

Fifty-seventh
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2154

Introduced by

Political Subdivisions Committee

(At the request of the Labor Commissioner)

1 A BILL for an Act to create and enact section 14-02.5-46 of the North Dakota Century Code,
2 relating to exempt records in housing discrimination complaints filed with the department of
3 labor; to amend and reenact subsections 1 and 3 of section 14-02.5-01, sections 14-02.5-07,
4 14-02.5-09, 14-02.5-11, 14-02.5-18, and 14-02.5-21, subsection 2 of section 14-02.5-22,
5 section 14-02.5-24, subsection 2 of section 14-02.5-25, subsection 2 of section 14-02.5-26,
6 section 14-02.5-36, and subsections 3 and 5 of section 14-02.5-39 of the North Dakota Century
7 Code, relating to housing discrimination complaints, investigations, aggrieved parties, and
8 exemptions; and to declare an emergency.

9 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

10 **SECTION 1. AMENDMENT.** Subsections 1 and 3 of section 14-02.5-01 of the 1999
11 Supplement to the North Dakota Century Code are amended and reenacted as follows:

- 12 1. ~~"Aggrieved individual"~~ "Aggrieved person" includes any ~~individual~~ person who
13 claims to have been injured by a discriminatory housing practice or believes that
14 the ~~individual~~ person will be injured by a discriminatory housing practice that is
15 about to occur.
- 16 3. "Conciliation" means the informal negotiations among and aggrieved ~~individual~~
17 person, the respondent, and the department to resolve issues raised by a
18 complaint or by the investigation of the complaint.

19 **SECTION 2. AMENDMENT.** Section 14-02.5-07 of the 1999 Supplement to the North
20 Dakota Century Code is amended and reenacted as follows:

21 **14-02.5-07. Residential real estate-related transaction.** A person whose business
22 includes engaging in residential real estate-related transactions may not discriminate against
23 an individual in making a real estate-related transaction available or in the terms or conditions
24 of a real estate-related transaction because of race, color, religion, sex, disability, age, familial

1 status, national origin, or status with respect to marriage. A residential real estate-related
2 transaction is the selling, brokering, or appraising of residential real property or the making or
3 purchasing of loans or the provision of other financial assistance to purchase, construct,
4 improve, repair, maintain a dwelling, or to secure residential real estate. ~~For the purposes of~~
5 ~~this section, a person is in the business of selling residential real property if within the~~
6 ~~preceding twelve months, the person has participated as principal in three or more transactions~~
7 ~~involving the sale of any dwelling or any interest in a dwelling or has participated as agent,~~
8 ~~other than in the sale of the person's own personal residence, in providing sales facilities or~~
9 ~~sales services in two or more transactions involving the sale of any dwelling or any interest in a~~
10 ~~dwelling.~~ Nothing in this section prohibits a person engaged in the business of furnishing
11 appraisals of real property to take into consideration factors other than race, color, religion, sex,
12 disability, age, familial status, national origin, or status with respect to marriage.

13 **SECTION 3. AMENDMENT.** Section 14-02.5-09 of the 1999 Supplement to the North
14 Dakota Century Code is amended and reenacted as follows:

15 **14-02.5-09. Sales and rentals exempted.**

- 16 1. Sections 14-02.5-02 through 14-02.5-08 do not apply to the sale or rental of a
17 single-family house sold or rented by the owner if the owner does not own more
18 than three single-family houses at any one time or own any interest in, nor is there
19 owned or reserved on the person's behalf, under any express or voluntary
20 agreement, title to or any right to any part of the proceeds from the sale or rental of
21 more than three single-family houses at any one time. In addition, the house must
22 be sold or rented without the use of the sales or rental facilities or services of a
23 licensed real estate broker, agent, or realtor, or of a person in the business of
24 selling or renting dwellings, or of an employee or agent of ~~a licensed~~ any such
25 broker, agent, or realtor, or the facilities or services of the owner of a dwelling
26 designed or intended for occupancy by five or more families person; or the
27 publication, posting, or mailing of a notice, statement, or advertisement prohibited
28 by section 14-02.5-03. The exemption provided in this subsection applies only to
29 one sale or rental in a twenty-four-month period, if the owner was not the most
30 recent resident of the house at the time of the sale or rental. For the purposes of

1 this subsection, a person is in the business of selling or renting dwellings if the
2 person:

3 a. Within the preceding twelve months, has participated as principal in three or
4 more transactions involving the sale or rental of any dwelling or any interest in
5 a dwelling, or;

6 b. Within the preceding twelve months, has participated as agent, other than in
7 the sale of the person's own personal residence, in providing sales or rental
8 facilities or sales or rental services in two or more transactions involving the
9 sale or rental of any dwelling or any interest in a dwelling, or;

10 c. Is the owner of any dwelling designed or intended for occupancy by, or
11 occupied by, five or more families.

12 2. Sections 14-02.5-02 through 14-02.5-08 do not apply to the sale or rental of the
13 rooms or units in a dwelling containing living quarters occupied by or intended to
14 be occupied by not more than four families living independently of each other, if
15 the owner maintains and occupies one of the living quarters as the owner's
16 residence.

17 ~~3. The exemption in subsection 1 applies only to one sale or rental in a~~
18 ~~twenty-four month period, if the owner was not the most recent resident of the~~
19 ~~house at the time of the sale or rental.~~

20 **SECTION 4. AMENDMENT.** Section 14-02.5-11 of the 1999 Supplement to the North
21 Dakota Century Code is amended and reenacted as follows:

22 **14-02.5-11. Housing for elderly exempted.**

23 1. The provisions of this chapter relating to familial status and age do not apply to
24 housing that the secretary of housing and urban development determines is
25 specifically designed and operated to assist elderly individuals under a federal
26 program; the department determines is specifically designed and operated to
27 assist elderly individuals under a ~~federal~~ or state program; is intended for, and
28 solely occupied by, individuals sixty-two years of age or older; or is intended and
29 operated for occupancy by at least one individual fifty-five years of age or older for
30 each unit as determined by department rules. In determining whether housing
31 qualifies as housing for elderly ~~under this section~~ because it is intended and

operated for occupancy by at least one individual fifty-five years of age or older for each unit, the department shall adopt rules that require at least the following factors:

- a. ~~The existence of significant facilities and services specifically designed to meet the physical or social needs of older individuals or, if the provision of the facilities and services is not practicable, that the housing is necessary to provide important housing opportunities for older individuals;~~
 - b. That at least eighty percent of the units are occupied by at least one individual fifty-five years of age or older per unit; and
 - e. ~~b.~~ The publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for individuals fifty-five years of age or older.
2. Housing may not be considered to be in violation of the requirements for housing for elderly under this section by reason of:
- a. Individuals residing in the housing as of October 1, 1999, who do not meet the age requirements of this section, provided that new occupants of the housing meet the age requirements; or
 - b. Unoccupied units, provided that the units are reserved for occupancy by individuals who meet the age requirements of this section.

SECTION 5. AMENDMENT. Section 14-02.5-18 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14-02.5-18. Complaint.

1. The department shall investigate complaints of alleged discriminatory housing practices. An aggrieved ~~individual~~ person may file a complaint with the department alleging the discriminatory housing practice. The department may file a complaint. A complaint must be in writing, ~~under oath, and in the form~~ and must contain such information and be in such form as prescribed by the department. A complaint must be filed on or before the first anniversary of the date the alleged discriminatory housing practice occurs or terminates, whichever is later. A complaint may be amended at any time.

2. On the filing of a complaint, the department shall give the aggrieved ~~individual~~
person notice that the complaint has been received, advise the aggrieved
~~individual~~ person of the time limits and choice of forums under this chapter, and
not later than the tenth day after the date of the filing of the complaint or the
identification of an additional or substitute respondent under section ~~14-02.5-22~~
14-02.5-21, serve on each respondent a notice identifying the alleged
discriminatory housing practice and advising the respondent of the procedural
rights and obligations of a respondent under this chapter and a copy of the original
complaint.

SECTION 6. AMENDMENT. Section 14-02.5-21 of the 1999 Supplement to the North
Dakota Century Code is amended and reenacted as follows:

14-02.5-21. Additional or substitute respondent. The department may join a person
not named in the complaint as an additional or substitute respondent if during the investigation
the department determines that the person is alleged to be engaged ~~or~~ to have engaged, or to
be about to engage in the discriminatory housing practice upon which the complaint is based.
In addition to the information required in the notice under subsection 2 of section 14-02.5-18,
the department shall include in a notice to a respondent joined under this section the reasons
for the determination that the person is properly joined as a respondent.

SECTION 7. AMENDMENT. Subsection 2 of section 14-02.5-22 of the 1999
Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. A conciliation agreement is public information unless the complainant and
respondent agree that it is not and the department determines that disclosure is
not necessary to further the purposes of this chapter. Statements made or actions
taken in the conciliation may not be made public by the department or used as
evidence in a subsequent proceeding under this chapter without the written
consent of ~~concerned persons~~ the parties to the conciliation. ~~After completion of~~
~~the department's investigation, the department shall make available to the~~
~~aggrieved individual and the respondent, at any time, information derived from the~~
~~investigation and the final investigative report relating to that investigation.~~

SECTION 8. AMENDMENT. Section 14-02.5-24 of the 1999 Supplement to the North
Dakota Century Code is amended and reenacted as follows:

1 **14-02.5-24. Investigative report.** The department shall prepare a final investigative
2 report, including the names of and dates of contacts with witnesses, a summary of
3 correspondence and other contacts with the aggrieved ~~individual~~ person and the respondent
4 showing the dates of the correspondence and contacts, a summary description of other
5 pertinent records, a summary of witness statements, and answers to interrogatories. A final
6 report under this section may be amended if additional evidence is discovered.

7 **SECTION 9. AMENDMENT.** Subsection 2 of section 14-02.5-25 of the 1999
8 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 9 2. If making the determination within the period is impracticable, the department shall
10 give in writing to the complainant and the respondent the reasons for the delay. If
11 the department determines that reasonable cause exists to believe that a
12 discriminatory housing practice has occurred or is about to occur, the department
13 shall, except as provided by section 14-02.5-27, immediately issue a charge on
14 behalf of the aggrieved ~~individual~~ person.

15 **SECTION 10. AMENDMENT.** Subsection 2 of section 14-02.5-26 of the 1999
16 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 17 2. ~~Upon~~ Within three days after issuing a charge, the department shall send a copy of
18 the charge with information about the election under section 14-02.5-30 to each
19 respondent and each aggrieved ~~individual~~ person on whose behalf the complaint
20 was filed.

21 **SECTION 11. AMENDMENT.** Section 14-02.5-36 of the 1999 Supplement to the North
22 Dakota Century Code is amended and reenacted as follows:

23 **14-02.5-36. Attorney general action for enforcement.** If a timely election is made
24 under section 14-02.5-30, the department shall authorize and the attorney general shall file not
25 later than the thirtieth day after the date of the election a claim for relief seeking relief on behalf
26 of the aggrieved person in a district court. Venue for an action is in the county in which the
27 alleged discriminatory housing practice occurred or is about to occur. An aggrieved ~~individual~~
28 person may intervene in the action. If the court finds that a discriminatory housing practice has
29 occurred or is about to occur, the court may grant as relief any relief that a court may grant in a
30 civil action under sections 14-02.5-39 through 14-02.5-44. If monetary relief is sought for the
31 benefit of an aggrieved ~~individual~~ person who does not intervene in the civil action, the court

1 may not award the monetary relief if that aggrieved ~~individual~~ person has not complied with
2 discovery orders entered by the court.

3 **SECTION 12. AMENDMENT.** Subsections 3 and 5 of section 14-02.5-39 of the 1999
4 Supplement to the North Dakota Century Code are amended and reenacted as follows:

5 3. An aggrieved ~~individual~~ person may file a claim for relief whether a complaint has
6 been filed under section 14-02.5-18 and without regard to the status of any
7 complaint filed under that section.

8 5. An aggrieved ~~individual~~ person may not file a claim for relief with respect to an
9 alleged discriminatory housing practice that forms the basis of a charge issued by
10 the department if the department has begun a hearing on the record under this
11 chapter with respect to the charge.

12 **SECTION 13.** Section 14-02.5-46 of the North Dakota Century Code is created and
13 enacted as follows:

14 **14-02.5-46. Records exempt.** A complaint filed with the department under section
15 14-02.5-18 is an open record. Information obtained during an investigation conducted by the
16 department under this chapter is exempt from section 44-04-18 prior to the administrative
17 closure of a complaint by the department. The commissioner may disclose to the complainant
18 or the respondent, or representatives of the complainant or respondent, information obtained
19 under this section if deemed necessary by the commissioner for securing an appropriate
20 resolution of a complaint. Investigative working papers are exempt from section 44-04-18.

21 **SECTION 14. EMERGENCY.** This Act is declared to be an emergency measure.