

Title 5: ADMINISTRATIVE PROCEDURES AND SERVICES

Part 12: HUMAN RIGHTS

Chapter 337: HUMAN RIGHTS ACT

Subchapter 4: FAIR HOUSING

§4581. Right to freedom from discrimination in housing; exceptions

The opportunity for an individual to secure housing in accordance with the individual's ability to pay, and without discrimination because of race, color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status is hereby recognized as and declared to be a civil right.

1. Number of occupants. Nothing in this subchapter limits the applicability of any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this subchapter regarding familial status apply with respect to housing for older persons.

2. Definition. As used in this section, "housing for older persons" means housing:

A. Provided under any state or federal program that the United States Secretary of Housing and Urban Development determines is specifically designed and operated to assist elderly persons as defined in the state or federal program;

B. Intended for, and solely occupied by, persons 62 years of age or older; or

C. Intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this paragraph, the housing must meet at least the following factors:

(2) That at least 80% of the dwellings are occupied by at least one person 55 years of age or older per unit; and

(3) The publication of, and adherence to, policies and procedures that demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

3. Requirements. Housing does not fail to meet the requirements for "housing for older persons" by reason of:

A. Persons residing in the housing as of the date of enactment of this subsection who do not meet the requirements of [subsection 2, paragraph B](#) or C if new occupants of the housing meet the age requirements of subsection 2, paragraphs B and C; or

B. Unoccupied units if the units are reserved for occupancy by persons who meet the age requirements of subsection 2, paragraphs B and C.

4. Housing accommodation exceptions. The following exceptions apply in this chapter:

A. This chapter does not prohibit the rental of any dwelling owned, controlled or operated for other than a commercial purpose by a religious corporation to its membership unless such membership is restricted on account of race, color or national origin; and

B. Except as provided in [section 4581-A, subsection 1, paragraph C](#) and section 4581-A, subsections 2 and 3, this chapter does not apply to:

(1) The rental of a one-family unit of a 2-family dwelling, one unit of which is occupied by the owner; or

(2) The rental of not more than 4 rooms of a one-family dwelling that is occupied by the owner.

§4581-A. Unlawful housing discrimination

It is unlawful housing discrimination, in violation of this Act:

1. Sale or rental of housing and other prohibited practices. For any owner, lessee, sublessee, managing agent or other person having the right to sell or rent or manage a housing accommodation, or any agent of these, to:

A. Make or cause to be made any written or oral inquiry concerning the race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status of any prospective purchaser, occupant or tenant of the housing accommodation;

B. Refuse to show or refuse to sell, rent, lease, let or otherwise deny to or withhold from any person the housing accommodation because of race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status;

C. Make, print or publish or cause to be made, printed or published any notice, statement or advertisement relating to the sale, rental or lease of the housing accommodation that indicates any preference, limitation or discrimination based upon race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status or an intention to make any such preference, limitation or discrimination;

D. Discriminate against any person because of race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status in the price, terms, conditions or privileges of the sale, rental or lease of any housing accommodations or in the furnishing of facilities or services in connection with any housing accommodations; or

E. Evict or attempt to evict any tenant of any housing accommodation because of the race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status of the tenant;

2. Selling, brokering or appraising of housing. For any real estate broker or real estate salesperson, or any agent of these,

to:

A. Fail or refuse to show any person a housing accommodation listed for sale, lease or rent because of race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status;

B. Misrepresent, for the purpose of discriminating because of race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status, the availability or asking price of a housing accommodation listed for sale, lease or rent or for such reason to fail to communicate to the person having the right to sell, rent or lease the housing accommodation any offer for the same made by any applicant;

C. In any other manner to discriminate against any applicant for a housing accommodation because of race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status;

D. Make or cause to be made any written or oral inquiry or record concerning the race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status of any applicant for or intended occupant of a housing accommodation; or

E. Accept for listing any housing accommodation when the person having the right to sell, rent or lease the housing accommodation has directly or indirectly indicated an intention of discriminating among prospective tenants or purchasers on the ground of race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status, or when the broker or salesperson knows or has reason to know that the person having the right to sell, rent or lease the housing accommodation has made a practice of discrimination since July 1, 1972;

3. Making of loans; other financial assistance. For any person to whom application is made for a loan or other form of financial assistance for the acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation, whether secured or unsecured, or agent of the person, to:

A. Make or cause to be made any oral or written inquiry concerning the race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status of any applicant for financial assistance or of existing or prospective occupants or tenants of housing accommodations; or

B. Discriminate in the granting of financial assistance, or in the terms, conditions or privileges relating to obtaining or the use of any financial assistance, against any applicant because of race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status; or

4. Receipt of public assistance. For any person furnishing rental premises or public accommodations to refuse to rent or impose different terms of tenancy to any individual who is a recipient of federal, state or local public assistance, including medical assistance and housing subsidies, primarily because of the individual's status as recipient.

§4582-A. Unlawful housing discrimination on the basis of disability

It is unlawful housing discrimination, in violation of this Act:

1. Modifications. For any owner, lessor, sublessor, managing agent or other person having the right to sell, rent, lease or manage a housing accommodation or any of their agents to refuse to permit, at the expense of a person with physical or mental disability, reasonable modifications of existing premises occupied or to be occupied by that person if the modifications may be necessary to give that person full enjoyment of the premises, except that, with a rental, the landlord, when it is reasonable to do so, may condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

2. Accommodations. For any owner, lessor, sublessor, managing agent or other person having the right to sell, rent, lease or manage a housing accommodation or any of their agents to refuse to make reasonable accommodations in rules, policies, practices or services when those accommodations are necessary to give a person with physical or mental disability equal opportunity to use and enjoy the housing; or

3. Assistance animals. For any owner, lessor, sublessor, managing agent or other person having the right to sell, rent, lease or manage a housing accommodation or any of their agents to refuse to permit the use of an assistance animal or otherwise discriminate

against an individual with a physical or mental disability who uses an assistance animal at the housing accommodation unless it is shown by defense that the assistance animal poses a direct threat to the health or safety of others or the use of the assistance animal would result in substantial physical damage to the property of others or would substantially interfere with the reasonable enjoyment of the housing accommodation by others. The use of an assistance animal may not be conditioned on the payment of a fee or security deposit, although the individual with a physical or mental disability is liable for any damage done to the premises or facilities by such an assistance animal.

§4582-B. Standards and certification

1. Definition. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Builder" means the applicant for a building permit in a municipality that requires these permits or the owner of the property in a municipality that does not require building permits.

B. "Design professional" means an architect or professional engineer registered to practice under [Title 32](#).

C. "Standards of construction" means the 1986 standards set forth by the American National Standards Institute in the publication "Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People," ANSI A 117.1-1986.

D. "Multifamily housing accommodation" means "covered multifamily dwelling" as defined in 42 United States Code, Section 3604.

2. Applicability. This section applies to multifamily housing accommodations constructed for first occupancy after March 13, 1991.

3. Standards. Facilities subject to this section must meet the following standards.

A. Doors designed to allow passage into and within all premises within those accommodations must be sufficiently wide to allow passage by a person in a wheelchair.

B. A route accessible to a person in a wheelchair into and through the dwelling unit must exist.

C. Light switches, electrical outlets, thermostats and other environmental controls must be in locations accessible to a person in a wheelchair.

D. Bathroom walls must have reinforcements to accommodate the installation of grab bars.

E. Kitchens and bathrooms must be accessible to and usable by a person in a wheelchair.

4. Compliance with standards. Compliance with the standards of construction satisfies the requirements of this section.

5. Certification; inspection. The builder of a facility to which this section applies shall obtain a certification from a design professional that the plans of the facility meet the standards of construction required by this section. Prior to commencing construction of the facility, the builder shall submit the certification to:

A. The municipal authority that reviews plans in the municipality where the facility is to be constructed; or

B. If the municipality where the facility is to be constructed has no authority who reviews plans, the municipal officers of the municipality.

If municipal officials of the municipality where the facility is to be constructed inspect buildings for compliance with construction standards, that inspection must include an inspection for compliance with the standards required by this section. The municipal officials shall require the facility inspected to meet the construction standards of this section before the municipal officials permit the facility to be occupied.

§4582-C. Standards for multifamily and public housing constructed on or after September 1, 2012

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Alteration" means a change to a facility that affects or could affect the usability of the facility or any part of the facility, including, but not limited to, reconstruction, remodeling, rehabilitation, historic restoration, changes or rearrangement in structural parts or elements and changes or rearrangement in the plan configuration of walls and full-height partitions. "Alteration" does not include normal maintenance, decoration and upgrades, including, but not limited to, reroofing, re-siding, painting or wallpapering, replacement of doors or windows, asbestos removal and changes to mechanical and electrical systems unless they affect the usability of the facility.

B. "Builder" means the applicant for a building permit in a municipality that requires these permits or the owner of the property in a municipality that does not require building permits.

C. "Covered multifamily dwellings" means:

- (1) Buildings consisting of 4 or more units if such buildings have one or more elevators; and
- (2) Ground floor units in other buildings consisting of 4 or more units that have no elevators.

D. "Design professional" means an architect or professional engineer registered to practice under [Title 32](#).

E. "New construction" includes, but is not limited to, the design and construction of facilities for first occupancy or an alteration if the cost of the alteration is 75% or more of the replacement cost of the completed facility.

F. "Public housing" means any housing that is financed in whole or in part with public funds offering housing accommodations containing 20 or more units.

G. "Standards of construction" means the most recent American National Standards Institute standards, published as ANSI A 117.1. Departures from particular technical and scoping requirements of ANSI A 117.1 by the use of other methods are permitted where substantially equivalent or greater access to and usability of the facility is provided.

2. Facilities affected. This section applies to new construction of covered multifamily dwellings and new construction and alterations of public housing if the date when the last application for a building permit or permit extension is certified to be complete by a state, county or local government or, in those jurisdictions where the government does not certify completion of applications, if the date when the last application for a building permit or permit extension received by the state, county or local government is on or after September 1, 2012 or, if no permit is required, if the start of physical construction or alterations occurs on or after September 1, 2012.

3. Unlawful housing discrimination. For purposes of this Act, unlawful housing discrimination, in addition to any violations of applicable accessible building requirements in subchapter 5, includes, but is not limited to:

A. The failure to design and construct covered multifamily dwellings subject to this section in such a manner that:

- (1) The public use and common use portions of the dwellings are readily accessible to and usable by people with physical or mental disabilities;
- (2) All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by persons in wheelchairs; and
- (3) All premises within the dwellings contain the following features of adaptive design:
 - (a) An accessible route into and through the dwelling;
 - (b) Light switches, electrical outlets, thermostats and other environmental controls in accessible locations;
 - (c) Reinforcements in bathroom walls to allow later installation of grab bars; and
 - (d) Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space;

B. For new construction of public housing subject to this section, to have less than 10% of the ground level units and less than 10% of the upper story units connected by an elevator be accessible to and usable by persons with physical disabilities, and less than 2% of the units, no fewer than one unit, with accessible communication features; and

C. For alterations to public housing units subject to this section, to fail to have the altered units meet the parts of the standards of construction concerning accessible routes, accessible doors and adaptable bathrooms until at least 10% of the total ground level units and a minimum of 10% of the total upper story units connected by an elevator meet the parts of the standards of construction concerning accessible routes, accessible doors and adaptable bathrooms.

4. Compliance with standards. Compliance with the appropriate standards of construction satisfies the requirements of this section.

5. Statement; inspection. The builder of a facility to which this section applies shall obtain a statement from a design professional that, based on professional judgment, the plans of the facility at the time of the statement meet the standards of construction required by this section. Prior to commencing construction of the facility, the builder shall submit the statement to:

- A. The municipal authority that reviews plans in the municipality where the facility is to be constructed; or
- B. If the municipality where the facility is to be constructed has no authority that reviews plans, the municipal officers of the municipality.

If municipal officials of the municipality where the facility is to be constructed inspect buildings for compliance with construction standards, that inspection must include an inspection for compliance with the standards required by this section. The municipal officials shall require a facility that is inspected to meet the standards of this section before the municipal officials permit the facility to be occupied.

§4583. Application

Nothing in this Act may be construed to prohibit or limit the exercise of the privilege of every person and the agent of any person having the right to sell, rent, lease or manage a housing accommodation to set up and enforce specifications in the selling, renting, leasing or letting or in the furnishings of facilities or services in connection with the facilities that are consistent with business necessity and are not based on the race, color, sex, sexual orientation, physical or mental disability, religion, country of ancestral origin or familial status of or the receipt of public assistance payments by any prospective or actual purchaser, lessee, tenant or occupant. Nothing in this Act may be construed to prohibit or limit the exercise of the privilege of every person and the agent of any person making loans for or offering financial assistance in the acquisition, construction, rehabilitation, repair or maintenance of housing accommodations to set standards and preferences, terms, conditions, limitations or specifications for the granting of loans or financial assistance that are consistent with business necessity and are not based on the race, color, sex, sexual orientation, physical or mental disability, religion, country of ancestral origin or familial status of or the receipt of public assistance payments by the applicant for a loan or financial assistance or of any existing or prospective owner, lessee, tenant or occupant of housing accommodation.