



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-4895/1
MED:klm

2017 ASSEMBLY BILL 972

February 22, 2018 - Introduced by Representatives HEBL, CROWLEY, ANDERSON, BERCEAU, OHNSTAD, POPE, SARGENT, SINICKI, SUBECK and C. TAYLOR, cosponsored by Senators L. TAYLOR, LARSON, MILLER and VINEHOUT. Referred to Committee on Housing and Real Estate.

1 **AN ACT to amend** 66.1201 (2m), 66.1213 (3), 66.1301 (2m), 66.1331 (2m), 66.1333
2 (3) (e) 2., 106.50 (1), 106.50 (6) (a) 1., 106.50 (6) (b), 106.50 (6) (d), 106.50 (6) (e)
3 1., 106.50 (6) (f) 5., 106.50 (6) (h), 106.50 (6) (i), 106.50 (6m) (a), 106.50 (6m) (d)
4 and 106.50 (8) (a); and **to create** 106.50 (3) of the statutes; **relating to:**
5 discrimination in housing based on prior evictions and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill provides that it is discrimination under the state open housing law to do any of the following:

1. Inquire, whether orally or in writing, with a prospective tenant or any other individual about any eviction of a prospective tenant that occurred more than five years prior. The bill prohibits a prospective tenant from being asked about prior evictions unless the prospective tenant is informed that evictions more than 5 years old need not be disclosed.

2. Refuse to rent housing to an individual, or otherwise treat an individual unequally in the terms, conditions, or privileges of rental of housing, because of an eviction of the individual that occurred more than 5 years prior to the date of a rental application.

The open housing law is administered by the Department of Workforce Development, which receives, investigates, and evaluates complaints of violations and may order relief in appropriate cases. Persons who allege a violation of the open housing law may also bring a civil action.

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 66.1201 (2m) of the statutes is amended to read:

2 66.1201 **(2m)** DISCRIMINATION. Persons otherwise entitled to any right, benefit,
3 facility, or privilege under ss. 66.1201 to 66.1211 may not be denied the right, benefit,
4 facility, or privilege in any manner for any purpose ~~nor~~; may not be discriminated
5 against because of sex, race, color, creed, sexual orientation, status as a victim of
6 domestic abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u), or
7 national origin; and may not be questioned about, or denied housing due to, evictions
8 that occurred more than 5 years prior.

9 **SECTION 2.** 66.1213 (3) of the statutes is amended to read:

10 66.1213 **(3)** DISCRIMINATION. Persons otherwise entitled to any right, benefit,
11 facility, or privilege under this section may not be denied the right, benefit, facility,
12 or privilege in any manner for any purpose ~~nor~~; may not be discriminated against
13 because of sex, race, color, creed, sexual orientation, status as a victim of domestic
14 abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u), or national origin;
15 and may not be questioned about, or denied housing due to, evictions that occurred
16 more than 5 years prior.

17 **SECTION 3.** 66.1301 (2m) of the statutes is amended to read:

18 66.1301 **(2m)** DISCRIMINATION. Persons entitled to any right, benefit, facility,
19 or privilege under ss. 66.1301 to 66.1329 may not be denied the right, benefit, facility,
20 or privilege in any manner for any purpose ~~nor~~; may not be discriminated against
21 because of sex, race, color, creed, sexual orientation, status as a victim of domestic

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1 abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u), or national origin;
2 and may not be questioned about, or denied housing due to, evictions that occurred
3 more than 5 years prior.

4 **SECTION 4.** 66.1331 (2m) of the statutes is amended to read:

5 66.1331 **(2m)** DISCRIMINATION. Persons otherwise entitled to any right, benefit,
6 facility, or privilege under this section may not be denied the right, benefit, facility,
7 or privilege in any manner for any purpose ~~nor~~; may not be discriminated against
8 because of sex, race, color, creed, sexual orientation, status as a victim of domestic
9 abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u), or national origin;
10 and may not be questioned about, or denied housing due to, evictions that occurred
11 more than 5 years prior.

12 **SECTION 5.** 66.1333 (3) (e) 2. of the statutes is amended to read:

13 66.1333 **(3)** (e) 2. Persons otherwise entitled to any right, benefit, facility, or
14 privilege under this section may not be denied the right, benefit, facility, or privilege
15 in any manner for any purpose ~~nor~~; may not be discriminated against because of sex,
16 race, color, creed, sexual orientation, status as a victim of domestic abuse, sexual
17 assault, or stalking, as defined in s. 106.50 (1m) (u), or national origin; and may not
18 be questioned about, or denied housing due to, evictions that occurred more than 5
19 years prior.

20 **SECTION 6.** 106.50 (1) of the statutes is amended to read:

21 106.50 **(1)** INTENT. It is the intent of this section to render unlawful
22 discrimination in housing. It is the declared policy of this state that all persons shall
23 have an equal opportunity for housing regardless of sex, race, color, sexual
24 orientation, disability, religion, national origin, marital status, family status, status
25 as a victim of domestic abuse, sexual assault, or stalking, lawful source of income,

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1 age, or ancestry and it is the duty of the political subdivisions to assist in the orderly
2 prevention or removal of all discrimination in housing through the powers granted
3 under ss. 66.0125 and 66.1011. It is also the declared policy of this state that
4 individuals should not be denied rental housing based upon evictions that occurred
5 more than 5 years prior. The legislature hereby extends the state law governing
6 equal housing opportunities to cover single-family residences that are
7 owner-occupied. The legislature finds that the sale and rental of single-family
8 residences constitute a significant portion of the housing business in this state and
9 should be regulated. This section shall be considered an exercise of the police powers
10 of the state for the protection of the welfare, health, peace, dignity, and human rights
11 of the people of this state.

12 **SECTION 7.** 106.50 (3) of the statutes is created to read:

13 106.50 (3) DENIAL OF RENTAL HOUSING BASED ON EVICTION RECORD. It is unlawful
14 for any person to do any of the following:

15 (a) Inquire, whether orally or in writing, with a prospective tenant or any other
16 individual about any eviction of the prospective tenant that occurred more than 5
17 years prior. If an owner, lessor, owner's agent, or lessor's agent inquires with a
18 prospective tenant or any other individual about evictions of the prospective tenant,
19 it is unlawful for the owner, lessor, owner's agent, or lessor's agent to fail to inform
20 the prospective tenant or other individual that the prospective tenant or other
21 individual is not required to disclose an eviction that occurred more than 5 years
22 prior.

23 (b) Refuse to rent housing to an individual, or otherwise treat an individual
24 unequally in the terms, conditions, or privileges of rental of housing, because of an

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1 eviction of the individual that occurred more than 5 years prior to the date of a rental
2 application.

3 **SECTION 8.** 106.50 (6) (a) 1. of the statutes is amended to read:

4 106.50 (6) (a) 1. The department may receive and investigate a complaint
5 charging a violation of sub. (2), (2m) ~~or~~, (2r), or (3) if the complaint is filed with the
6 department not later than one year after the alleged discrimination occurred or
7 terminated.

8 **SECTION 9.** 106.50 (6) (b) of the statutes is amended to read:

9 106.50 (6) (b) *Powers and duties of department.* The department of workforce
10 development and its duly authorized agents may hold hearings, subpoena witnesses,
11 take testimony and make investigations as provided in this subsection. The
12 department of workforce development may test and investigate for the purpose of
13 establishing violations of sub. (2), (2m) ~~or~~, (2r), or (3) and may make, sign and file
14 complaints alleging violations of sub. (2), (2m) ~~or~~, (2r), or (3). In addition, the
15 department of safety and professional services may make, sign and file complaints
16 alleging violations of sub. (2r) (c). The department of workforce development shall
17 employ examiners to hear and decide complaints of discrimination under this
18 section, and to assist in the administration of this section. The examiners may make
19 findings and issue orders under this subsection. The department of workforce
20 development shall develop and implement an investigation manual for use in
21 conducting investigations under par. (c).

22 **SECTION 10.** 106.50 (6) (d) of the statutes is amended to read:

23 106.50 (6) (d) *Temporary judicial relief.* At any time after a complaint is filed
24 alleging discrimination in violation of sub. (2), (2m), ~~or (2r)~~, or (3), the department
25 may request the attorney general to file a petition in the circuit court for the county

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1 in which the act of discrimination allegedly occurred or for the county in which a
2 respondent resides or transacts business, seeking a temporary injunction or
3 restraining order against the respondent to prevent the respondent from performing
4 an act that would tend to render ineffectual an order that the department may enter
5 with respect to the complaint, pending final determination of proceedings under this
6 section. On receipt of the department's request, the attorney general shall promptly
7 file the petition.

8 **SECTION 11.** 106.50 (6) (e) 1. of the statutes is amended to read:

9 106.50 (6) (e) 1. Upon the filing of a complaint alleging discrimination in
10 violation of sub. (2), (2m) ~~or~~, (2r), or (3) the department may endeavor to eliminate
11 the discrimination by conference, conciliation and persuasion. The department shall
12 notify the parties that conciliation services are available.

13 **SECTION 12.** 106.50 (6) (f) 5. of the statutes is amended to read:

14 106.50 (6) (f) 5. If after the hearing the examiner finds by a fair preponderance
15 of the evidence that the respondent has violated sub. (2), (2m) ~~or~~, (2r), or (3), the
16 examiner shall make written findings and order the respondent to take actions that
17 will effectuate the purpose of sub. (2), (2m) ~~or~~, (2r), or (3), and may order other
18 penalties, damages and costs as provided in pars. (h) and (i). The department shall
19 serve a certified copy of the final findings and order on the aggrieved party, the
20 complainant and the respondent. The order shall have the same force as other orders
21 of the department and be enforced as provided in this subsection except that the
22 enforcement of the order is automatically stayed upon the filing of a petition for
23 review under par. (j).

24 **SECTION 13.** 106.50 (6) (h) of the statutes is amended to read:

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1 106.50 (6) (h) *Damages and penalties.* 1. If the hearing examiner finds that
2 a respondent has engaged in or is about to engage in a discriminatory act prohibited
3 under sub. (2), (2m) ~~or~~ (2r), or (3), the hearing examiner shall promptly issue an
4 order for such relief as may be appropriate, which may include economic and
5 noneconomic damages suffered by the aggrieved person, regardless of whether he or
6 she intervened in the action, and injunctive or other equitable relief. The hearing
7 examiner may not order punitive damages.

8 2. In addition to any damages ordered under subd. 1., the hearing examiner
9 may assess a forfeiture against a respondent who is not a natural person in an
10 amount not exceeding \$10,000, unless the respondent who is not a natural person
11 has been adjudged to have committed any prior discriminatory act under sub. (2),
12 (2m) ~~or~~ (2r), or (3). If a respondent who is not a natural person has been adjudged
13 to have committed one other discriminatory act under sub. (2), (2m) ~~or~~ (2r), or (3)
14 during the preceding 5-year period, based on the offense date of the prior
15 discriminatory act, the hearing examiner may assess a forfeiture in an amount not
16 exceeding \$25,000. If a respondent who is not a natural person has been adjudged
17 to have committed 2 or more prior discriminatory acts under sub. (2), (2m) ~~or~~ (2r),
18 or (3) during the preceding 7-year period, based on the offense date of the prior
19 discriminatory act, the hearing examiner may assess a forfeiture in an amount not
20 exceeding \$50,000.

21 3. In addition to any damages ordered under subd. 1., the administrative law
22 judge may assess a forfeiture against a respondent who is a natural person in an
23 amount not exceeding \$10,000, unless the respondent who is a natural person has
24 been adjudged to have committed any prior discriminatory act under sub. (2), (2m)
25 ~~or~~ (2r), or (3). If a respondent who is a natural person has been adjudged to have

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1 committed one other prior discriminatory act under sub. (2), (2m) ~~or~~, (2r), or (3) based
2 on an offense date that is before September 1, 1992, the administrative law judge
3 may assess a forfeiture in an amount not exceeding \$25,000. If a respondent who is
4 a natural person has been adjudged to have committed 2 or more prior
5 discriminatory acts under sub. (2), (2m) ~~or~~, (2r), or (3) based on an offense date that
6 is before September 1, 1992, the administrative law judge may assess a forfeiture in
7 an amount not exceeding \$50,000.

8 **SECTION 14.** 106.50 (6) (i) of the statutes is amended to read:

9 106.50 **(6)** (i) *Attorney fees and costs.* The hearing examiner may allow a
10 prevailing complainant, including the state, reasonable attorney fees and costs. The
11 state shall be liable for those fees and costs if the state is a respondent and is
12 determined to have committed a discriminatory act under sub. (2), (2m) ~~or~~, (2r), or
13 (3).

14 **SECTION 15.** 106.50 (6m) (a) of the statutes is amended to read:

15 106.50 **(6m)** (a) Any person alleging a violation of sub. (2), (2m), ~~or~~ (2r), or (3),
16 including the attorney general on behalf of an aggrieved person, may bring a civil
17 action for injunctive relief, for damages, including punitive damages, and, in the case
18 of a prevailing plaintiff, for court costs and reasonable attorney fees.

19 **SECTION 16.** 106.50 (6m) (d) of the statutes is amended to read:

20 106.50 **(6m)** (d) If the attorney general has reasonable cause to believe that any
21 person is engaged in a pattern or practice of discrimination in violation of sub. (2),
22 (2m) ~~or~~, (2r), or (3) or that any person has been denied any of the rights granted under
23 sub. (2), (2m) ~~or~~, (2r), or (3), and such denial raises an issue of general public
24 importance, the department of justice may commence a civil action.

25 **SECTION 17.** 106.50 (8) (a) of the statutes is amended to read:

