

House Bill 323

By: Representatives Scott of the 76<sup>th</sup>, Davis of the 87<sup>th</sup>, Schofield of the 63<sup>rd</sup>, and Williams of the 168<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 1 of Chapter 4 of Title 38 of the Official Code of Georgia Annotated,  
2 relating to the Department of Veterans Service, so as to enact the "Military Fair Housing  
3 Act"; to provide a short title; to provide for definitions; to prohibit discriminatory housing  
4 practices; to provide for remedies; to provide for damages; to provide for related matters; to  
5 repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 1 of Chapter 4 of Title 38 of the Official Code of Georgia Annotated, relating to the  
9 Department of Veterans Affairs, is amended by adding a new Code section to read as  
10 follows:

11 "38-4-15.

12 (a) This Code section shall be known and may be cited as the 'Military Fair Housing Act.'

13 (b) As used in this Code section, the term:

14 (1) 'Aggrieved person' means any person who claims to have been injured by a  
15 discriminatory housing practice or who believes that he or she will be injured by a  
16 discriminatory housing practice that is about to occur.

17 (2) 'Disability' means a physical or mental impairment that substantially limits one or  
18 more major life activities of a person.

19 (3) 'Discriminate' or 'discrimination' means a refusal to sell, rent, or lease housing  
20 accommodations or to negotiate for the sale, rental, or lease of housing accommodations  
21 based on race, color, religion, sex, gender, gender identity, gender expression, sexual  
22 orientation, marital status, national origin, ancestry, familial status, source of income,  
23 disability, veteran or military status, or genetic information. Such term includes  
24 representation that a housing accommodation is not available for inspection, sale, or  
25 rental when it is in fact so available; includes any other denial or withholding of housing  
26 accommodations; includes provision of inferior terms, conditions, privileges, facilities,  
27 or services in connection with housing accommodations; includes harassment in  
28 connection with housing accommodations; includes the cancellation or termination of a  
29 sale or rental agreement; includes the provision of segregated or separated housing  
30 accommodations; and includes the refusal to make reasonable accommodations in rules,  
31 policies, practices, or services when such accommodations may be necessary to afford  
32 a disabled person equal opportunity to use and enjoy a dwelling. Discrimination  
33 includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits,  
34 and other actions that make housing opportunities unavailable.

35 (4) 'Familial status' means having a child under the age of 17 in the household, whether  
36 living with a parent or legal custodian.

37 (5) 'Genetic information' means information about a genetic test of a family member and  
38 family medical history.

39 (6) 'Housing accommodation' means any building, structure, or portion thereof that is  
40 occupied as, or intended for occupancy as, a residence by one or more families and any  
41 vacant land that is offered for sale or lease for the construction thereon of any building,  
42 structure, or portion thereof intended to be so occupied.

43 (7) 'Owner' means the lessee, sublessee, assignee, managing agent, real estate broker, or  
44 salesperson of a housing accommodation, or any person having any legal or equitable  
45 right of ownership or possession or the right to rent or lease a housing accommodation,  
46 and includes the state and any of its political subdivisions and any agency thereof.

47 (8) 'Real estate related transactions' means:

48 (A) The making or purchasing of loans or providing of other financial assistance that  
49 is for the purpose of purchasing, constructing, improving, repairing, or maintaining a  
50 dwelling or that is secured by residential real property;

51 (B) The selling, brokering, or appraising of residential real property; or

52 (C) The use of territorial underwriting requirements, for the purpose of requiring a  
53 borrower in a specific geographic area to obtain earthquake insurance, required by an  
54 institutional third party on a loan secured by residential real property.

55 (9) 'Reasonable accommodation' means a change, exception, or adjustment to a rule,  
56 policy, practice, or service that may be necessary for a person with a disability to have  
57 an equal opportunity to use and enjoy a dwelling, including public and common use  
58 spaces.

59 (10) 'Source of income' means lawful, verifiable income paid directly to a tenant, or to  
60 a representative of a tenant, or paid to an owner or landlord on behalf of a tenant,  
61 including federal, state, or local public assistance and federal, state, or local housing  
62 subsidies, including, but not limited to, federal housing assistance vouchers issued under  
63 Section 8 of the United States Housing Act of 1937, 42 U.S.C. Section 1437f. The term  
64 'source of income' includes a federal Department of Housing and Urban Development  
65 Veterans Affairs Supportive Housing voucher. For the purposes of this paragraph, an  
66 owner or landlord is not considered a representative of a tenant unless the source of  
67 income is a federal Department of Housing and Urban Development Veterans Affairs  
68 Supportive Housing voucher.

69 (c) It shall be unlawful:

70 (1) For any owner to discriminate against or harass any person because of such person's  
71 race, color, religion, sex, gender, gender identity, gender expression, sexual orientation,  
72 marital status, national origin, ancestry, familial status, source of income, disability,  
73 veteran or military status, or genetic information.

74 (2) For any owner to make or to cause to be made any written or oral inquiry concerning  
75 the race, color, religion, sex, gender, gender identity, gender expression, sexual  
76 orientation, marital status, national origin, ancestry, familial status, disability, veteran or  
77 military status, or genetic information of any person seeking to purchase, rent, or lease  
78 any housing accommodation.

79 (3) For any owner to make, print, or publish or cause to be made, printed, or published  
80 any notice, statement, or advertisement with respect to the sale or rental of a housing  
81 accommodation that indicates any preference, limitation, or discrimination based on race,  
82 color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital  
83 status, national origin, ancestry, familial status, source of income, disability, veteran or  
84 military status, or genetic information or that indicates an intention to make that  
85 preference, limitation, or discrimination.

86 (4) For any owner under the provisions of Code Sections 8-3-202, 8-3-203, and 8-3-204,  
87 as such Code sections apply to housing accommodations, to discriminate against any  
88 person on the basis of race, color, religion, sex, gender, gender identity, gender  
89 expression, sexual orientation, marital status, national origin, ancestry, familial status,  
90 source of income, disability, veteran or military status, or genetic information or on any  
91 other basis prohibited by those Code sections. Selection preferences based on age,  
92 imposed in connection with a federally approved housing program, shall not constitute  
93 age discrimination in housing.

94 (5) For any owner, bank, mortgage company, or other financial institution that provides  
95 financial assistance for the purchase, organization, or construction of any housing  
96 accommodation to discriminate against any person or group of persons based on race,

97 color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital  
98 status, national origin, ancestry, familial status, source of income, disability, veteran or  
99 military status, or genetic information in the terms, conditions, or privileges relating to  
100 the obtaining or use of that financial assistance.

101 (6) For any owner to harass, evict, or otherwise discriminate against any person in the  
102 sale or rental of housing accommodations when the owner's dominant purpose is  
103 retaliation against a person who has opposed practices unlawful under this Code section,  
104 who has informed law enforcement agencies of practices believed unlawful under this  
105 Code section, who has testified or assisted in any proceeding under this Code section, or  
106 who has aided or encouraged any person to exercise or enjoy the rights secured by this  
107 Code section. Nothing in this paragraph shall be construed to cause or permit the delay  
108 of an unlawful detainer action.

109 (7) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or  
110 practices declared unlawful in this Code section, or to attempt to do so.

111 (8) For any person, for profit, to induce any person to sell or rent any dwelling by  
112 representations regarding the entry or prospective entry into the neighborhood of a person  
113 or group of persons of a particular race, color, religion, sex, gender, gender identity,  
114 gender expression, sexual orientation, marital status, national origin, ancestry, familial  
115 status, source of income, disability, veteran or military status, or genetic information.

116 (9) For any owner or other organization or entity whose business involves real estate  
117 related transactions to discriminate against any person in making available such a  
118 transaction, or in the terms and conditions of such a transaction, based on race, color,  
119 religion, sex, gender, gender identity, gender expression, sexual orientation, marital  
120 status, national origin, ancestry, familial status, source of income, disability, veteran or  
121 military status, or genetic information.

122 (10) To deny a person access to, or membership or participation in, a multiple listing  
123 service, real estate brokerage organization, or other service or organization based on race,

124 color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital  
125 status, national origin, ancestry, familial status, source of income, disability, veteran or  
126 military status, or genetic information.

127 (11) To otherwise make unavailable or deny a housing accommodation based on race,  
128 color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital  
129 status, national origin, ancestry, familial status, source of income, disability, veteran or  
130 military status, or genetic information.

131 (12) To discriminate through public or private land use practices, decisions, and  
132 authorizations based on race, color, religion, sex, gender, gender identity, gender  
133 expression, sexual orientation, marital status, national origin, ancestry, familial status,  
134 source of income, disability, veteran or military status, or genetic information.

135 (d) Proof of an intentional violation of this Code section includes, but is not limited to, an  
136 act or failure to act that demonstrates an intent to discriminate in any manner. A person  
137 intends to discriminate if race, color, religion, sex, gender, gender identity, gender  
138 expression, sexual orientation, marital status, national origin, ancestry, familial status,  
139 source of income, disability, veteran or military status, or genetic information is a  
140 motivating factor in committing a discriminatory housing practice even though other  
141 factors may have also been motivating factors in committing the practice. An intent to  
142 discriminate may be established by direct or circumstantial evidence.

143 (1) Whenever an action is filed in court pursuant to Code Section 8-3-217 or 8-3-218 and  
144 the court finds there has been a discriminatory housing practice, the court may impose  
145 sanctions pursuant to Code Section 8-3-213.

146 (2) The court in its discretion may award the prevailing party reasonable attorney's fees  
147 and court costs; provided, however, that a respondent may be awarded reasonable  
148 attorney's fees and court costs only if the respondent prevails on all alleged violations of  
149 this Code section and upon a showing that the action is frivolous, unreasonable, or  
150 without foundation.

151 (3) In addition to the remedies set forth in paragraphs (1) and (2) of this subsection, the  
152 court may award actual damages and punitive damages to an aggrieved person. Punitive  
153 damages awarded under this paragraph may be awarded only when the evidence shows  
154 that the respondent's actions showed willful misconduct, malice, fraud, wantonness,  
155 oppression, or that entire want of care which would raise the presumption of conscious  
156 indifference to consequences or to the rights of the aggrieved person."

157 **SECTION 2.**

158 All laws and parts of laws in conflict with this Act are repealed.