Senate Bill No. 368–Senators Parks
and Leslie (by request)

CHAPTER.....

AN ACT relating to housing; prohibiting discrimination in housing and certain other transactions involving real property on the basis of sexual orientation or gender identity or expression; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law, commonly referred to as the Nevada Fair Housing Law, prohibits discrimination in housing, including selling or renting a dwelling, on the basis of race, religious creed, color, national origin, disability, ancestry, familial status or sex. The Nevada Fair Housing Law further provides a process and remedies to enforce the law if a person engages in such discrimination, which includes the authority to file a complaint with the Nevada Equal Rights Commission and to file an action in court to obtain an injunction and civil damages. (NRS 118.010-118.120, chapter 233 of NRS) Existing law further makes it a crime to engage in such discrimination as a basis to refuse to rent, lease, sell or otherwise convey property, or to deny a real estate loan or engage in certain other practices relating to such a loan. (NRS 207.300, 207.310) Existing law also makes it a crime for a real estate broker or salesperson to engage in such discrimination with respect to certain real estate transactions and makes a real estate appraiser subject to disciplinary action for refusing to prepare or communicate an appraisal based upon such discrimination. (NRS 645.321, 645C.480) This bill expands those prohibitions and crimes to include such discriminatory practices based upon sexual orientation or gender identity or expression.

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 118 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***"Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.***

Sec. 3. ***"Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.***

Sec. 4. NRS 118.010 is hereby amended to read as follows:

118.010 The provisions of NRS 118.010 to 118.120, inclusive, ***and sections 2 and 3 of this act*** may be cited as the Nevada Fair Housing Law.

Sec. 5. NRS 118.020 is hereby amended to read as follows:

118.020 1. It is hereby declared to be the public policy of the State of Nevada that all people in the State have equal opportunity to inherit, purchase, lease, rent, sell, hold and convey real property without discrimination, distinction or restriction because of race, religious creed, color, national origin, disability, ***sexual orientation, gender identity or expression,*** ancestry, familial status or sex.

2. Nothing in this chapter shall be deemed to render enforceable a conveyance or other contract made by a person who lacks the capacity to contract.

Sec. 6. NRS 118.030 is hereby amended to read as follows:

118.030 As used in NRS 118.010 to 118.120, inclusive, ***and sections 2 and 3 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 118.040 to 118.090, inclusive, ***and sections 2 and 3 of this act*** have the meanings ascribed to them in those sections.

Sec. 7. NRS 118.095 is hereby amended to read as follows:

118.095 The Commission may adopt regulations, consistent with the fair housing provisions of 42 U.S.C. §§ 3601 et seq., to carry out the provisions of NRS 118.010 to 118.120, inclusive ~~[.]~~ ***, and sections 2 and 3 of this act.***

Sec. 8. NRS 118.100 is hereby amended to read as follows:

118.100 ~~[1. Except as otherwise provided in subsection 2, a]~~ ***A*** person shall not, because of race, religious creed, color, national origin, disability, ***sexual orientation, gender identity or expression,*** ancestry, familial status or sex:

~~[(a)]~~ ***1.*** Refuse to sell or rent or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person.

~~[(b)]~~ ***2.*** Discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, including the amount of breakage or brokerage fees, deposits or other undue penalties, or in the provision of services or facilities in connection therewith.

~~[(c)]~~ ***3.*** 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, or an intention to make any preference, limitation or discrimination. As used in this ~~[paragraph,]~~ ***subsection,*** "dwelling" includes a house, room or unit described in subsection 2 or 3 of NRS 118.060.

~~[(d)]~~ ***4.*** Represent to any person because of race, religious creed, color, national origin, disability, ***sexual orientation, gender***

identity or expression, ancestry, familial status or sex that any dwelling is not available for inspection, sale or rental when the dwelling is in fact so available.

~~[(e)]~~ ***5.*** For profit, 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 of a particular race, religious creed, color, national origin, disability, ***sexual orientation, gender identity or expression,*** ancestry, familial status or sex.

~~[(f)]~~ ***6.*** Coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected in this chapter.

~~[2. The provisions of subsection 1 do not prohibit any act that is not prohibited by the provisions of the Fair Housing Act of 1968 (42 U.S.C. §§ 3601 et seq.), as amended.]~~

Sec. 9. NRS 118.115 is hereby amended to read as follows:

118.115 A tenant has a defense in a summary proceeding or other action for possession of a dwelling if the landlord's attempt to terminate the tenancy or regain possession violates any provision of NRS 118.010 to 118.120, inclusive, ***and sections 2 and 3 of this act*** or the Fair Housing Act of 1968, 42 U.S.C. §§ 3601 et seq.

Sec. 10. NRS 118A.510 is hereby amended to read as follows:

118A.510 1. Except as otherwise provided in subsection 3, the landlord may not, in retaliation, terminate a tenancy, refuse to renew a tenancy, increase rent or decrease essential services required by the rental agreement or this chapter, or bring or threaten to bring an action for possession if:

(a) The tenant has complained in good faith of a violation of a building, housing or health code applicable to the premises and affecting health or safety to a governmental agency charged with the responsibility for the enforcement of that code;

(b) The tenant has complained in good faith to the landlord or a law enforcement agency of a violation of this chapter or of a specific statute that imposes a criminal penalty;

(c) The tenant has organized or become a member of a tenant's union or similar organization;

(d) A citation has been issued resulting from a complaint described in paragraph (a);

(e) The tenant has instituted or defended against a judicial or administrative proceeding or arbitration in which the tenant raised an issue of compliance with the requirements of this chapter respecting the habitability of dwelling units;

(f) The tenant has failed or refused to give written consent to a regulation adopted by the landlord, after the tenant enters into the rental agreement, which requires the landlord to wait until the appropriate time has elapsed before it is enforceable against the tenant; or

(g) The tenant has complained in good faith to the landlord, a government agency, an attorney, a fair housing agency or any other appropriate body of a violation of NRS 118.010 to 118.120, inclusive, ***and sections 2 and 3 of this act*** or the Fair Housing Act of 1968, 42 U.S.C. §§ 3601 et seq., or has otherwise exercised rights which are guaranteed or protected under those laws.

2. If the landlord violates any provision of subsection 1, the tenant is entitled to the remedies provided in NRS 118A.390 and has a defense in any retaliatory action by the landlord for possession.

3. A landlord who acts under the circumstances described in subsection 1 does not violate that subsection if:

(a) The violation of the applicable building, housing or health code of which the tenant complained was caused primarily by the lack of reasonable care by the tenant, a member of his or her household or other person on the premises with his or her consent;

(b) The tenancy is terminated with cause;

(c) A citation has been issued and compliance with the applicable building, housing or health code requires alteration, remodeling or demolition and cannot be accomplished unless the tenant's dwelling unit is vacant; or

(d) The increase in rent applies in a uniform manner to all tenants.

➥ The maintenance of an action under this subsection does not prevent the tenant from seeking damages or injunctive relief for the landlord's failure to comply with the rental agreement or maintain the dwelling unit in a habitable condition as required by this chapter.

Sec. 11. NRS 207.297 is hereby amended to read as follows:

207.297 As used in NRS 207.300 and 207.310:

1. "Disability" means, with respect to a person:

(a) A physical or mental impairment that substantially limits one or more of the major life activities of the person;

(b) A record of such an impairment; or

(c) Being regarded as having such an impairment.

2. "Familial status" means the fact that a person:

(a) Lives with a child under the age of 18 and has:

(1) Lawful custody of the child; or

(2) Written permission to live with the child from the person who has lawful custody of the child;

(b) Is pregnant; or

(c) Has begun a proceeding to adopt or otherwise obtain lawful custody of a child.

3. "Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.

4. "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

Sec. 12. NRS 207.300 is hereby amended to read as follows:

207.300 It is unlawful for any person to refuse to rent, lease, sell or otherwise convey any real property solely because of race, religious creed, color, national origin, disability, ***sexual orientation, gender identity or expression,*** ancestry, familial status or sex.

Sec. 13. NRS 207.310 is hereby amended to read as follows:

207.310 1. As used in this section:

(a) "Customer" means a person who applies for a loan or other financial assistance to purchase, construct, improve or repair a dwelling. The term includes a person who does not intend to enter into a transaction for a loan or other financial assistance, but applies for the loan or financial assistance as if the person intended to enter into the transaction.

(b) "Lender" means a bank, savings and loan association, insurance company or other person whose business consists in whole or in part of making commercial real estate loans.

2. It is unlawful for any lender to deny a loan, or other financial assistance rendered by the lender, to any customer or to discriminate against any customer in fixing the amount, conditions, duration, rate of interest or other terms of a loan or other financial assistance or to refuse to purchase a loan from another lender because of the race, color, religious creed, national origin, disability, ***sexual orientation, gender identity or expression,*** ancestry, familial status or sex of:

(a) The customer;

(b) Any person associated with the customer in connection with the loan or other financial assistance or with the purpose of the loan or other financial assistance; or

(c) The present or prospective owners, lessees, tenants or occupants of the dwelling in relation to which the loan or other financial assistance is to be made or given.

3. A person who violates the provisions of this section is guilty of:

(a) A misdemeanor for the first and second offenses.

(b) A gross misdemeanor for the third and subsequent offenses.

Sec. 14. NRS 233.010 is hereby amended to read as follows:

233.010 1. It is hereby declared to be the public policy of the State of Nevada to protect the welfare, prosperity, health and peace of all the people of the State, and to foster the right of all persons reasonably to seek, obtain and hold employment ~~[and housing accommodations]~~ without discrimination, distinction or restriction because of race, religious creed, color, age, sex, disability, national origin or ancestry.

2. ***It is hereby declared to be the public policy of the State of Nevada to protect the welfare, prosperity, health and peace of all the people of the State, and to foster the right of all persons reasonably to seek and obtain housing accommodations without discrimination, distinction or restriction because of race, religious creed, color, age, sex, disability, sexual orientation, gender identity or expression, national origin or ancestry.***

3. It is hereby declared to be the public policy of the State of Nevada to protect the welfare, prosperity, health and peace of all the people of the State, and to foster the right of all persons reasonably to seek and be granted services in places of public accommodation without discrimination, distinction or restriction because of race, religious creed, color, age, sex, disability, sexual orientation, national origin or ancestry.

~~[3.]~~ ***4.*** It is recognized that the people of this State should be afforded full and accurate information concerning actual and alleged practices of discrimination and acts of prejudice, and that such information may provide the basis for formulating statutory remedies of equal protection and opportunity for all citizens in this State.

Sec. 15. NRS 233.020 is hereby amended to read as follows:

233.020 As used in this chapter:

1. "Administrator" means the Administrator of the Commission.

2. "Commission" means the Nevada Equal Rights Commission within the Department of Employment, Training and Rehabilitation.

3. "Disability" means, with respect to a person:

(a) A physical or mental impairment that substantially limits one or more of the major life activities of the person;

(b) A record of such an impairment; or

(c) Being regarded as having such an impairment.

4. ***"Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.***

5. "Member" means a member of the Nevada Equal Rights Commission.

~~[5.]~~ ***6.*** "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

Sec. 16. NRS 233.150 is hereby amended to read as follows:

233.150 The Commission may:

1. Order its Administrator to:

(a) With regard to public accommodation, investigate tensions, practices of discrimination and acts of prejudice against any person or group because of race, color, creed, sex, age, disability, sexual orientation, national origin or ancestry, and may conduct hearings with regard thereto.

(b) With regard to employment ***,*** ~~[and housing,]~~ investigate tensions, practices of discrimination and acts of prejudice against any person or group because of race, color, creed, sex, age, disability, national origin or ancestry, and may conduct hearings with regard thereto.

(c) With regard to housing, investigate tensions, practices of discrimination and acts of prejudice against any person or group because of race, color, creed, sex, age, disability, sexual orientation, gender identity or expression, national origin or ancestry, and may conduct hearings with regard thereto.

2. Mediate between or reconcile the persons or groups involved in those tensions, practices and acts.

3. Issue subpoenas for the attendance of witnesses or for the production of documents or tangible evidence relevant to any investigations or hearings conducted by the Commission.

4. Delegate its power to hold hearings and issue subpoenas to any of its members or any hearing officer in its employ.

5. Adopt reasonable regulations necessary for the Commission to carry out the functions assigned to it by law.

Sec. 17. NRS 645.321 is hereby amended to read as follows:

645.321 1. It is unlawful, on account of race, religious creed, color, national origin, disability, ***sexual orientation, gender identity or expression,*** ancestry, familial status or sex, to:

(a) Discriminate against any person:

(1) By denying the person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service or facility relating to the sale or rental of dwellings; or

(2) In the terms or conditions of such access, membership or participation.

(b) Discriminate against any person:

(1) By denying the person access to any opportunity to engage in a transaction regarding residential real estate; or

(2) In the terms or conditions of such a transaction.

2. Any person violating the provisions of subsection 1 shall be punished by a fine of $500 for the first offense and for the second offense shall show cause why his or her license should not be revoked by the Commission.

3. As used in this section:

(a) "Disability" means, with respect to a person:

(1) A physical or mental impairment that substantially limits one or more of the major life activities of the person;

(2) A record of such an impairment; or

(3) Being regarded as having such an impairment.

(b) "Familial status" means the fact that a person:

(1) Lives with a child under the age of 18 and has:

(I) Lawful custody of the child; or

(II) Written permission to live with the child from the person who has lawful custody of the child;

(2) Is pregnant; or

(3) Has begun a proceeding to adopt or otherwise obtain lawful custody of a child.

(c) "Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.

(d) "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

Sec. 18. NRS 645C.480 is hereby amended to read as follows:

645C.480 1. A certified or licensed appraiser is guilty of unprofessional conduct if the certified or licensed appraiser:

(a) Fails to produce any document, book or record in his or her possession or under his or her control after being requested to do so by the Division as part of its investigation of a complaint;

(b) Refuses to prepare or communicate an appraisal because of age, race, color, national origin, disability, ***sexual orientation, gender identity or expression,*** familial status, sex or ethnic group; or

(c) Fails to supervise adequately an intern associated with him or her.

2. As used in this section:

(a) "Disability" means, with respect to a person:

(1) A physical or mental impairment that substantially limits one or more of the major life activities of the person;

(2) A record of such an impairment; or

(3) Being regarded as having such an impairment.

(b) "Familial status" means the fact that a person:

(1) Lives with a child under the age of 18 and has:

(I) Lawful custody of the child; or

(II) Written permission to live with the child from the person who has lawful custody of the child;

(2) Is pregnant; or

(3) Has begun a proceeding to adopt or otherwise obtain lawful custody of a child.

(c) "Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.

(d) "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.