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SENATE BILL 226

By Taylor

AN ACT to amend Tennessee Code Annotated, Title 4, relative to the Professionals' Freedom of Religion Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 4, Chapter 3, is amended by adding the following as a new part:

4-3-5301. Short title.

This part is known and may be cited as the "'Professionals' Freedom of Religion Act."

4-3-5302. Part definitions.

As used in this part:

(1) "Governmental entity" means a state agency, department, board, or commission that issues licenses;

(2) "License":

(A) Means a license, certification, registration, permit, approval, or similar document issued to an individual evidencing admission to, or giving authority to, engage in a profession, trade, occupation, business, or industry in this state; and

(B) Does not include a license to practice law unless the supreme court establishes guidelines pursuant to title 23 making this part applicable to that license; and

(3) "Multiple-listing service" or "MLS" means a database established by cooperating real estate brokers to provide data about properties for sale in this state.

4-3-5303. Unlawful practices against professional licenses prohibited.

(a) It is unlawful for a governmental entity to deny, revoke, suspend, or take other adverse action against an individual's license for the following:

(1) Refusing to affirm a statement or oath that is contrary to the individual's sincerely held religious beliefs or moral convictions;

(2) Expressing sincerely held religious beliefs or moral convictions in any context, including a professional context, as long as the services provided otherwise meet the standard of care or practice for that profession; or

(3) Providing faith-based services that otherwise meet the standard of care or practice for that profession.

(b) It is unlawful for a governmental entity to take any adverse action against a licensee or applicant for licensure based on such person's beliefs or the lawful expression of those beliefs, to the extent protected under the United States Constitution or the Constitution of Tennessee.

(c) Notwithstanding another provision of law, it is not a prohibited act for a licensee or an applicant for licensure, to engage in the free exercise of religion or the freedom of speech or expression protected under the United States Constitution or the Constitution of Tennessee.

4-3-5304. Unlawful practices regarding access to an MLS or real estate brokers organization prohibited.

(a) It is unlawful for a person to do any of the following based on an individual's religious or moral beliefs, or an individual's lawful expression of those beliefs in a

nonprofessional setting that does not involve real estate-related activities or transactions, and where such expression does not otherwise violate the Tennessee Real Estate Broker License Act of 1973, compiled in title 62, chapter 13:

(1) Deny an individual access to or membership or participation in a multiple-listing service or real estate brokers' organization;

(2) Disfavor an individual in the terms or conditions of access, membership, or participation in a multiple-listing service or real estate brokers' organization; or

(3) Discipline an individual under the rules of a real estate brokers' organization.

(b) It is unlawful for a real estate brokers' organization or another organization that controls, governs, owns, manages, or operates a real estate multiple-listing service to require membership in the organization as a condition for a licensed broker or affiliate broker, as those terms are defined in § 62-13-102, to enjoy full use of such multiple-listing service. A non-member must not be charged an MLS participation fee higher than those paid by association members.

4-3-5305. Remedies.

(a) A person who has been harmed, or is substantially likely to be harmed, by a governmental entity or person violating this part has a cause of action against the entity or person and may assert such violation as a claim or defense in a judicial or administrative proceeding.

(b) A governmental entity or person violating this part is subject to:

(1) Payment to the complainant of damage for injury, including humiliation and embarrassment, caused by the unlawful practice, and costs, including reasonable attorney's fees; and

(2) Other remedies as are necessary and proper to eliminate all the unlawful practices identified by the evidence submitted.

(c) The remedies authorized by this section are not exclusive and do not preclude other remedies or causes of action under the law.

SECTION 2. The headings in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in a compilation or publication containing this act.

SECTION 3. This act takes effect upon becoming a law, the public welfare requiring it.