 protection to so participate; or

14 (C) lawfully aiding or encouraging other persons
15 to participate, without discrimination because of race, color,
16 religion, sex, disability, familial status, ~~or~~ national origin,
17 or criminal history, in an activity, service, organization, or
18 facility described by Subdivision (1).

19 SECTION 15. Section 301.021(c), Property Code, is repealed.

20 SECTION 16. (a) The change in law made by this Act in adding
21 Section 2306.111(j), Government Code, applies only to an
22 application for financial assistance that is submitted to the Texas
23 Department of Housing and Community Affairs on or after January 1,
24 2022. An application for financial assistance that is submitted to
25 the department before January 1, 2022, is governed by the law in
26 effect when the application was submitted, and the former law is
27 continued in effect for that purpose.

1 (b) Not later than December 1, 2021, the Texas Department of
2 Housing and Community Affairs shall adopt the rules required by
3 Section 2306.111(j), Government Code, as added by this Act.

4 SECTION 17. The change in law made by this Act to the
5 Property Code applies only to a complaint filed with the Texas
6 Workforce Commission civil rights division on or after the
7 effective date of this Act. A complaint filed before that date is
8 governed by the law as it existed immediately before the effective
9 date of this Act, and that law is continued in effect for that
10 purpose.

11 SECTION 18. This Act takes effect September 1, 2021.