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DESCRIPTION

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Yalasta Rickford
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10/2/03
Date

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2003 HOUSE JUDICIARY

HB 1081

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1081

House Judiciary Committee

Conference Committee

Hearing Date 1-15-03

Tape Number	Side A	Side B	Meter #
1	x		0-13
1	x		20-21
Committee Clerk Signature <i>Alonso</i>			

Minutes: All members present.

Chairman DeKrey: We will start taking testimony on HB 1081.

Mark Bachmeyer, Labor Commissioner: (see testimony) In favor of HB 1081.

Rep. Delmore: Can you tell me if we are still having the number of complaints filed with such advertising?

Ms. Bachmeyer: No complaints filed against a publisher or a paper, we have had several complaints that involved discriminatory advertising, but they were allegations about statements made by an individual housing provider or landlord.

Rep. Grande: Can you advertise, "a good place for those over 55 years of age", is that discriminatory?

Mr. Bachmeyer: There is a particular exemption for properties that are designated as housing for older persons. There are a whole set of exemptions both in our law and in federal law that relates specifically to people, whose intent it is to provide that housing for persons over 55 or 65.

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House Judiciary Committee
Bill/Resolution Number HB 1081
Hearing Date 1-15-03

If the property is designated as such, then it is not discriminatory in that case. If the property is not specifically designated for housing for older persons, age is one of the protected categories, under state law, but not federal law. Familial is protected. Familial is the second highest category of complaints, against the law to advertise or refuse to rent to "no children".

Rep. Grande: I guess I would rather up front if my neighbors were going to complain every time my child comes up and down the stairwell. It's not a management issue, it's a neighbor issue. Can I discuss that as a possible tenant?

Mr. Bachmeier: As a prospective housing tenant, you're not the housing provider, so you're not at risk for being liable for a housing discrimination complaint, you can inquire, but the housing provider can't say to you, this technically could be a problem or violation. The provider can't say "we discourage children", that would be discriminatory advertising, that would be expressing preference, and that's something that's not allowed in the Fair Housing laws.

Rep. Klemin: Section 3 dealing with publication does apply even if owner does occupy one of the units.

Mr. Bachmeier: Yes.

Rep. Klemin: So the reason we have to change this, is to make it consistent with federal law.

Mr. Bachmeier: And to also in our laws, it applies to areas where other properties are exempt too. It's just this one limited circumstance where it doesn't. It is also inconsistent with our law in that respect.

Rep. Klemin: I can see what you're doing here, but you can't advertise that there is some limitation, but when somebody calls and talks about it, you can tell him that.

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House Judiciary Committee
Bill/Resolution Number HB 1081
Hearing Date 1-15-03

Mr. Bachmeier: I think the intent here is to say that having the advertising provisions apply even to exempt properties, say that there's potentially harm created by making statements, particularly public statements about certain people not being welcome or need not apply, that are separate from the actual transaction itself.

Rep. Klemm: Just so I understand, it is okay to discriminate as long as you don't advertise that you are doing it in this exempt class.

Mr. Bachmeier: That would be an accurate way to state it. You can sell the house to anyone you want, just can't make statements about preferences for a certain type of person, even for exempt properties, that's in place.

Chairman DeKrey: Thank you. Anyone else in support of HB 1081, opposition? Then HB 1081 is closed.

(The hearing was closed but reopened later that same session)

Chairman DeKrey: What are the committee's wishes in regard to HB 1081.

Rep. Maragos: I recommend Do Pass.

Rep. Grande: I second the motion.

Chairman DeKrey: Any committee discussion? We'll take the vote.

13 Yes 0 No 0 Absent DO PASS Carrier: Rep. Galvin

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Date: 1/15/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1081

House Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Maragos Seconded By Rep. Grande

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Rep. Delmore	✓	
Vice Chairman Maragos	✓		Rep. Eckre	✓	
Rep. Bernstein	✓		Rep. Onstad	✓	
Rep. Boehning	✓				
Rep. Galvin	✓				
Rep. Grande	✓				
Rep. Kingsbury	✓				
Rep. Klemin	✓				
Rep. Kretschmar	✓				
Rep. Wrangham	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep. Galvin

If the vote is on an amendment, briefly indicate intent:

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Yolanda Rickford 10/2/03
Operator's Signature Date

REPORT OF STANDING COMMITTEE (410)
January 15, 2003 10:02 a.m.

Module No: HR-07-0566
Carrier: Galvin
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1081: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS
(13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1081 was placed on the
Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-07-0566

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10/2/03
Date

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2003 SENATE JUDICIARY

HB 1081

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1081

Senate Judiciary Committee

Conference Committee

Hearing Date 03/11/03

Tape Number	Side A	Side B	Meter #
1	X		34.9 - 44.5

Committee Clerk Signature

Mavis Zabalay

Minutes: Senator John T. Traynor, Chairman, called the meeting to order. Roll call was taken and all committee members present. Sen. Traynor requested meeting starts with testimony on the bill:

Testimony in Support of HB 1081

Mark Bachmeier - Commissioner, ND Department of Labor Introduced Bill (meter 34.9) Read

Testimony - Attachment #1

Public statements expressing discriminatory preferences are there own harm in and among themselves. We ran across an exemption provided in our law that doesn't prohibit discriminatory advertising as it does in the Federal Law.

Sen. Traynor discussed that he could sell his own home to whom ever he wanted to. That is correct as long as you did not do this to many times, which would qualify you to be considered under the business of selling real-estate.

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10/2/03
Date

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Senate Judiciary Committee

Bill/Resolution Number HB 1081

Hearing Date 03/11/03

If you have a dwelling with four or fewer units and you live in one of them then you are exempt from fair housing laws. While the property is exempt you can not put a sign in the yard that says "whites only". That would be advertising and it would still be a discriminatory practice to do that even though the property itself is exempt. Our present law does not state what the federal law's exemption states and in all our other laws it does.

Sen. Trenbeath stated that all we were doing was dropping reference to 14-02.5 03 as within this exemption. Yes.

Testimony in opposition of HB 1081

None

Testimony Neutral to HB 1081

None

Motion Made to DO PASS HB 1081 Senator Thomas L. Trenbeath and seconded by Sen.

Lyson

Roll Call Vote: 6 Yes. 0 No. 0 Absent

Motion Passed

Floor Assignment: Senator Thomas L. Trenbeath

Senator John T. Traynor, Chairman closed the hearing

REPORT OF STANDING COMMITTEE (410)
March 11, 2003 12:59 p.m.

Module No: SR-43-4440
Carrier: Trenbeath
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1081: Judiciary Committee (Sen. Traynor, Chairman) recommends **DO PASS**
(8 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). HB 1081 was placed on the
Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-43-4440

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2003 TESTIMONY

HB 1081

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10/2/03
Date

John Hoeven
Governor

Mark D. Bachmeier
Commissioner



State Capitol - 13th Floor
600 E Boulevard Ave Dept 406
Bismarck, ND 58505-0340

www.state.nd.us/labor
E-mail: labor@state.nd.us

Testimony on HB 1081
Prepared for the
House Judiciary Committee

January 15, 2003

Chairman DeKrey and members of the House Judiciary Committee, good morning. For the record, I am Mark Bachmeier, Commissioner of Labor.

HB 1081 is a very simple bill that corrects an inconsistency between the North Dakota Housing Discrimination Act and the Federal Fair Housing Act. You will recall that part of the intent of the 1999 housing discrimination bill (HB 1043) was to create a state housing discrimination law that is "substantially equivalent" to the Federal Fair Housing Act, in other words, a law containing the same protections and remedies as the federal law. The equivalency of our state law to the federal law is the key to both our funding from the Department of Housing and Urban Development and to consolidating the investigation of housing discrimination complaints under both state and federal law in a single investigation at the state level.

Certain properties and certain real estate transactions are exempt from fair housing laws. However, discriminatory advertising is not allowed, even if the property or transaction is exempt. For example, a person is not allowed to make statements or publish advertisements expressing a preference based on any protected status, even if the dwelling is otherwise exempt from fair housing provisions. The way subsection 2 of section 14-02.5-09 of our law is currently written, discriminatory advertising is not prohibited in the limited case of one type of exempt property, rooms or units in a dwelling containing living quarters occupied by or intended to be occupied by not more than four families living independently of each other, if the owner maintains and occupies one of the living quarters as the owner's residence.

I believe this was inadvertent. I do not recall any discussion on HB 1043 during the 1999 Legislative Session that would give any indication that the Legislative Assembly intended to allow discriminatory advertising in this one limited instance. HB 1081 simply amends the section to exclude discriminatory advertising from the exemption.

Thank you for your time and consideration. I would be happy to answer any questions you have.

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AH #1

Testimony on HB 1081
Prepared for the
Senate Judiciary Committee

March 11, 2003

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