

SENATE FILE NO. SF0132

Wyoming Fair Housing Act.

Sponsored by: Senator(s) Scott and Representative(s) Stubson and Walters

A BILL

for

1 AN ACT relating to housing discrimination; defining
2 prohibited practices; providing for conciliation and
3 hearings; providing penalties; and providing for an
4 effective date.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

7

8 **Section 1.** W.S. 40-26-101 through 40-26-145 are
9 created to read:

10

11

ARTICLE 26

12

WYOMING FAIR HOUSING ACT

13

14

40-26-101. Short title.

15

1 This act may be cited as the "Wyoming Fair Housing Act."

2

3 **40-26-102. Definitions.**

4

5 (a) As used in this act:

6

7 (i) "Aggrieved person" includes any person who
8 claims to have been injured by a discriminatory housing
9 practice or believes that the person will be injured by a
10 discriminatory housing practice that is about to occur;

11

12 (ii) "Complainant" means a person, including the
13 enforcing authority that files a complaint under W.S.
14 40-26-118;

15

16 (iii) "Conciliation" means the informal
17 negotiations among an aggrieved person, the respondent, and
18 the enforcing authority to resolve issues raised by a
19 complaint or by the investigation of the complaint;

20

21 (iv) "Conciliation agreement" means a written
22 agreement resolving the issues in conciliation;

23

1 (v) "Disability" means a mental or physical
2 impairment that substantially limits at least one (1) major
3 life activity, a record of this impairment, or being
4 regarded as having this impairment. The term does not
5 include current illegal use or addiction to any drug or
6 illegal or federally controlled substance and does not
7 apply to an individual because of an individual's sexual
8 orientation or because that individual is a transvestite;

9

10 (vi) "Discriminatory housing practice" means an
11 act prohibited by W.S. 40-26-103 through 40-26-109 or
12 conduct that is an offense under W.S. 40-26-145;

13

14 (vii) "Dwelling" means any structure or part of
15 a structure that is occupied as, or designed or intended
16 for occupancy as, a residence by one (1) or more families
17 or vacant land that is offered for sale or lease for the
18 construction or location of a structure or part of a
19 structure as previously described;

20

21 (viii) "Enforcing authority" means the attorney
22 general of Wyoming;

23

1 (ix) "Familial status" means one (1) or more
2 minors being domiciled with a parent or another person
3 having legal custody of the minor or minors, or the
4 designee of the parent or other person having such custody
5 with the written permission of the parent or other person.
6 The protections afforded against discrimination on the
7 basis of familial status apply to any person who is
8 pregnant or is in the process of securing legal custody of
9 any minor;

10

11 (x) "Family" includes a single individual;

12

13 (xi) "Respondent" means a person accused of a
14 violation of this chapter in a complaint of discriminatory
15 housing practice or a person identified as an additional or
16 substitute respondent under W.S. 40-26-121 or an agent of
17 an additional or substitute respondent;

18

19 (xii) "To rent" includes to lease, sublease, or
20 let, or to grant in any other manner, for a consideration,
21 the right to occupy premises not owned by the occupant.

22

23 **40-26-103. Sale or rental.**

1

2 (a) A person may not refuse to sell or rent, after
3 the making of a bona fide offer, refuse to negotiate for
4 the sale or rental of, or in any other manner make
5 unavailable or deny a dwelling to an individual because of
6 race, color, religion, sex, disability, familial status, or
7 national origin.

8

9 (b) A person may not discriminate against an
10 individual in the terms, conditions, or privileges of sale
11 or rental of a dwelling or in providing services or
12 facilities in connection with a sale or rental of a
13 dwelling because of race, color, religion, sex, disability,
14 familial status or national origin.

15

16 (c) This section does not prohibit discrimination
17 against an individual because the individual has been
18 convicted under federal law or the law of any state of the
19 illegal manufacture or distribution of a controlled
20 substance.

21

22 **40-26-104. Publication.**

23

1 A person may not make, print or publish or effect the
2 making, printing or publishing of a notice, statement or
3 advertisement that is about the sale or rental of a
4 dwelling and that indicates any preference, limitation or
5 discrimination or the intention to make a preference,
6 limitation or discrimination because of race, color,
7 religion, sex, disability, familial status or national
8 origin.

9

10 **40-26-105. Inspection.**

11

12 A person may not represent to an individual because of
13 race, color, religion, sex, disability, familial status or
14 national origin that a dwelling is not available for
15 inspection for sale or rental when the dwelling is
16 available for inspection.

17

18 **40-26-106. Entry into neighborhood.**

19

20 A person may not, for profit, induce or attempt to induce
21 another to sell or rent a dwelling by representations
22 regarding the entry or prospective entry into a
23 neighborhood of an individual of a particular race, color,

1 religion, sex, disability, familial status or national
2 origin.

3

4 **40-26-107. Disability.**

5

6 (a) A person may not discriminate in the sale or
7 rental of, or make unavailable or deny, a dwelling to any
8 buyer or renter because of a disability of:

9

10 (i) The buyer or renter;

11

12 (ii) An individual residing in or intending to
13 reside in that dwelling after it is sold, rented, or made
14 available; or

15

16 (iii) Any individual associated with the buyer
17 or renter.

18

19 (b) A person may not discriminate against an
20 individual in the terms, conditions or privileges of sale
21 or rental of a dwelling or in the provision of services or
22 facilities in connection with the dwelling because of a
23 disability of:

1

2 (i) That individual;

3

4 (ii) An individual residing in or intending to
5 reside in that dwelling after it is sold, rented, or made
6 available; or

7

8 (iii) Any individual associated with that
9 individual.

10

11 (c) In this section, discrimination includes:

12

13 (i) A refusal to permit, at the expense of the
14 individual having a disability, a reasonable modification
15 of existing premises occupied or to be occupied by the
16 individual if the modification may be necessary to afford
17 the individual full enjoyment of the premises, except that,
18 in the case of a rental, the landlord may condition, when
19 it is reasonable to do so, permission for a modification on
20 the renter agreeing to restore the interior of the premises
21 to the condition that existed before the modification,
22 reasonable wear and tear excepted;

23

1 (ii) A refusal to make a reasonable
2 accommodation in rules, policies, practices or services if
3 the accommodation may be necessary to afford the individual
4 equal opportunity to use and enjoy a dwelling; or

5
6 (iii) The failure to design and construct a
7 covered multifamily dwelling in a manner that allows the
8 public use and common use portions of the dwellings to be
9 readily accessible to and usable by individuals having a
10 disability, that allows all doors designed to allow passage
11 into and within all premises within the dwellings to be
12 sufficiently wide to allow passage by an individual who has
13 a disability and who is in a wheelchair, and that provides
14 all premises within the dwellings contain the following
15 features of adaptive design:

16
17 (A) An accessible route into and throughout
18 the dwelling;

19
20 (B) Light switches, electrical outlets,
21 thermostats, and other environmental controls in accessible
22 locations;

23

1 (C) Reinforcements in bathroom walls to
2 allow later installation of grab bars; and

3

4 (D) Kitchens and bathrooms that are usable
5 and have sufficient space in which an individual in a
6 wheelchair can maneuver.

7

8 (d) Compliance with the appropriate requirements of
9 the American national standard for buildings and facilities
10 providing accessibility and usability for individuals
11 having physical disabilities, as that standard exists on
12 July 1, 2015, satisfies the requirements of adaptive design
13 in paragraph (c)(iii) of this section.

14

15 (e) The adaptive design requirements of subparagraph
16 (c)(iii)(A) of this section do not apply to a building the
17 first occupancy of which occurred on or before March 13,
18 1991.

19

20 (f) This section does not require a dwelling to be
21 made available to an individual whose tenancy would
22 constitute a direct threat to the health or safety of other

1 individuals whose tenancy would result in substantial
2 physical damage to the property of others.

3

4 (g) Covered multifamily dwellings are buildings
5 consisting of four (4) or more units if the buildings have
6 one (1) or more elevators and ground floor units in other
7 buildings consisting of four (4) or more units.

8

9 **40-26-108. Residential real estate related**
10 **transaction.**

11

12 A person whose business includes engaging in residential
13 real estate related transactions may not discriminate
14 against an individual in making a real estate related
15 transaction available or in the terms or conditions of a
16 real estate related transaction because of race, color,
17 religion, sex, disability, familial status or national
18 origin. A residential real estate related transaction is
19 the selling, brokering or appraising of residential real
20 property or the making or purchasing of loans or the
21 provision of other financial assistance to purchase,
22 construct, improve, repair, maintain a dwelling, or to
23 secure residential real estate. Nothing in this section

1 prohibits a person engaged in the business of furnishing
2 appraisals of real property to take into consideration
3 factors other than race, color, religion, sex, disability,
4 familial status or national origin.

5

6 **40-26-109. Brokerage services.**

7

8 A person may not deny an individual access to, or
9 membership or participation in, a multiple-listing service,
10 real estate brokers' organization, or other service,
11 organization or facility relating to the business of
12 selling or renting dwellings, or discriminate against an
13 individual in the terms or conditions of access, membership
14 or participation in the organization, service or facility
15 because of race, color, religion, sex, disability, familial
16 status or national origin.

17

18 **40-26-110. Sales and rentals exempted.**

19

20 (a) W.S. 40-26-103 through 40-26-109 do not apply to
21 the sale or rental of a single family house sold or rented
22 by the owner if the owner does not own more than three (3)
23 single family houses at any one (1) time or own any

1 interest in, nor is there owned or reserved on the person's
2 behalf, under any express or voluntary agreement, title to
3 or any right to any part of the proceeds from the sale or
4 rental of more than three (3) single family houses at any
5 one (1) time. In addition, the house must be sold or
6 rented without the use of the sales or rental facilities or
7 services of a licensed real estate broker, agent or of a
8 person in the business of selling or renting dwellings, or
9 of an employee or agent of any such broker, agent, or
10 person; or the publication, posting or mailing of a notice,
11 statement or advertisement prohibited by W.S. 40-26-104.
12 The exemption provided in this subsection applies only to
13 one (1) sale or rental in a twenty-four (24) month period,
14 if the owner was not the most recent resident of the house
15 at the time of the sale or rental. For the purposes of
16 this subsection, a person is in the business of selling or
17 renting dwellings if the person:

18

19 (i) Within the preceding twelve (12) months, has
20 participated as principal in three (3) or more transactions
21 involving the sale or rental of any dwelling or any
22 interest in a dwelling; or

23

1 (ii) Within the preceding twelve (12) months,
2 has participated as agent, other than in the sale of the
3 person's own personal residence, in providing sales or
4 rental facilities or sales or rental services in two (2) or
5 more transactions involving the sale or rental of any
6 dwelling or any interest in a dwelling; or

7

8 (iii) Is the owner of any dwelling designed or
9 intended for occupancy by, or occupied by, five (5) or more
10 families.

11

12 (b) W.S. 40-26-103 and 40-26-105 through 40-26-109 do
13 not apply to the sale or rental of the rooms or units in a
14 dwelling containing living quarters occupied by or intended
15 to be occupied by not more than four (4) families living
16 independently of each other, if the owner maintains and
17 occupies one (1) of the living quarters as the owner's
18 residence.

19

20 **40-26-111. Religious organization, private club, and**
21 **appraisal exemption.**

22

1 (a) This chapter does not prohibit a religious
2 organization, association or society or a nonprofit
3 institution or organization operated, supervised or
4 controlled by or in conjunction with a religious
5 organization, association or society from limiting the
6 sale, rental or occupancy of dwellings that it owns or
7 operates for other than a commercial purpose to individuals
8 of the same religion or giving preference to persons of the
9 same religion, unless membership in the religion is
10 restricted because of race, color or national origin.

11

12 (b) This chapter does not prohibit a private club
13 that is not in fact open to the public and that, as an
14 incident to its primary purpose, provides lodging that it
15 owns or operates for other than a commercial purpose from
16 limiting the rental or occupancy of the lodging to its
17 members or from giving preference to its members, unless
18 membership in the club is restricted because of race, color
19 or national origin.

20

21 (c) This chapter does not prohibit a person engaged
22 in the business of furnishing appraisals of real property
23 from considering in those appraisals factors other than

1 race, color, religion, sex, disability, familial status or
2 national origin.

3

4 **40-26-112. Housing for elderly exempted.**

5

6 (a) The provisions of this chapter relating to
7 familial status and age do not apply to housing that the
8 secretary of housing and urban development determines is
9 specifically designed and operated to assist elderly
10 individuals under a federal program; the enforcing
11 authority determines is specifically designed and operated
12 to assist elderly individuals under a state program; is
13 intended for, and solely occupied by, individuals sixty-two
14 (62) years of age or older; or is intended and operated for
15 occupancy by at least one (1) individual fifty-five (55)
16 years of age or older for each unit as determined by
17 enforcing authority rules. In determining whether housing
18 qualifies as housing for elderly because it is intended and
19 operated for occupancy by at least one (1) individual
20 fifty-five (55) years of age or older for each unit, the
21 enforcing authority shall adopt rules that require at least
22 the following factors:

23

1 (i) That at least eighty percent (80%) of the
2 units are occupied by at least one (1) individual fifty-
3 five (55) years of age or older per unit; and

4

5 (ii) The publication of, and adherence to,
6 policies and procedures which demonstrate an intent by the
7 owner or manager to provide housing for individuals fifty-
8 five (55) years of age or older.

9

10 (b) Housing may not be considered to be in violation
11 of the requirements for housing for elderly under this
12 section by reason of:

13

14 (i) Individuals residing in the housing as of
15 July 1, 2015, who do not meet the age requirements of this
16 section, provided that new occupants of the housing meet
17 the age requirements; or

18

19 (ii) Unoccupied units, provided that the units
20 are reserved for occupancy by individuals who meet the age
21 requirements of this section.

22

23 **40-26-113. Effect on other law.**

1

2 (a) This chapter does not affect a reasonable local
3 or state restriction on the maximum number of occupants
4 permitted to occupy a dwelling or a restriction relating to
5 health or safety standards.

6

7 (b) This chapter does not affect a requirement of
8 nondiscrimination in any other state or federal law.

9

10 **40-26-114. Duties and powers of enforcing authority.**

11

12 The enforcing authority shall administer this chapter. The
13 enforcing authority may adopt rules necessary to implement
14 this chapter, but substantive rules adopted by the
15 enforcing authority shall impose obligations, rights and
16 remedies that are the same as are provided in federal fair
17 housing regulations. Within the limits of legislative
18 appropriations, the enforcing authority shall foster
19 prevention of discrimination under this chapter through
20 education for the public, landlords, publishers, realtors,
21 brokers, lenders and sellers on the rights and
22 responsibilities provided under this chapter and ways to

1 respect those protected rights. The enforcing authority
2 shall emphasize conciliation to resolve complaints.

3

4 **40-26-115. Complaints.**

5

6 As provided by W.S. 40-26-118 through 40-26-135, the
7 enforcing authority shall receive, investigate, seek to
8 conciliate and act on complaints alleging violations of
9 this chapter.

10

11 **40-26-116. Cooperation with other entities.**

12

13 The enforcing authority shall cooperate with and may
14 provide technical and other assistance to federal, state,
15 local and other public or private entities that are
16 designing or operating programs to prevent or eliminate
17 discriminatory housing practices.

18

19 **40-26-117. Gifts and grants; fair housing fund;
20 continuing appropriation.**

21

22 The enforcing authority may accept grants from the federal
23 government for administering this chapter. Grants received

1 shall be deposited with the state treasurer in an account
2 created for the fair housing act. Monies deposited into
3 the account are to be appropriated to the enforcing
4 authority on a continuing basis for the purposes of
5 administering this chapter.

6

7 **40-26-118. Complaint.**

8

9 (a) The enforcing authority shall investigate
10 complaints of alleged discriminatory housing practices. An
11 aggrieved person may file a complaint with the enforcing
12 authority alleging the discriminatory housing practice.
13 The enforcing authority may file a complaint. A complaint
14 shall be in writing and shall contain such information and
15 be in such form as prescribed by the enforcing authority.
16 A complaint shall be filed on or before the first
17 anniversary of the date the alleged discriminatory housing
18 practice occurs or terminates, whichever is later. A
19 complaint may be amended at any time.

20

21 (b) On the filing of a complaint, the enforcing
22 authority shall give the aggrieved person notice that the
23 complaint has been received, advise the aggrieved person of

1 the time limits and choice of forums under this chapter,
2 and not later than the tenth day after the date of the
3 filing of the complaint or the identification of an
4 additional or substitute respondent under W.S. 40-26-121,
5 serve on each respondent a notice identifying the alleged
6 discriminatory housing practice and advising the respondent
7 of the procedural rights and obligations of a respondent
8 under this chapter and a copy of the original complaint.

9

10 **40-26-119. Answer.**

11

12 (a) Not later than the tenth day after the date of
13 receipt of the notice and copy of the complaint under W.S.
14 40-26-118(b), a respondent may file an answer to the
15 complaint. An answer shall be in writing, under oath, and
16 in the form prescribed by the enforcing authority.

17

18 (b) An answer may be amended at any time. An answer
19 does not inhibit the investigation of a complaint.

20

21 **40-26-120. Investigation.**

22

1 (a) If the federal government has referred a
2 complaint to the enforcing authority or has deferred
3 jurisdiction over the subject matter of the complaint to
4 the enforcing authority, the enforcing authority shall
5 investigate the allegations set forth in the complaint.

6

7 (b) The enforcing authority shall investigate all
8 complaints and, except as provided by subsection (c) of
9 this section, shall complete an investigation not later
10 than the hundredth day after the date the complaint is
11 filed or, if it is impracticable to complete the
12 investigation within the one hundred (100) day period,
13 shall dispose of all administrative proceedings related to
14 the investigation not later than the first anniversary
15 after the date the complaint is filed.

16

17 (c) If the enforcing authority is unable to complete
18 an investigation within the time periods prescribed by
19 subsection (b) of this section, the enforcing authority
20 shall notify the complainant and the respondent in writing
21 of the reasons for the delay.

22

23 **40-26-121. Additional or substitute respondent.**

1

2 The enforcing authority may join a person not named in the
3 complaint as an additional or substitute respondent if
4 during the investigation the enforcing authority determines
5 that the person is alleged to be engaged, to have engaged,
6 or to be about to engage in the discriminatory housing
7 practice upon which the complaint is based. In addition to
8 the information required in the notice under W.S.
9 40-26-118(b), the enforcing authority shall include in a
10 notice to a respondent joined under this section the
11 reasons for the determination that the person is properly
12 joined as a respondent.

13

14 **40-26-122. Conciliation.**

15

16 The enforcing authority shall, during the period beginning
17 with the filing of a complaint and ending with the filing
18 of a charge or a dismissal by the enforcing authority, to
19 the extent feasible, engage in conciliation with respect to
20 the complaint. A conciliation agreement between a
21 respondent and the complainant is subject to enforcing
22 authority approval. A conciliation agreement may provide
23 for binding arbitration or another method of dispute

1 resolution. Dispute resolution that results from a
2 conciliation agreement may authorize appropriate relief,
3 including monetary relief.

4

5 **40-26-123. Temporary or preliminary relief.**

6

7 The enforcing authority may authorize a claim for relief
8 for temporary or preliminary relief pending the final
9 disposition of a complaint, if the enforcing authority
10 concludes after the filing of the complaint that prompt
11 judicial action is necessary to carry out the purposes of
12 this chapter. On receipt of the enforcing authority's
13 authorization, the attorney general shall promptly file the
14 claim. A temporary restraining order or other order
15 granting preliminary or temporary relief under this section
16 is governed by the applicable statutes and the Wyoming
17 Rules of Civil Procedure. The filing of a claim for relief
18 under this section does not affect the initiation or
19 continuation of administrative proceedings under W.S.
20 40-26-131.

21

22 **40-26-124. Investigative report.**

23

1 The enforcing authority shall prepare a final investigative
2 report, including the names of and dates of contacts with
3 witnesses, a summary of correspondence and other contacts
4 with the aggrieved person and the respondent showing the
5 dates of the correspondence and contacts, a summary
6 description of other pertinent records, a summary of
7 witness statements, and answers to interrogatories. A
8 final report under this section may be amended if
9 additional evidence is discovered.

10

11 **40-26-125. Reasonable cause determination.**

12

13 (a) The enforcing authority shall determine from the
14 facts whether reasonable cause exists to believe that a
15 discriminatory housing practice has occurred or is about to
16 occur. The enforcing authority shall make this
17 determination not later than the one hundredth day after
18 the date a complaint is filed unless making the
19 determination is impracticable, or the enforcing authority
20 approves a conciliation agreement relating to the
21 complaint.

22

1 (b) If making the determination within the period is
2 impracticable, the enforcing authority shall give in
3 writing to the complainant and the respondent the reasons
4 for the delay. If the enforcing authority determines that
5 reasonable cause exists to believe that a discriminatory
6 housing practice has occurred or is about to occur, the
7 enforcing authority shall, except as provided by W.S.
8 40-26-127, immediately issue a charge on behalf of the
9 aggrieved person.

10

11 **40-26-126. Charge.**

12

13 (a) A charge issued under W.S. 40-26-125 shall
14 consist of a short and plain statement of the facts on
15 which the enforcing authority finds reasonable cause to
16 believe that a discriminatory housing practice has occurred
17 or is about to occur, shall be based on the final
18 investigative report, and is not limited to the facts or
19 grounds alleged in the complaint.

20

21 (b) Within three (3) days after issuing a charge, the
22 enforcing authority shall send a copy of the charge with
23 information about the election under W.S. 40-26-130 to each

1 respondent and each aggrieved person on whose behalf the
2 complaint was filed.

3

4 (c) The enforcing authority shall include with a
5 charge sent to a respondent a notice of the opportunity for
6 a hearing under W.S. 40-26-131.

7

8 **40-26-127. Land use law.**

9

10 If the enforcing authority determines that the matter
11 involves the legality of a state or local zoning or other
12 land use law or ordinance, the enforcing authority may
13 issue a charge and proceed with the appropriate action.

14

15 **40-26-128. Dismissal.**

16

17 If the enforcing authority determines that no reasonable
18 cause exists to believe that a discriminatory housing
19 practice that is the subject of a complaint has occurred or
20 is about to occur, the enforcing authority shall promptly
21 dismiss the complaint. The enforcing authority shall make
22 public disclosure of each dismissal.

23

1 **40-26-129. Pending civil trial.**

2

3 The enforcing authority may not issue a charge alleging a
4 discriminatory housing practice after the beginning of the
5 trial of a civil action commenced by the aggrieved party
6 under federal or state law seeking relief with respect to
7 that discriminatory housing practice.

8

9 **40-26-130. Election of judicial determination.**

10

11 A complainant, a respondent, or an aggrieved person on
12 whose behalf a complaint was filed may elect to have the
13 claims asserted in the charge decided in a civil action as
14 provided by W.S. 40-26-136. The election shall be made not
15 later than the twentieth day after the date the person
16 having the election receives service under W.S.
17 40-26-126(b) or, in the case of the enforcing authority,
18 not later than the twentieth day after the date the charge
19 is issued. The person making the election shall give
20 notice to the enforcing authority and to all other
21 complainants and respondents to whom the charge relates.

22

23 **40-26-131. Administrative hearing.**

1

2 If a timely election is not made under W.S. 40-26-130, the
3 enforcing authority shall provide for a hearing on the
4 charge. A hearing under this section on an alleged
5 discriminatory housing practice may not continue after the
6 beginning of the trial of a claim for relief commenced by
7 the aggrieved person under federal or state law seeking
8 relief with respect to the discriminatory housing practice.

9

10 **40-26-132. Administrative penalties.**

11

12 (a) If the enforcing authority determines at a
13 hearing under W.S. 40-26-131 that a respondent has engaged
14 in or is about to engage in a discriminatory housing
15 practice, the enforcing authority may order the appropriate
16 relief, including actual damages, reasonable attorney's
17 fees, court costs and other injunctive or equitable relief.

18

19 (b) To vindicate the public's interest, the enforcing
20 authority may assess a civil penalty against the respondent
21 in an amount that does not exceed:

22

1 (i) Eleven thousand dollars (\$11,000.00) if the
2 respondent has been found by order of the enforcing
3 authority or a court to have committed a prior
4 discriminatory housing practice; or

5
6 (ii) Except as provided by subsection (c) of
7 this section, twenty-seven thousand dollars (\$27,000.00) if
8 the respondent has been found by order of the enforcing
9 authority or a court to have committed one (1) other
10 discriminatory housing practice during the five (5) year
11 period ending on the date of the filing of the charges and
12 fifty-five thousand dollars (\$55,000.00) if the respondent
13 has been found by the enforcing authority or a court to
14 have committed two (2) or more discriminatory housing
15 practices during the seven (7) year period ending on the
16 date of filing of the charge.

17
18 (c) If the acts constituting the discriminatory
19 housing practice that is the object of the charge are
20 committed by the same individual who has previously been
21 found to have committed acts constituting a discriminatory
22 housing practice, the civil penalties in subsection (b) of
23 this section may be imposed without regard to the period of

1 time within which any other discriminatory housing practice
2 occurred.

3

4 (d) The enforcing agency shall sue to recover a civil
5 penalty due under this section. Funds collected under this
6 section must be paid to the state treasurer for deposit in
7 the general fund.

8

9 **40-26-133. Effect of enforcing authority order.**

10

11 An enforcing authority order under W.S. 40-26-132 does not
12 affect a contract, sale, encumbrance or lease that is
13 consummated before the enforcing authority issues the order
14 and involves a bona fide purchaser, encumbrancer or tenant
15 who did not have actual notice of the charge filed under
16 this chapter.

17

18 **40-26-134. Licensed or regulated business.**

19

20 If the enforcing authority issues an order with respect to
21 a discriminatory housing practice that occurs in the course
22 of a business subject to a licensing or regulation by a
23 governmental agency, the enforcing authority, not later

1 than the thirtieth day after the date the order is issued,
2 shall send copies of the findings and the order to the
3 governmental agency and recommend to the governmental
4 agency appropriate disciplinary action.

5

6 **40-26-135. Order in preceding five years.**

7

8 If the enforcing authority issues an order against a
9 respondent against whom another order was issued within the
10 preceding five (5) years under W.S. 40-26-133, the
11 enforcing authority shall send a copy of each order to the
12 attorney general.

13

14 **40-26-136. Attorney general action for enforcement.**

15

16 If a timely election is made under W.S. 40-26-130, the
17 attorney general shall file not later than the thirtieth
18 day after the date of the election a claim for relief
19 seeking relief on behalf of the aggrieved person in a
20 district court. Venue for an action is in the county in
21 which the alleged discriminatory housing practice occurred
22 or is about to occur. An aggrieved person may intervene in
23 the action. If the court finds that a discriminatory

1 housing practice has occurred or is about to occur, the
2 court may grant as relief any relief that a court may grant
3 in a civil action under W.S. 40-26-129 through 40-26-143.
4 If monetary relief is sought for the benefit of an
5 aggrieved person who does not intervene in the civil
6 action, the court may not award the monetary relief if that
7 aggrieved person has not complied with discovery orders
8 entered by the court.

9

10 **40-26-137. Pattern or practice case; penalties.**

11

12 (a) The attorney general may file a claim for relief
13 in district court for appropriate relief if the enforcing
14 authority has reasonable cause to believe that a person is
15 engaged in a pattern or practice of resistance to the full
16 enjoyment of a right granted under this chapter or a person
17 has been denied a right granted by this chapter and that
18 denial raises an issue of general public importance.

19

20 (b) In an action under this section, the court may:

21

22 (i) Award preventive relief, including a
23 permanent or temporary injunction, restraining order, or

1 other order against the person responsible for a violation
2 of this chapter as necessary to assure the full enjoyment
3 of the rights granted by this chapter;

4

5 (ii) Award other appropriate relief, including
6 monetary damages, reasonable attorney's fees, and court
7 costs; and

8

9 (iii) To vindicate the public interest, assess a
10 civil penalty against the respondent in an amount that does
11 not exceed fifty thousand dollars (\$50,000.00) for a first
12 violation and one hundred thousand dollars (\$100,000.00)
13 for a second or subsequent violation.

14

15 (c) A person may intervene in an action under this
16 section if the person is a person aggrieved by the
17 discriminatory housing practice or a party to a
18 conciliation agreement concerning the discriminatory
19 housing practice.

20

21 **40-26-138. Subpoena enforcement.**

22

1 The attorney general, on behalf of the enforcing authority
2 or another party at whose request a subpoena is issued
3 under this chapter, may enforce the subpoena in appropriate
4 proceedings in district court.

5

6 **40-26-139. Civil action.**

7

8 (a) An aggrieved person may file a civil action in
9 district court not later than the second year after the
10 date of the occurrence or the termination of an alleged
11 discriminatory housing practice or the breach of a
12 conciliation agreement entered under this chapter,
13 whichever occurs last, to obtain appropriate relief with
14 respect to the discriminatory housing practice or breach.

15

16 (b) The two (2) year period does not include any time
17 during which an administrative hearing under this chapter
18 is pending with respect to a complaint or charge under this
19 chapter based on the discriminatory housing practice. This
20 subsection does not apply to actions arising from the
21 breach of a conciliation agreement.

22

1 (c) An aggrieved person may file a claim for relief
2 whether a complaint has been filed under W.S. 40-26-118 and
3 without regard to the status of any complaint filed under
4 that section.

5

6 (d) If the enforcing authority has obtained a
7 conciliation agreement with the consent of an aggrieved
8 person, the aggrieved person may not file a claim for
9 relief with respect to the alleged discriminatory housing
10 practice that forms the basis of the complaint except to
11 enforce the terms of the agreement.

12

13 (e) An aggrieved person may not file a claim for
14 relief with respect to an alleged discriminatory housing
15 practice that forms the basis of a charge issued by the
16 enforcing authority if the enforcing authority has begun a
17 hearing on the record under this chapter with respect to
18 the charge.

19

20 **40-26-140. Relief granted.**

21

22 If the court finds that a discriminatory housing practice
23 has occurred or is about to occur, the court may award to

1 the plaintiff actual and punitive damages, reasonable
2 attorney's fees, court costs, and subject to W.S.
3 40-26-142, a permanent or temporary injunction, temporary
4 restraining order, or other order, including an order
5 enjoining the defendant from engaging in the practice or
6 ordering appropriate affirmative action.

7

8 **40-26-141. Effect of relief granted.**

9

10 Relief granted under W.S. 40-26-139 through 40-26-143 does
11 not affect a contract, sale, encumbrance or lease that is
12 consummated before the granting of the relief and involves
13 a bona fide purchaser, encumbrancer or tenant who did not
14 have actual notice of the filing of a complaint or civil
15 action under this chapter.

16

17 **40-26-142. Intervention by attorney general.**

18

19 The attorney general may intervene in an action under W.S.
20 40-26-139 through 40-26-143 if the attorney general
21 certifies that the case is of general public importance.
22 The attorney general may obtain the same relief as is
23 available to the attorney general under W.S. 40-26-137(b).

1

2 **40-26-143. Prevailing party.**

3

4 A court in an action brought under this chapter or the
5 enforcing authority in an administrative hearing under W.S.
6 40-26-131 may award reasonable attorney's fees to the
7 prevailing party and assess court costs against the
8 nonprevailing party.

9

10 **40-26-144. Intimidation or interference; penalty.**

11

12 (a) A person commits an offense if the person,
13 without regard to whether the person is acting under color
14 of law, by force or threat of force, intentionally
15 intimidates or interferes with an individual:

16

17 (i) Because of the individual's race, color,
18 religion, sex, disability, age, familial status, national
19 origin or status with respect to marriage or public
20 assistance and because the individual is or has been
21 selling, purchasing, renting, financing, occupying or
22 contracting or negotiating for the sale, purchase, rental,
23 financing or occupation of any dwelling or applying for or

1 participating in a service, organization or facility
2 relating to the business of selling or renting dwellings;
3 or

4

5 (ii) Because the individual is or has been or to
6 intimidate the individual from:

7

8 (A) Participating, without discrimination
9 because of race, color, religion, sex, disability, familial
10 status or national origin in an activity, service,
11 organization or facility described by paragraph (i) of this
12 subsection;

13

14 (B) Affording another individual
15 opportunity or protection to so participate; or

16

17 (C) Lawfully aiding or encouraging other
18 individuals to participate, without discrimination because
19 of race, color, religion, sex, disability, familial status
20 or national origin, or status with respect to marriage or
21 public assistance, in an activity, service, organization,
22 or facility described in paragraph (i) of this subsection.

23

1 (b) It is a discriminatory practice to coerce,
2 intimidate, threaten or interfere with any individual in
3 the exercise or enjoyment of, or on account of the
4 individual having exercised or enjoyed, or on account of
5 the individual having aided or encouraged any other
6 individual in the exercise or enjoyment of, any right
7 granted or protected by this chapter.

8

9 (c) An offense under subsection (a) or (b) of this
10 section is a misdemeanor.

11

12 **40-26-145. Records exempt.**

13

14 A complaint filed with the enforcing authority under W.S.
15 40-26-118 is an open record. Information obtained during
16 an investigation conducted by the enforcing authority under
17 this chapter can be used in any judicial proceedings or
18 administrative hearing relating to the complaint under this
19 chapter or before the administrative closure of a complaint
20 by the enforcing authority. The enforcing authority may
21 disclose to the complainant or the respondent, or
22 representatives of the complainant or respondent,
23 information obtained during an investigation if deemed

1 necessary by the enforcing authority for securing an
2 appropriate resolution of a complaint. The enforcing
3 authority may disclose information obtained during an
4 investigation to a federal agency if necessary for the
5 processing of complaints under an agreement with the
6 agency. Individually identifiable health information
7 obtained during an investigation may not be disclosed by
8 the enforcing authority except to a federal agency if
9 necessary for the processing of complaints under an
10 agreement with the agency. Statements made or actions
11 taken during conciliation efforts relating to a complaint
12 under this chapter may not be disclosed by the enforcing
13 authority, except to a federal agency if necessary for the
14 processing of complaints under an agreement with the
15 agency, and may not be used as evidence in a subsequent
16 proceeding under this chapter without the written consent
17 of the parties to the conciliation. A conciliation
18 agreement is an open record unless the complainant and
19 respondent agree that it is not and the enforcing authority
20 determines that disclosure is not necessary to further the
21 purposes of this chapter.

22

1 **Section 2.** This act is effective July 1, 2015.

2

3

(END)