

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 subsection 1 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 14-02.5-26, sections 14-02.5-28 and 14-02.5-36,
6 and subsections 3 and 5 of section 14-02.5-39 of the North Dakota Century Code, relating to
7 housing discrimination complaints, investigations, aggrieved parties, and exemptions.

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

9 **SECTION 1. AMENDMENT.** Subsection 1 of section 14-02.5-01 of the 1999
10 Supplement to the North Dakota Century Code is amended and reenacted as follows:

11 1. ~~"Aggrieved individual"~~ "Aggrieved person" includes any ~~individual person~~ who
12 claims to have been injured by a discriminatory housing practice or believes that
13 the ~~individual person~~ will be injured by a discriminatory housing practice that is
14 about to occur.

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

17 **14-02.5-07. Residential real estate-related transaction.** A person whose business
18 includes engaging in residential real estate-related transactions may not discriminate against an
19 individual in making a real estate-related transaction available or in the terms or conditions of a
20 real estate-related transaction because of race, color, religion, sex, disability, age, familial
21 status, national origin, or status with respect to marriage. A residential real estate-related
22 transaction is the selling, brokering, or appraising of residential real property or the making or
23 purchasing of loans or the provision of other financial assistance to purchase, construct,
24 improve, repair, maintain a dwelling, or to secure residential real estate. ~~For the purposes of~~

1 ~~this section, a person is in the business of selling residential real property if within the preceding~~
2 ~~twelve months, the person has participated as principal in three or more transactions involving~~
3 ~~the sale of any dwelling or any interest in a dwelling or has participated as agent, other than in~~
4 ~~the sale of the person's own personal residence, in providing sales facilities or sales services in~~
5 ~~two or more transactions involving the sale of any dwelling or any interest in a dwelling.~~
6 Nothing in this section prohibits a person engaged in the business of furnishing appraisals of
7 real property to take into consideration factors other than race, color, religion, sex, disability,
8 age, familial status, national origin, or status with respect to marriage.

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

11 **14-02.5-09. Sales and rentals exempted.**

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

- 1 b. Within the preceding twelve months, has participated as agent, other than in
2 the sale of the person's own personal residence, in providing sales or rental
3 facilities or sales or rental services in two or more transactions involving the
4 sale or rental of any dwelling or any interest in a dwelling, or;
5 c. Is the owner of any dwelling designed or intended for occupancy by, or
6 occupied by, five or more families.
- 7 2. Sections 14-02.5-02 through 14-02.5-08 do not apply to the sale or rental of the
8 rooms or units in a dwelling containing living quarters occupied by or intended to
9 be occupied by not more than four families living independently of each other, if the
10 owner maintains and occupies one of the living quarters as the owner's residence.
- 11 ~~3. The exemption in subsection 1 applies only to one sale or rental in a~~
12 ~~twenty-four month period, if the owner was not the most recent resident of the~~
13 ~~house at the time of the sale or rental.~~

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

16 **14-02.5-11. Housing for elderly exempted.**

- 17 1. The provisions of this chapter relating to familial status and age do not apply to
18 housing that the secretary of housing and urban development determines is
19 specifically designed and operated to assist elderly individuals under a federal
20 program; the department determines is specifically designed and operated to assist
21 elderly individuals under a ~~federal~~ or state program; is intended for, and solely
22 occupied by, individuals sixty-two years of age or older; or is intended and
23 operated for occupancy by at least one individual fifty-five years of age or older for
24 each unit as determined by department rules. In determining whether housing
25 qualifies as housing for elderly ~~under this section~~ because it is intended and
26 operated for occupancy by at least one individual fifty-five years of age or older for
27 each unit, the department shall adopt rules that require at least the following
28 factors:
29 a. ~~The existence of significant facilities and services specifically designed to~~
30 ~~meet the physical or social needs of older individuals or, if the provision of the~~

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

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

17 **14-02.5-18. Complaint.**

- 18 1. The department shall investigate complaints of alleged discriminatory housing
19 practices. An aggrieved ~~individual~~ person may file a complaint with the department
20 alleging the discriminatory housing practice. The department may file a complaint.
21 A complaint must be in writing, ~~under oath, and in the form~~ and must contain such
22 information and be in such form as prescribed by the department. A complaint
23 must be filed on or before the first anniversary of the date the alleged
24 discriminatory housing practice occurs or terminates, whichever is later. A
25 complaint may be amended at any time.
- 26 2. On the filing of a complaint, the department shall give the aggrieved ~~individual~~
27 person notice that the complaint has been received, advise the aggrieved
28 ~~individual~~ person of the time limits and choice of forums under this chapter, and not
29 later than the tenth day after the date of the filing of the complaint or the
30 identification of an additional or substitute respondent under section ~~14-02.5-22~~
31 14-02.5-21, serve on each respondent a notice identifying the alleged

1 discriminatory housing practice and advising the respondent of the procedural
2 rights and obligations of a respondent under this chapter and a copy of the original
3 complaint.

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

6 **14-02.5-21. Additional or substitute respondent.** The department may join a person
7 not named in the complaint as an additional or substitute respondent if during the investigation
8 the department determines that the person is alleged to be engaged ~~or~~ to have engaged, or to
9 be about to engage in the discriminatory housing practice upon which the complaint is based.
10 In addition to the information required in the notice under subsection 2 of section 14-02.5-18,
11 the department shall include in a notice to a respondent joined under this section the reasons
12 for the determination that the person is properly joined as a respondent.

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

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

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

26 **14-02.5-24. Investigative report.** The department shall prepare a final investigative
27 report, including the names of and dates of contacts with witnesses, a summary of
28 correspondence and other contacts with the aggrieved ~~individual~~ person and the respondent
29 showing the dates of the correspondence and contacts, a summary description of other
30 pertinent records, a summary of witness statements, and answers to interrogatories. A final
31 report under this section may be amended if additional evidence is discovered.

1 **SECTION 9. AMENDMENT.** Subsection 2 of section 14-02.5-26 of the 1999
2 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

7 **SECTION 10. AMENDMENT.** Section 14-02.5-28 of the 1999 Supplement to the North
8 Dakota Century Code is amended and reenacted as follows:

9 **14-02.5-28. Dismissal.** If the department determines that no reasonable cause exists
10 to believe that a discriminatory housing practice that is the subject of a complaint has occurred
11 or is about to occur, the department shall promptly dismiss the complaint. ~~The department shall~~
12 ~~make public disclosure of each dismissal.~~

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

15 **14-02.5-36. Attorney general action for enforcement.** If a timely election is made
16 under section 14-02.5-30, the department shall authorize and the attorney general shall file not
17 later than the thirtieth day after the date of the election a claim for relief seeking relief on behalf
18 of the aggrieved person in a district court. Venue for an action is in the county in which the
19 alleged discriminatory housing practice occurred or is about to occur. An aggrieved ~~individual~~
20 person may intervene in the action. If the court finds that a discriminatory housing practice has
21 occurred or is about to occur, the court may grant as relief any relief that a court may grant in a
22 civil action under sections 14-02.5-39 through 14-02.5-44. If monetary relief is sought for the
23 benefit of an aggrieved ~~individual~~ person who does not intervene in the civil action, the court
24 may not award the monetary relief if that aggrieved ~~individual~~ person has not complied with
25 discovery orders entered by the court.

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

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

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

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

7 **14-02.5-46. Records exempt.** A complaint filed with the department under
8 section 14-02.5-18 and information obtained during an investigation conducted by the
9 department under this chapter are exempt from section 44-04-18 prior to the administrative
10 closure of a complaint by the department. The commissioner may disclose to the complainant
11 or the respondent, or representatives of the complainant or respondent, information obtained
12 under this section if deemed necessary by the commissioner for securing an appropriate
13 resolution of a complaint. Investigative working papers are exempt from section 44-04-18.