

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

108

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Operator's Signature

*Yal Costa Rickford*

Date

10/2/03

2003 HOUSE JUDICIARY

HB 1081

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10/2/03  
Date

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 Bachmeler, 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. Bachmeler:** 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. Bachmeler:** 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.

Page 2  
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. Bachmeyer:** 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. Bachmeyer:** Yes.

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

**Mr. Bachmeyer:** 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.

Page 3  
House Judiciary Committee  
Bill/Resolution Number HB 1081  
Hearing Date 1-15-03

**Mr. Bachmeyer:** 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. Klemin:** 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. Bachmeyer:** 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

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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Yalosta Rickford  
Operator's Signature

10/2/03  
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.

*Salista Rickford*  
Operator's Signature

*10/2/03*  
Date

2003 SENATE JUDICIARY

HB 1081

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10/2/03  
Date



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 <i>Maria Z. Salby</i>			

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

Page 2  
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**

Date: March 11, 2003  
Roll Call Vote #: 1

**2003 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB 1081**

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO PASS

Motion Made By Sen. Trenbeath Seconded By Sen. Lyson

Senators	Yes	No	Senators	Yes	No
Sen. John T. Traynor - Chairman	X		Sen. Dennis Bercier	X	
Sen. Stanley Lyson - Vice Chair	X		Sen. Carolyn Nelson	X	
Sen. Dick Dever	X				
Sen. Thomas L. Trenbeath	X				

Total (Yes) SIX (6) No ZERO (0)

Absent ZERO (0)

Floor Assignment SEN. TRENBEATH

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10/2/03  
Date

**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**  
(6 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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*10/2/03*  
Date

2003 TESTIMONY

HB 1081

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10/2/03  
Date

**Mark D. Bachmeler**  
**Commissioner**



Continuity in the time  
fragment for the  
series, difficulty, consistency

Chairman Dekrey and members of the Board. I am Mark Barrowman, Chairman of the Board.

HE "081 is a very simple bill that requires no additional legislation. The bill requires that Housing Discrimination Act and the Fair Housing Act be amended to include the intent of the 1968 Housing Discrimination Act. The bill also requires that discrimination and the Fair Housing Act be amended to include the intent of the 1968 Housing Discrimination Act. The bill also requires that the Department of Housing and Urban Development be required to conduct an investigation of housing discrimination and to report the results of the investigation to the House of Representatives. The bill also requires that the Department of Housing and Urban Development be required to conduct an investigation of housing discrimination and to report the results of the investigation to the House of Representatives.

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~~TO THE UNITED STATES OF AMERICA~~  
~~FROM THE UNITED STATES OF AMERICA~~  
~~TO THE UNITED STATES OF AMERICA~~  
~~FROM THE UNITED STATES OF AMERICA~~

~~THE VOICE OF THE PEOPLE~~

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Y. Costa Rickard 10/2/03  
Date

**Operator's Signature**

10/2/03  
Date

John Hoeven  
Governor

Mark D. Bachmeler  
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 Bachmeler, 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.

Telephone: (701) 328-2660 ND Toll Free: 1-800-582-8032 Fax: (701) 328-2031 TTY: 1-800-366-6888

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

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Prepared for the  
Senate Judiciary Committee

March 11, 2003

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