Regular Session, 2014

HOUSE BILL NO. 871

BY REPRESENTATIVE SMITH

HOUSING: Provides relative to discriminatory housing practices

AN ACT

To amend and reenact R.S. 51:2602(A), 2603, 2606(A)(1) through (5), (B), and (C), and 2607(A) and (C), and 2608 and to enact R.S. 51:2606(A)(7) and (D), relative to the Louisiana Equal Housing Opportunity Act; to prohibit or place limitations on discriminatory housing practices based on sexual orientation, gender identity and expression, marital and veteran's statuses, lawful source of income, arrest or conviction record, and domestic abuse status; to provide for definitions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 51:2602(A), 2603, 2606(A)(1) through (5), (B), and (C), 2607(A) and (C), and 2608 are hereby amended and reenacted and R.S. 51:2606(A)(7) and (D) are enacted to read as follows:

§2602. Policy

A. The legislature finds and declares that persons in this state who seek a place to live should be able to find such housing whenever it is available. Further, in many localities there may be housing shortages. All persons should therefore be able to compete for available housing on an open, fair, and equitable basis, regardless of race, color, religion, sex, <u>sexual orientation, gender identity, gender expression,</u> handicap, familial status, <u>marital status, veteran's status, lawful source of income, arrest or conviction record, status as a victim of domestic abuse,</u> or national origin.

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§2603. Definitions

As used in this Chapter:

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

(a) Claims to have been injured by a discriminatory housing practice; or

(b) Believes that he will be injured by a discriminatory housing practice that is about to occur.

(2) "Arrest or conviction record" means:

(a) Any information indicating that a person has been questioned, apprehended, taken into custody or detention, held for investigation, arrested, charged with, indicted, or tried for a felony, misdemeanor, or other offense pursuant to any law enforcement or military authority.

(b) Any information indicating that a person has been convicted of a felony, misdemeanor, or other offense, placed on probation, fined, imprisoned, or paroled pursuant to any law enforcement or military authority.

~~(2)~~ (3) "Complainant" means that person who files a complaint pursuant to R.S. 51:2611.

~~(3)~~ (4) "Conciliation" means the attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, and the attorney general or his designee.

~~(4)~~ (5) "Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation.

~~(5)~~ (6) "Discriminatory housing practice" means an act that is unlawful pursuant to R.S. 51:2606 through 2609.

~~(6)~~ (7) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon at any such building, structure, or portion thereof.

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~~(7)(a)~~ (8)(a) "Familial status" means one or more individuals, who have not attained the age of eighteen years, being domiciled with:

(I) A parent or another person having legal custody of such individual or individuals~~; or~~.

(ii) The designee of such parent or other person having such custody, with the written permission of such parent or other person.

(b) The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen years.

~~(8)~~ (9) "Family" includes a single individual.

(10) "Gender expression" means a person's actual or perceived gender-related appearance or behavior, regardless of the person's designated sex at birth.

(11) "Gender identity" means a person's actual or perceived gender-related identity, regardless of the person's designated sex at birth.

~~(9)(a)~~ (12)(a) "Handicap" means, with respect to a person:

(I) A physical or mental impairment which substantially limits one or more of such person's major life activities.

(ii) A record of having such an impairment; or

(iii) Being regarded as having such an impairment,

(b) Such term does not include current, illegal use of, or addiction to a controlled substance as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

(13) "Marital status" means being married, divorced, widowed, separated, single, or a cohabitant.

~~(10)~~ (14) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

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~~(11)~~ (15) "Respondent" means the person or other entity accused in a complaint of a discriminatory housing practice, or, any other person or entity identified in the course of an investigation and notified that they are a respondent who shall be joined in the complaint.

(16) "Sexual orientation" means a person's actual or perceived homosexuality, heterosexuality, or bisexuality.

~~(12)~~ (17) "To rent" includes to lease, to sublease, to let, and otherwise to grant for a consideration the right to occupy premises owned by the occupant.

(18) "Veteran's status" means the status of having been honorably discharged from the armed forces of the United States including reserved components of the armed forces, the Army National Guard and the Air National Guard, the commissioned corps of the Public Health Service, and any other category of persons designated by the president in time of war or emergency.

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§2606. Discrimination in sale or rental of housing and other prohibited practices

A. As made applicable by R.S. 51:2604, and except as exempted by Subsection B thereof and R.S. 51:2605, it is unlawful:

(1) To refuse to sell or rent after the making of a bona fide offer, or 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, religion, sex, sexual orientation, gender identity, gender expression, familial status, marital status, veteran's status, lawful source of income, status as a victim of domestic abuse, or national origin.

(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, religion, sex, sexual orientation, gender identity, gender expression, familial status, marital status, veteran's status, lawful source of income, arrest or conviction record, status as a victim of domestic abuse, or national origin.

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(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, religion, sex, sexual orientation, gender identity, gender expression, handicap, familial status, marital status, veteran's status, lawful source of income, arrest or conviction record, status as a victim of domestic abuse, or national origin, or an intention to make any such preference, limitation, or discrimination.

(4) To represent to any person because of race, color, religion, sex, sexual orientation, gender identity, gender expression, handicap, familial status, marital status, veteran's status, lawful source of income, arrest or conviction record, status as a victim of domestic abuse, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(5) For profit, 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, religion, sex, sexual orientation, gender identity, gender expression, familial status, marital status, veteran's status, lawful source of income, arrest or conviction record, status as a victim of domestic abuse, or national origin.

* * *

(7) To request, inquire into, or consider the arrest or conviction record of any person when such request for, inquiry into, or consideration of the arrest or conviction record is made prior to a bonafide offer of tenancy with respect to the rental of a dwelling or a contract to purchase the dwelling being presented to the seller with respect to the sale of a dwelling.

B.(1) In the selling or renting of housing described in R.S. 51:2604(A)(5), but not housing described in R.S. 51:2604(A)(1) through (4) or exempted by R.S. 51:2605, it is unlawful to refuse to sell or rent, refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny housing to any person because of an arrest record unless, given the nature of the housing, a reasonable person would

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have a justifiable fear for the safety of the landlord or tenant property or for the safety of other residents or employees.

(2) A person who refuses to rent or sell, negotiate for the sale or rental of, or otherwise make unavailable or deny housing described in R.S. 51:2604(A)(5) because an arrest or conviction record of the other party would cause a reasonable person to have a justifiable fear for the safety of the landlord or tenant property or for the safety of other residents or employees shall provide the rejected party written statement of refusal detailing.

C. Nothing in this Section shall be construed to invalidate or limit any law of this state or a political subdivision of this state that requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this Section.

~~C.~~ D. Nothing in this Section requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

§2607. Discrimination in residential real estate related transactions

A. It is 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, religion, sex, sexual orientation, gender identity, gender expression, handicap, familial status, marital status, veteran's status, lawful source of income, arrest or conviction record, status as a victim of domestic abuse, or national origin.

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C. 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, religion, ~~national origin,~~ sex, sexual orientation, gender identity, gender expression, handicap, ~~or~~ familial status, marital status, veteran's status, lawful source

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of income, arrest or conviction record, status as a victim of domestic abuse, or national origin.

§2608. Discrimination in provision of brokerage services

It is 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 or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, sexual orientation, gender identity, gender expression, handicap, familial status, marital status, veteran's status, lawful source of income, arrest or conviction record, status as a victim of domestic abuse, or national origin.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Smith HB No. 871

Abstract: Makes various changes to provisions of the La. Equal Housing Opportunity Act.

Present law of the La. Equal Housing Opportunity Act generally provides that all persons should be able to compete for available housing on an open, fair, and equitable basis, regardless of race, color, religion, sex, familial status, or national origin.

Proposed law adds a person's sexual orientation, gender identity, gender expression, marital status, veteran's status, lawful source of income, and status as a victim of domestic abuse to the La. Equal Housing Opportunity Act as factors not to be considered in the competition for available housing.

Proposed law defines "arrest or conviction record" as information indicating a person's questioning, apprehension, custody or detention, hold for investigation, arrest, charge, indictment, or trial for a felony, misdemeanor, or other offense pursuant to any law enforcement or military authority. Proposed law further provides that "arrest or conviction record" means information indicating a person's conviction of a felony, misdemeanor, or other offense, placement on probation, applicable fine, imprisonment, or parole pursuant to any law enforcement or military authority.

Proposed law defines "gender expression" as a person's actual or perceived gender-related appearance or behavior, regardless of the person's designated sex at birth.

Proposed law defines "gender identity" as a person's actual or perceived gender-related identity, regardless of the person's designated sex at birth.

Proposed law defines a person's "marital status" as being married, divorced, widowed, separated, single, or a cohabitant.

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Proposed law defines "sexual orientation" as a person's actual or perceived homosexuality, heterosexuality, or bisexuality.

Proposed law defines "veteran's status" as one's status of having been honorably discharged from the armed forces of the United States including reserved components of the armed forces, the Army National Guard and the Air National Guard, the commissioned corps of the Public Health Service, and any other category of persons designated by the president in time of war or emergency.

Proposed law provides that in the selling or renting of certain nonpublic and nonfederal assistance housing, it is unlawful to refuse to sell or rent, refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny housing to any person because of an arrest record unless, given the nature of the housing, a reasonable person would have a justifiable fear for the safety of the landlord or tenant property or for the safety of other residents or employees.

Proposed law provides that, when a person who refuses to rent or sell, negotiate for the sale or rental of, or otherwise make unavailable or deny certain nonpublic or nonfederal assistance housing because an arrest or conviction record would cause a reasonable person to have a justifiable fear for the safety of the landlord or tenant property or for the safety of other residents or employees, he shall provide the rejected party a written statement of refusal detailing.

(Amends R.S. 51:2602(A), 2603, 2606(A)(1)-(5), (B), and (C), 2607(A) and (C), and 2608; Adds R.S. 51:2606(A)(7) and (D))

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