

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1020

Introduced by Vargas, 7; Wishart, 27.

Read first time January 15, 2020

Committee:

- 1 A BILL FOR AN ACT relating to the Nebraska Fair Housing Act; to amend
- 2 sections 20-139, 20-301, 20-317, 20-318, 20-320, 20-321, 20-322, and
- 3 20-325, Reissue Revised Statutes of Nebraska; to define a term; to
- 4 change provisions relating to discrimination; and to repeal the
- 5 original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 20-139, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 20-139 The Nebraska Fair Housing Act and sections 20-123, 20-124,
4 and 20-132 to 20-143 shall be administered by the Equal Opportunity
5 Commission, except that the State Fire Marshal shall administer the act
6 and sections as they relate to accessibility standards and specifications
7 set forth in sections 81-5,147 and 81-5,148. The county attorneys are
8 granted the authority to enforce such act and sections 20-123, 20-124,
9 and 20-132 to 20-143 and shall possess the same powers and duties with
10 respect thereto as the commission. If a complaint is filed with the
11 county attorney, the commission shall be notified. Powers granted to and
12 duties imposed upon the commission pursuant to such act and sections
13 shall be in addition to the provisions of the Nebraska Fair Employment
14 Practice Act and shall not be construed to amend or restrict those
15 provisions. In carrying out the Nebraska Fair Housing Act and sections
16 20-123, 20-124, and 20-132 to 20-143, the commission shall have the power
17 to:

18 (1) Seek to eliminate and prevent discrimination in places of public
19 accommodation because of race, color, sex, religion, national origin,
20 familial status as defined in section 20-311, handicap as defined in
21 section 20-313, or ancestry;

22 (2) Effectuate the purposes of sections 20-132 to 20-143 by
23 conference, conciliation, and persuasion so that persons may be
24 guaranteed their civil rights and goodwill may be fostered;

25 (3) Formulate policies to effectuate the purposes of sections 20-132
26 to 20-143 and make recommendations to agencies and officers of the state
27 or local subdivisions of government in aid of such policies and purposes;

28 (4) Adopt and promulgate rules and regulations to carry out the
29 powers granted by the Nebraska Fair Housing Act and sections 20-123,
30 20-124, and 20-132 to 20-143, subject to the provisions of the
31 Administrative Procedure Act. The commission shall, not later than one

1 hundred eighty days after September 6, 1991, issue draft rules and
2 regulations to implement subsection (3) of section 20-336, which
3 regulations may incorporate regulations of the Department of Housing and
4 Urban Development as applicable;

5 (5) Designate one or more members of the commission or a member of
6 the commission staff to conduct investigations of any complaint alleging
7 discrimination because of race, color, sex, religion, national origin,
8 familial status, handicap, ~~or~~ ancestry, or lawful source of income,
9 attempt to resolve such complaint by conference, conciliation, and
10 persuasion, and conduct such conciliation meetings and conferences as are
11 deemed necessary to resolve a particular complaint, which meetings shall
12 be held in the county in which the complaint arose;

13 (6) Determine that probable cause exists for crediting the
14 allegations of a complaint;

15 (7) Determine that a complaint cannot be resolved by conference,
16 conciliation, or persuasion, such determination to be made only at a
17 meeting where a quorum is present;

18 (8) Dismiss a complaint when it is determined there is not probable
19 cause to credit the allegations;

20 (9) Hold hearings, subpoena witnesses and compel their attendance,
21 administer oaths, take the testimony of any person under oath, and in
22 connection therewith require for examination any books or papers relating
23 to any matter under investigation or in question before the commission;
24 and

25 (10) Issue publications and the results of studies and research
26 which will tend to promote goodwill and minimize or eliminate
27 discrimination because of race, color, sex, religion, national origin,
28 familial status, handicap, ~~or~~ ancestry, or lawful source of income.

29 Sec. 2. Section 20-301, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 20-301 Sections 20-301 to 20-344 and section 3 of this act shall be

1 known and may be cited as the Nebraska Fair Housing Act.

2 Sec. 3. Lawful source of income includes, but is not limited to,
3 income derived from social security, child support, foster care
4 subsidies, alimony, veterans benefits, or any other form of federal,
5 state, or local public general assistance or housing assistance whether
6 or not such source of income or credit is paid directly, indirectly, or
7 on behalf of a renter or buyer of housing, or is paid or attributed
8 directly to a landlord, including, but not limited to, vouchers given as
9 part of the federal low-income housing assistance authorized under 42
10 U.S.C. 1437f, as such section existed on January 1, 2020, or any other
11 form of housing assistance payment or credit, and all other forms of
12 lawful income.

13 Sec. 4. Section 20-317, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 20-317 Restrictive covenant shall mean any specification limiting
16 the transfer, rental, or lease of any housing because of race, creed,
17 religion, color, national origin, sex, handicap, familial status, ~~or~~
18 ancestry, or lawful source of income.

19 Sec. 5. Section 20-318, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 20-318 Except as exempted by section 20-322, it shall be unlawful
22 to:

23 (1) Refuse to sell or rent after the making of a bona fide offer,
24 refuse to negotiate for the sale or rental of or otherwise make
25 unavailable or deny, refuse to show, or refuse to receive and transmit an
26 offer for a dwelling to any person because of race, color, religion,
27 national origin, familial status, ~~or~~ sex, lawful source of income, or
28 because of any requirement of any federal, state, or local public general
29 assistance or housing assistance program;

30 (2) Discriminate against any person in the terms, conditions, or
31 privileges of sale or rental of a dwelling or in the provision of

1 services or facilities in connection therewith because of race, color,
2 religion, national origin, familial status, ~~or~~ sex, lawful source of
3 income, or because of any requirement of any federal, state, or local
4 public general assistance or housing assistance program;

5 (3) Make, print, publish, or cause to be made, printed, or published
6 any notice, statement, or advertisement with respect to the sale or
7 rental of a dwelling that indicates any preference, limitation, or
8 discrimination based on race, color, religion, national origin, handicap,
9 familial status, ~~or~~ sex, lawful source of income, or because of any
10 requirement of any federal, state, or local public general assistance or
11 housing assistance program or an intention to make any such preference,
12 limitation, or discrimination;

13 (4) Represent to any person because of race, color, religion,
14 national origin, handicap, familial status, ~~or~~ sex, lawful source of
15 income, or because of any requirement of any federal, state, or local
16 public general assistance or housing assistance program that any dwelling
17 is not available for inspection, sale, or rental when such dwelling is in
18 fact so available;

19 (5) Cause to be made any written or oral inquiry or record
20 concerning the race, color, religion, national origin, handicap, familial
21 status, ~~or~~ sex, lawful source of income, or because of any requirement of
22 any federal, state, or local public general assistance or housing
23 assistance program of a person seeking to purchase, rent, or lease any
24 housing;

25 (6) Include in any transfer, sale, rental, or lease of housing any
26 restrictive covenants or honor or exercise or attempt to honor or
27 exercise any restrictive covenant pertaining to housing;

28 (7) Discharge or demote an employee or agent or discriminate in the
29 compensation of such employee or agent because of such employee's or
30 agent's compliance with the Nebraska Fair Housing Act; and

31 (8) Induce or attempt to induce, for profit, any person to sell or

1 rent any dwelling by representations regarding the entry or prospective
2 entry into the neighborhood of a person or persons of a particular race,
3 color, religion, national origin, handicap, familial status, ~~or~~ sex, or
4 lawful source of income.

5 (9) Nothing in the act shall prohibit otherwise nondiscriminatory
6 conduct intended to benefit recipients of public assistance, such as
7 providing housing limited to recipients of public assistance, providing
8 favorable conditions of loans, leases, mortgages, or contracts, or
9 otherwise offering benefits that are limited to recipients of public
10 assistance.

11 Sec. 6. Section 20-320, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 20-320 (1) It shall be unlawful for any person or other entity whose
14 business includes engaging in transactions related to residential real
15 estate to discriminate against any person in making available such a
16 transaction or in the terms or conditions of such a transaction because
17 of race, color, religion, sex, handicap, familial status, ~~or~~ national
18 origin, or lawful source of income.

19 (2) For purposes of this section, transaction related to residential
20 real estate shall mean any of the following:

21 (a) The making or purchasing of loans or providing other financial
22 assistance:

23 (i) For purchasing, constructing, improving, repairing, or
24 maintaining a dwelling; or

25 (ii) Secured by residential real estate; or

26 (b) The selling, brokering, or appraising of residential real
27 property.

28 (3) Nothing in this section shall prohibit a person engaged in the
29 business of furnishing appraisals of real property from taking into
30 consideration factors other than race, color, religion, national origin,
31 sex, handicap, ~~or~~ familial status, or lawful source of income.

1 (4) Nothing in this section shall prohibit otherwise
2 nondiscriminatory conduct intended to benefit recipients of public
3 assistance, such as providing housing limited to recipients of public
4 assistance, providing favorable conditions of loans, leases, mortgages,
5 or contracts, or otherwise offering benefits that are limited to
6 recipients of public assistance.

7 Sec. 7. Section 20-321, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 20-321 It shall be unlawful to deny any person access to or
10 membership or participation in any multiple listing service, real estate
11 brokers organization, or other service, organization, or facility
12 relating to the business of selling or renting dwellings or to
13 discriminate against any person in the terms or conditions of such
14 access, membership, or participation on account of race, color, religion,
15 national origin, handicap, familial status, ~~or sex,~~ or lawful source of
16 income.

17 Sec. 8. Section 20-322, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 20-322 (1) Nothing in the Nebraska Fair Housing Act shall prohibit a
20 religious organization, association, or society or any nonprofit
21 institution or organization operated, supervised, or controlled by or in
22 conjunction with a religious organization, association, or society from
23 limiting the sale, rental, or occupancy of a dwelling which it owns or
24 operates for other than commercial purposes to persons of the same
25 religion or from giving preferences to such persons unless membership in
26 such religion is restricted on account of race, color, national origin,
27 handicap, familial status, ~~or sex,~~ or lawful source of income.

28 (2) Nothing in the act shall prohibit a private club not in fact
29 open to the public, which as an incident to its primary purpose or
30 purposes provides lodgings which it owns or operates for other than
31 commercial purposes, from limiting the rental or occupancy of such

1 lodging to its members or from giving preference to its members.

2 (3) Nothing in the act shall prohibit or limit the right of any
3 person or his or her authorized representative to refuse to rent a room
4 or rooms in his or her own home for any reason or for no reason or to
5 change tenants in his or her own home as often as desired, except that
6 this exception shall not apply to any person who makes available for
7 rental or occupancy more than four sleeping rooms to a person or family
8 within his or her own home.

9 (4)(a) Nothing in the act shall limit the applicability of any
10 reasonable local restrictions regarding the maximum number of occupants
11 permitted to occupy a dwelling, and nothing in the act regarding familial
12 status shall apply with respect to housing for older persons.

13 (b) For purposes of this subsection, housing for older persons shall
14 mean housing:

15 (i) Provided under any state program that the commission determines
16 is specifically designed and operated to assist elderly persons as
17 defined in the program;

18 (ii) Intended for and solely occupied by persons sixty-two years of
19 age or older; or

20 (iii) Intended and operated for occupancy by at least one person
21 fifty-five years of age or older per unit. In determining whether housing
22 qualifies as housing for older persons under this subdivision, the
23 commission shall develop regulations which require at least the following
24 factors:

25 (A) The existence of significant facilities and services
26 specifically designed to meet the physical or social needs of older
27 persons or, if the provision of such facilities and services is not
28 practicable, that such housing is necessary to provide important housing
29 opportunities for older persons;

30 (B) That at least eighty percent of the units are occupied by at
31 least one person fifty-five years of age or older per unit; and

1 (C) The publication of and adherence to policies and procedures
2 which demonstrate an intent by the owner or manager to provide housing
3 for persons fifty-five years of age or older.

4 (c) Housing shall not fail to meet the requirements for housing for
5 older persons by reason of:

6 (i) Persons residing in the housing as of September 6, 1991, who do
7 not meet the age requirements of subdivision (b)(ii) or (iii) of this
8 subsection if succeeding occupants of the housing meet the age
9 requirements; or

10 (ii) Unoccupied units if the units are reserved for occupancy by
11 persons who meet the age requirements.

12 (5) Nothing in the act shall prohibit conduct against a person
13 because such person has been convicted by any court of competent
14 jurisdiction of the illegal manufacture or distribution of a controlled
15 substance as defined in section 28-401.

16 Sec. 9. Section 20-325, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 20-325 The commission shall:

19 (1) Make studies with respect to the nature and extent of
20 discriminatory housing practices in representative urban, suburban, and
21 rural communities throughout the state;

22 (2) Publish and disseminate reports, recommendations, and
23 information derived from such studies, including an annual report to the
24 Legislature to be submitted electronically:

25 (a) Specifying the nature and extent of progress made statewide in
26 eliminating discriminatory housing practices and furthering the purposes
27 of the Nebraska Fair Housing Act, obstacles remaining to achieving equal
28 housing opportunity, and recommendations for further legislative or
29 executive action; and

30 (b) Containing tabulations of the number of instances and the
31 reasons therefor in the preceding year in which:

1 (i) Investigations have not been completed as required by
2 subdivision (1)(b) of section 20-326;

3 (ii) Determinations have not been made within the time specified in
4 section 20-333; and

5 (iii) Hearings have not been commenced or findings and conclusions
6 have not been made as required by section 20-337;

7 (3) Cooperate with and render technical assistance to state, local,
8 and other public or private agencies, organizations, and institutions
9 which are formulating or carrying on programs to prevent or eliminate
10 discriminatory housing practices;

11 (4) Electronically submit an annual report to the Legislature and
12 make available to the public data on the age, race, color, religion,
13 national origin, handicap, familial status, ~~and sex,~~ and source of income
14 of persons and households who are applicants for, participants in, or
15 beneficiaries or potential beneficiaries of programs administered by the
16 commission. In order to develop the data to be included and made
17 available to the public under this subdivision, the commission shall,
18 without regard to any other provision of law, collect such information
19 relating to those characteristics as the commission determines to be
20 necessary or appropriate;

21 (5) Adopt and promulgate rules and regulations, subject to the
22 approval of the members of the commission, regarding the investigative
23 and conciliation process that provide for testing standards, fundamental
24 due process, and notice to the parties of their rights and
25 responsibilities; and

26 (6) Have authority to enter into agreements with the United States
27 Department of Housing and Urban Development in cooperative agreements
28 under the Fair Housing Assistance Program. The commission shall further
29 have the authority to enter into agreements with testing organizations to
30 assist in investigative activities. The commission shall not enter into
31 any agreements under which compensation to the testing organization is

1 partially or wholly based on the number of conciliations, settlements,
2 and reasonable cause determinations.

3 Sec. 10. Original sections 20-139, 20-301, 20-317, 20-318, 20-320,
4 20-321, 20-322, and 20-325, Reissue Revised Statutes of Nebraska, are
5 repealed.