

SENATE BILL NO. 476

INTRODUCED BY E. BOLDMAN

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A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING HOUSING DISCRIMINATION BASED ON SOURCE OF INCOME; PROVIDING A DEFINITION OF "SOURCE OF INCOME"; AND AMENDING SECTION 49-2-305, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 49-2-305, MCA, is amended to read:

**"49-2-305. Discrimination in housing -- exemptions.** (1) It is an unlawful discriminatory practice for the owner, lessor, or manager having the right to sell, lease, or rent a housing accommodation or improved or unimproved property or for any other person:

(a) to refuse to sell, lease, or rent the housing accommodation or property to a person because of sex, marital status, race, creed, religion, color, age, familial status, physical or mental disability, source of income, or national origin;

(b) to discriminate against a person because of sex, marital status, race, creed, religion, age, familial status, physical or mental disability, color, source of income, or national origin in a term, condition, or privilege relating to the use, sale, lease, or rental of the housing accommodation or property;

(c) to make an inquiry of the sex, marital status, race, creed, religion, age, familial status, physical or mental disability, color, source of income, or national origin of a person seeking to buy, lease, or rent a housing accommodation or property for the purpose of discriminating on the basis of sex, marital status, race, creed, religion, age, familial status, physical or mental disability, color, source of income, or national origin;

(d) to refuse to negotiate for a sale or to otherwise make unavailable or deny a housing accommodation or property because of sex, marital status, race, creed, religion, age, familial status, physical or mental disability, color, source of income, or national origin;

(e) to represent to a person that a housing accommodation or property is not available for inspection, sale, or rental because of that person's sex, marital status, race, creed, religion, age, familial status,

1 physical or mental disability, color, source of income, or national origin when the housing accommodation or  
2 property is in fact available; or

3 (f) for profit, to induce or attempt to induce a person to sell or rent a housing accommodation or  
4 property by representations regarding the entry or prospective entry into the neighborhood of a person or  
5 persons of a particular sex, marital status, race, creed, religion, age, familial status, physical or mental  
6 disability, color, source of income, or national origin.

7 (2) The rental of sleeping rooms in a private residence designed for single-family occupancy in  
8 which the owner also resides is excluded from the provisions of subsection (1), provided that the owner rents  
9 no more than three sleeping rooms within the residence.

10 (3) It is an unlawful discriminatory practice to make, print, or publish or cause to be made, printed,  
11 or published any notice, statement, or advertisement that indicates any preference, limitation, or discrimination  
12 that is prohibited by subsection (1) or any intention to make or have a prohibited preference, limitation, or  
13 discrimination.

14 (4) It is an unlawful discriminatory practice for a person to discriminate because of a physical or  
15 mental disability of a buyer, lessee, or renter; a person residing in or intending to reside in or on the housing  
16 accommodation or property after it is sold, leased, rented, or made available; or any person associated with  
17 that buyer, lessee, or renter:

18 (a) in the sale, rental, or availability of the housing accommodation or property;

19 (b) in the terms, conditions, or privileges of a sale or rental of the housing accommodation or  
20 property; or

21 (c) in the provision of services or facilities in connection with the housing accommodation or  
22 property.

23 (5) (a) For purposes of subsections (1) and (4), discrimination because of physical or mental  
24 disability includes:

25 (i) refusal to permit, at the expense of the person with a disability, reasonable modifications of  
26 existing premises occupied or to be occupied by the person with a disability if the modifications may be  
27 necessary to allow the person full enjoyment of the premises, except that in the case of a lease or rental, the  
28 landlord may, when it is reasonable to do so, condition permission for a modification on the lessee's or renter's

1 agreement to restore the interior of the premises to the condition that existed before the modification, except for  
2 reasonable wear and tear;

3 (ii) refusal to make reasonable accommodations in rules, policies, practices, or services when the  
4 accommodations may be necessary to allow the person equal opportunity to use and enjoy a housing  
5 accommodation or property; or

6 (iii) except as provided in subsection (5)(b), in connection with the design and construction of a  
7 covered multifamily housing accommodation, a failure to design and construct the housing accommodation in a  
8 manner that:

9 (A) provides at least one accessible building entrance on an accessible route;

10 (B) makes the public use and common use portions of the housing accommodation readily  
11 accessible to and usable by a person with a disability;

12 (C) provides that all doors designed to allow passage into and within all premises within the  
13 housing accommodation are sufficiently wide to allow passage by a person with a disability who uses a  
14 wheelchair; and

15 (D) ensures that all premises within the housing accommodation contain the following features:

16 (I) an accessible route into and through the housing accommodation;

17 (II) light switches, electrical outlets, thermostats, and other environmental controls in accessible  
18 locations;

19 (III) reinforcements in bathroom walls to allow later installation of grab bars; and

20 (IV) usable kitchens and bathrooms that allow an individual who uses a wheelchair to maneuver  
21 about the space.

22 (b) A covered multifamily housing accommodation that does not have at least one building  
23 entrance on an accessible route because it is impractical to do so due to the terrain or unusual characteristics  
24 of the site is not required to comply with the requirements of subsection (5)(a)(iii).

25 (6) For purposes of subsection (5), the term "covered multifamily housing accommodation" means:

26 (a) a building consisting of four or more dwelling units if the building has one or more elevators;  
27 and

28 (b) ground floor units in a building consisting of four or more dwelling units.

1           (7)     (a) It is an unlawful discriminatory practice for any person or other entity whose business  
 2 includes engaging in residential real estate-related transactions to discriminate because of sex, marital status,  
 3 race, creed, religion, age, familial status, physical or mental disability, color, source of income, or national origin  
 4 against a person in making available a transaction or in the terms or conditions of a transaction.

5           (b)     For purposes of this subsection (7), the term "residential real estate-related transaction" means  
 6 any of the following:

7           (i)     the making or purchasing of loans or providing other financial assistance:

8           (A)     for purchasing, constructing, improving, repairing, or maintaining a housing accommodation or  
 9 property; or

10          (B)     secured by residential real estate; or

11          (ii)    the selling, brokering, or appraising of residential real property.

12          (8)     It is an unlawful discriminatory practice to deny a person access to or membership or  
 13 participation in a multiple-listing service; real estate brokers' organization; or other service, organization, or  
 14 facility relating to the business of selling, leasing, or renting housing accommodations or property or to  
 15 discriminate against the person in the terms or conditions of access, membership, or participation because of  
 16 sex, marital status, race, creed, religion, age, familial status, physical or mental disability, color, or national  
 17 origin.

18          (9)     It is an unlawful discriminatory practice to coerce, intimidate, threaten, or interfere with a person  
 19 in the exercise or enjoyment of or because of the person having exercised or enjoyed or having aided or  
 20 encouraged any other person in the exercise or enjoyment of a right granted or protected by this section.

21          (10)    The prohibitions of this section against discrimination because of age and familial status do not  
 22 extend to housing for older persons. "Housing for older persons" means housing:

23          (a)     provided under any state or federal program specifically designed and operated to assist  
 24 elderly persons;

25          (b)     intended for, and solely occupied by, persons 62 years of age or older; or

26          (c)     intended and operated for occupancy by at least one person 55 years of age or older per unit in  
 27 accordance with the provisions of 42 U.S.C. 3607(b)(2)(C) and (b)(3) through (b)(5), as those provisions read  
 28 on March 31, 1996.

1 (11) The prohibitions of subsection (1) against discrimination because of age and familial status do  
2 not extend to rooms or units in dwellings containing living quarters occupied or intended to be occupied by no  
3 more than two families living independently of each other, if the owner actually maintains and occupies one of  
4 the living quarters as the owner's residence.

5 (12) For purposes of this section, "familial status" means having a child or children who live or will  
6 live with a person. A distinction based on familial status includes one that is based on the age of a child or  
7 children who live or will live with a person."

8 (13) (a) For purposes of this section, "source of income" means:

9 (i) any source of lawful income;

10 (ii) child support, alimony, or foster care subsidies;

11 (iii) income derived from social security; or

12 (iv) any form of federal, state, or local public assistance or housing assistance, including but not  
13 limited to section 8 vouchers, or any other form of housing assistance payment or credit whether or not the  
14 income or credit is paid or attributed directly to a landlord.

15 (b) It is not an unlawful discriminatory practice to make a written or oral inquiry about the level or  
16 source of income for the purpose of verifying the level or source of income:

17 (i) stated in an application by a prospective tenant;

18 (ii) to confirm eligibility for subsidized housing; or

19 (iii) if required by law.

20 - END -