STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 837 By: Jolley of the Senate

and

Sullivan of the House

COMMITTEE SUBSTITUTE

An Act relating to discrimination; amending 25 O.S. 2001, Sections 1101, 1301, as amended by Section 1, Chapter 74, O.S.L. 2010, 1302, 1303, 1304, 1305, 1306, 1308, 1309, 1310, 1402, 1451, 1452, 1453, 1506.9, 1702, 1703, 1704 and 1705 (25 O.S. Supp. 2010, Section 1301), which relate to discriminatory practices in employment, housing, and public accommodations; providing exclusive remedies; modifying definitions; defining term; deleting obsolete language; providing certain undue hardship exceptions; expanding act to cover genetic information discrimination; applying law to employment applicants; changing handicap references to disability throughout; creating cause of action; abolishing certain common law remedies; providing for legal standing; setting period to file charge; providing for issuance of Notice of Right to Sue; allowing party to request Notice of Right to Sue under certain circumstances; requiring Notice of Right to Sue prior to commencing civil action; providing for venue; allowing jury trial; providing certain defense; specifying damages; restricting certain remedy; providing for attorney fee; setting period for filing of action in district court; repealing 25 O.S. 2001, Section 1901, which relates to handicap discrimination; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 25 O.S. 2001, Section 1101, is amended to read as follows:

Section 1101. A. ~~The general purposes of this~~ This act ~~are to provide~~ provides for ~~execution~~ exclusive remedies within the state of the policies ~~embodied in the federal Civil Rights Act of 1964, the federal Age Discrimination in Employment Act of 1967, and Section 504 of the federal Rehabilitation Act of 1973 to make uniform the law of those states which enact this act, and to provide rights and remedies substantially equivalent to those granted under the federal Fair Housing Law~~ for individuals alleging discrimination in employment on the basis of race, color, national origin, sex, religion, creed, age, disability or genetic information.

B. This act shall be construed according to the fair import of its terms ~~and shall be liberally construed~~ to further the general purposes stated in this section and the special purposes of the particular provision involved.

SECTION 2. AMENDATORY 25 O.S. 2001, Section 1301, as amended by Section 1, Chapter 74, O.S.L. 2010 (25 O.S. Supp. 2010, Section 1301), is amended to read as follows:

Section 1301. ~~In Sections 1101 through 1706~~ As used in Section 1101 et seq. of this title:

1. "Employer" means:

a. a ~~person who has fifteen or more employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year~~ legal entity, institution or organization that pays one or more individuals a salary or wages for work performance, or

b. a ~~person who as a contractor or subcontractor is furnishing the~~ legal entity, institution or organization which contracts or subcontracts with the state, a governmental entity or a state agency to furnish material or ~~performing~~ perform work ~~for the state or a governmental entity or agency of the state and includes an agent of such a person but~~.

Employer does not include ~~an Indian~~ a Native American tribe or a bona fide membership club ~~not organized for profit~~, other than a labor organization, that is exempt from taxation under Title 26, Section 501(c) of the United States Code;

2. "Employment agency" means a person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person;

3. "Labor organization" ~~includes~~ means:

a. an organization of any kind, an agency or employee representation committee, group, association, or plan

in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment,

b. a conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization, or

c. an agent of a labor organization;

4. ~~"Handicapped person"~~ "Individual with a disability" means a person who has a physical or mental impairment which substantially limits one or more of such person's major life activities, has a record of such an impairment or is regarded as having such an impairment;

5. "Age discrimination in employment" means discrimination in employment of persons who are at least forty (40) years of age; ~~and~~

6. "Sex", ~~"Because of Sex"~~ "because of sex" or ~~"Based on Sex"~~ "based on sex" includes, but is not limited to, pregnancy, childbirth or related medical conditions; women affected by pregnancy, childbirth or related medical conditions shall be treated the same for all employment-related purposes as other persons not so affected but similar in their ability or inability to work; and

7. "Employee" means an individual who receives a salary or wages from an employer. Employee shall not include independent contractors.

SECTION 3. AMENDATORY 25 O.S. 2001, Section 1302, is amended to read as follows:

Section 1302. A. It is a discriminatory practice for an employer:

1. To fail or refuse to hire, to discharge, or otherwise to discriminate against an individual with respect to compensation or the terms, conditions, privileges or responsibilities of employment, because of race, color, religion, sex, national origin, age, ~~or handicap unless such action is related to a bona fide occupational qualification reasonably necessary to the normal operation of the employer's business or enterprise~~ genetic information or disability, unless the employer can demonstrate that accommodation for the disability would impose an undue hardship on the operation of the business of such employer; or

2. To limit, segregate, or classify an employee or applicant for employment in a way which would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect the status of an employee, because of race, color, religion, sex, national origin, age, ~~or handicap unless such action is related to a bona fide occupational qualification reasonably necessary to the normal operation of the employer's business or enterprise~~ genetic

information or disability, unless the employer can demonstrate that accommodation for the disability would impose an undue hardship on the operation of the business of such employer.

B. This section does not apply to the employment of an individual by his or her parents, spouse, or child or to employment in the domestic service of the employer.

SECTION 4. AMENDATORY 25 O.S. 2001, Section 1303, is amended to read as follows:

Section 1303. It is a discriminatory practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, an individual because of race, color, religion, sex, national origin, age, ~~or handicap~~ genetic information or disability, unless the agency can demonstrate that accommodation for the disability would impose an undue hardship on the operation of the business of such agency, or to classify or refer for employment an individual on the basis of race, color, religion, sex, national origin, age, ~~or handicap~~ genetic information or disability, unless the agency can demonstrate that accommodation for the disability would impose an undue hardship on the operation of the business of such agency.

SECTION 5. AMENDATORY 25 O.S. 2001, Section 1304, is amended to read as follows:

Section 1304. It is a discriminatory practice for a labor organization:

1. To exclude or to expel from membership, or otherwise to discriminate against, a member or applicant for membership because of race, color, religion, sex, national origin, age, ~~or handicap~~ genetic information or disability, unless the organization can demonstrate that accommodation for the disability would impose an undue hardship on the operation of the business of such organization;

2. To limit, segregate, or classify membership, or to classify or to fail or refuse to refer for employment an individual in a way:

a. which would deprive or tend to deprive an individual of employment opportunities, or

b. which would limit employment opportunities or otherwise adversely affect the status of an employee or of an applicant for employment, because of race, color, religion, sex, national origin, age, ~~or handicap~~ genetic information or disability, unless the organization can demonstrate that accommodation for the disability would impose an undue hardship on the operation of the business of such organization; or

3. To cause or attempt to cause an employer to violate ~~Sections 1101 through 1706~~ Section 1101 et seq. of this title.

SECTION 6. AMENDATORY 25 O.S. 2001, Section 1305, is amended to read as follows:

Section 1305. It is a discriminatory practice for an employer, labor organization, or joint labor-management committee controlling apprenticeship, on-the-job, or other training or retraining program, to discriminate against an individual because of race, color, religion, sex, national origin, age, ~~or handicap~~ genetic information or disability, unless the employer, organization or committee can demonstrate that accommodation for the disability would impose an undue hardship on the operation of the business of such employer, organization or committee, in admission to, or employment in, a program established to provide apprenticeship or other training.

SECTION 7. AMENDATORY 25 O.S. 2001, Section 1306, is amended to read as follows:

Section 1306. It is a discriminatory practice for an employer, labor organization, or employment agency to print or publish or cause to be printed or published a notice or advertisement relating to employment by the employer or membership in or a classification or referral for employment by the labor organization, or relating to a classification or referral for employment by the employment agency, indicating a preference, limitation, specification, or discrimination, based on race, color, religion, sex, national origin, age, ~~or handicap~~ genetic information or disability, unless the employer, organization or agency can demonstrate that accommodation for the disability would impose an undue hardship on the operation of the business of such employer, organization or

agency; but a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, or national origin when religion, sex, or national origin is a bona fide occupational qualification for employment.

SECTION 8. AMENDATORY 25 O.S. 2001, Section 1308, is amended to read as follows:

Section 1308. It is not a discriminatory practice:

1. For an employer to hire and employ an employee, or an employment agency to classify or refer for employment an individual, for a labor organization to classify its membership or to classify or refer for employment an individual, or for an employer, labor organization, or joint labor-management committee controlling an apprenticeship or other training or retraining program to admit or employ an individual in the program, on the basis of ~~his~~ religion, sex, national origin, age, ~~or a handicap~~ disability, or genetic information if such action is related to a bona fide occupational qualification reasonably necessary to the normal operation of the business or enterprise; or

2. For a school, college, university, or other educational institution to hire and employ an employee of a particular religion if the school, college, university, or other educational institution is, in whole or substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of the

school, college, university, or other educational institution is directed toward the propagation of a particular religion.

SECTION 9. AMENDATORY 25 O.S. 2001, Section 1309, is amended to read as follows:

Section 1309. Notwithstanding any other provision of ~~Sections 1101 through 1706~~ Section 1101 et seq. of this title, it is not a discriminatory practice for an employer:

1. To apply different standards of compensation or different terms, conditions, privileges, or responsibilities of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, if the differences are not the result of an intention to discriminate because of race, color, religion, sex, national origin, age, ~~or handicap~~ disability, or genetic information; or

2. To give and to act upon the results of a professionally-developed ability test if the test, its administration, or action upon the results is not designed, intended, or used to discriminate because of race, color, religion, sex, national origin, age, ~~or handicap~~ disability, or genetic information.

3. To require the compulsory retirement of any person who has attained the age of sixty-five (65) and who, for the two-year period immediately before retirement, is employed in a bona fide executive

or high policymaking position, if such person is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit-sharing, savings or deferred compensation plan, or any combination of such plans, of the employer, which equals, in the aggregate, at least Forty-four Thousand Dollars ~~($44,000)~~ ($44,000.00).

SECTION 10. AMENDATORY 25 O.S. 2001, Section 1310, is amended to read as follows:

Section 1310. Nothing contained in ~~Sections 1101 through 1706~~ Section 1101 et seq. of this title requires an employer, employment agency, labor organization, or joint labor-management committee subject to ~~Sections 1101 through 1706~~ Section 1101 et seq. of this title to grant preferential treatment to an individual or to a group because of race, color, religion, sex, national origin, age, ~~or handicap~~ disability, or genetic information of the individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, national origin, age, ~~or handicap~~ disability, or genetic information employed by an employer, referred or classified for employment by an employment agency or labor organization, admitted to membership or classified by a labor organization, or admitted to, or employed in, an apprenticeship, or other training or retraining program, in comparison with the total number or percentage of persons of the race, color, religion, sex, national origin, age, ~~or~~

~~handicapped persons~~ disability, or genetic information in the state or a community, section, or other area, or in the available work force in the state or a community, section, or other area. However, it is not a discriminatory practice for a person subject to ~~Sections 1101 through 1706~~ Section 1101 et seq. of this title to adopt and carry out a plan to eliminate or reduce imbalance with respect to race, color, religion, sex, national origin, age, ~~or handicap~~ disability, or genetic information if the plan has been filed with the Oklahoma Human Rights Commission under regulations of the Commission and the Commission has not disapproved the plan.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1350 of Title 25, unless there is created a duplication in numbering, reads as follows:

A. A cause of action for employment-based discrimination is hereby created and any common law remedies are hereby abolished.

B. In order to have standing in a court of law to allege discrimination arising from an employment-related matter, in a cause of action against an employer for discrimination based on race, color, religion, sex, national origin, age, disability, genetic information with respect to the employee, or retaliation, an aggrieved party must, within one hundred eighty (180) days from the last date of alleged discrimination, file a charge of discrimination in employment with the Oklahoma Human Rights Commission or the Equal Employment Opportunity Commission alleging the basis of

discrimination believed to have been perpetrated on the aggrieved party. Upon completion of any investigation, the Oklahoma Human Rights Commission shall transmit the results of any administrative hearing and determination to the Equal Employment Opportunity Commission or issue the complaining party a Notice of a Right to Sue.

C. Should a charge of discrimination be filed with the Oklahoma Human Rights Commission and not be resolved to the satisfaction of the charging party within one hundred eighty (180) days from the date of filing of such charge, the Commission, upon request of any party shall issue a Notice of a Right to Sue, which must be first obtained in order to commence a civil action under this section.

D. All civil actions brought pursuant to a Notice of a Right to Sue from the Oklahoma Human Rights Commission for redress against any person who is alleged to have discriminated against the charging party and against any person named as respondent in the charge shall be commenced in the district court of this state for the county in which the unlawful employment practice is alleged to have been committed.

E. Either party in any such action shall be entitled to a jury trial of any facts in dispute in the action.

F. The defending party may allege any defense that is available under Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Pregnancy Discrimination Act,

the Rehibilitation Act, the Americans with Disabilities Act, or the Genetic Information Nondiscrimination Act.

G. If it is determined in such action that the defendant or defendants in such action have discriminated against the charging party as charged in the petition, the court may enjoin the defendant or defendants from engaging in such unlawful employment practice charged in the petition, the court may enjoin respondent from engaging in such unlawful practice and order such affirmative action as reinstatment or hiring of employees. A prevailing aggrieved party shall also be entitled to backpay and an additional amount as liquidated damages. Interim earnings or amounts earnable with reasonable diligence by the person discriminated against shall operate to reduce the backpay otherwise allowable. If an individual was refused employment or advancement, was suspended and/or was discharged for legitimate reasons other than discrimination as provided by this act, then no order of the court shall require the hiring, reinstatement or promotion of that individual as an employee, nor shall it order payment of any backpay.

H. In any action or proceeding under this section, the court may allow a prevailing plaintiff or defendant a reasonable attorney fee.

I. No action may be filed in district court as provided in this section more than ninety (90) days after receiving a Notice of a Right to Sue from the Oklahoma Human Rights Commission.

SECTION 12. AMENDATORY 25 O.S. 2001, Section 1402, is amended to read as follows:

Section 1402. It is a discriminatory practice for a person to deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a "place of public accommodation" because of race, color, religion, sex, national origin, age, or ~~handicap~~ disability.

SECTION 13. AMENDATORY 25 O.S. 2001, Section 1451, is amended to read as follows:

Section 1451. A. As used in Sections 1451 through 1453 of this title:

1. "Elderly person" means any natural person fifty-five (55) years of age or older~~.~~;

2. "Dwelling" means:

a. any building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a ~~residency~~ residence by one or more families~~,~~, or

b. any vacant land that is offered for sale or lease for the construction or location of a building, structure, or part of a building or structure ~~by~~ described in subparagraph a of this paragraph~~.~~;

3. "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal

representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries, the state, and all political subdivisions and agencies thereof~~.~~;

4. "Restrictive covenants" means any specification limiting the transfer, rental, or lease of any dwelling because of race, color, religion, sex, national origin, age, ~~handicap~~ disability, or familial status~~.~~;

5. "Discriminatory housing practices" means an act that is prohibited pursuant to Section 1452 of this title~~.~~;

6. ~~"Handicap"~~ "Disability" means a mental or physical impairment that substantially limits at least one major life activity, when there is a record of such an impairment, or the individual is regarded as having such an impairment. The term does not include current illegal use of or addiction to any drug or illegal or federally controlled substance. For purposes of ~~this act~~ Sections 1451 through 1453 of this title, "an individual with a ~~handicap~~ disability" or "~~handicap~~ disability" does not apply to an individual because of sexual orientation or the sexual preference of the individual or because that individual is a transvestite~~.~~;

7. "Unlawful discriminatory practice because of age" means an act prohibited pursuant to Section 1452 of this title against a person at least eighteen (18) years of age or older solely on that basis~~.~~;

8. "Aggrieved person" means any person who:

a. claims to have been injured by a discriminatory housing practice, or

b. believes that he or she will be injured by a discriminatory housing practice that is about to occur~~.~~;

9. "Complainant" means a person, the Commission, or the Attorney General, who files a complaint pursuant to Section 1452 of this title~~.~~;

10. "Commission" means the Oklahoma Human Rights Commission~~.~~;

11. "Conciliation" means the attempted resolution of issues raised by a complaint or by the investigation of the complaint, through informal negotiations involving the aggrieved person, the respondent, and the Commission~~.~~;

12. "Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation~~.~~;

13. "Discriminatory housing practice" means an act prohibited by Section 1452 of this title~~.~~;

14. "Family" includes a single individual~~.~~;

15. "Respondent" means:

a. the person accused of a violation of ~~this act~~ Sections 1451 through 1453 of this title in a complaint of a discriminatory housing practice, or

b. any person identified as an additional or substitute respondent pursuant to Section ~~11~~ 1502.5 of this ~~act~~ title or an agent of an additional or substitute respondent~~.~~; and

16. "To rent" ~~includes~~ means to lease, to sublease, to let, or to otherwise grant for a consideration the right to occupy premises not owned by the occupant.

~~17.~~ B. For purposes of ~~this act~~ Sections 1451 through 1453 of this title, a discriminatory act is committed because of familial status only if the act is committed because the person who is the subject of discrimination is:

~~a. pregnant,~~

~~b. domiciled~~

1. Pregnant;

2. Domiciled with an individual less than eighteen (18) years of age in regard to whom the person:

~~(1)~~ a. is the parent or legal custodian, or

~~(2)~~ b. has the written permission of the parent or legal custodian for domicile with that person~~,~~; or

~~c. in~~

3. In the process of obtaining legal custody of an individual less than eighteen (18) years of age.

SECTION 14. AMENDATORY 25 O.S. 2001, Section 1452, is amended to read as follows:

Section 1452. A. It shall be an unlawful discriminatory housing practice for any person, or any agent or employee of such person:

1. To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of any housing, or otherwise make unavailable or deny any housing because of race, color, religion, gender, national origin, age, familial status, or ~~handicap~~ disability;

2. To discriminate against any person in the terms, conditions, or privileges of sale or rental of housing, or in the provision of services or facilities in connection with any housing because of race, color, religion, gender, national origin, age, familial status, or ~~handicap~~ disability;

3. To make, print, publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of housing that indicates any preference, limitation, discrimination, or intention to make any such preference, limitation, or discrimination because of race, color, religion, gender, national origin, age, familial status, or ~~handicap~~ disability;

4. To represent to any person, for reasons of discrimination, that any housing is not available for inspection, sale, or rental when such housing is in fact so available because of race, color,

religion, gender, national origin, age, familial status, or ~~handicap~~ disability;

5. To deny any person access to, or membership or participation in, a multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or discriminate against a person in the terms or conditions of access, membership, or participation in such an organization, service, or facility because of race, color, religion, gender, national origin, age, familial status, or ~~handicap~~ disability;

6. To include in any transfer, sale, rental, or lease of housing any restrictive covenant that discriminates, or for any person to honor or exercise, or attempt to honor or exercise, any discriminatory covenant pertaining to housing because of race, color, religion, gender, national origin, age, familial status, or ~~handicap~~ disability;

7. To refuse to consider the income of both applicants when both applicants seek to buy or lease housing because of race, color, religion, gender, national origin, age, familial status, or ~~handicap~~ disability;

8. To refuse to consider as a valid source of income any public assistance, alimony, or child support, awarded by a court, when that source can be verified as to its amount, length of time received,

regularity, or receipt because of race, color, religion, gender, national origin, age, familial status, or ~~handicap~~ disability;

9. To discriminate against a person in the terms, conditions, or privileges relating to the obtaining or use of financial assistance for the acquisition, construction, rehabilitation, repair, or maintenance of any housing because of race, color, religion, gender, national origin, age, familial status, or ~~handicap~~ disability;

10. To discharge, demote, or discriminate in matters of compensation or working conditions against any employee or agent because of the obedience of ~~said~~ the employee or agent to the provisions of this section;

11. To solicit or attempt to solicit the listing of housing for sale or lease, by door to door solicitation, in person, or by telephone, or by distribution of circulars, if one of the purposes is to change the racial composition of the neighborhood;

12. To knowingly induce or attempt to induce another person to transfer an interest in real property, or to discourage another person from purchasing real property, by representations regarding the existing or potential proximity of real property owned, used, or occupied by persons of any particular race, color, religion, gender, national origin, age, familial status or ~~handicap~~ disability, or to represent that such existing or potential proximity shall or may result in:

a. the lowering of property values,

b. a change in the racial, religious, or ethnic character of the block, neighborhood, or area in which the property is located,

c. an increase in criminal or antisocial behavior in the area, or

d. a decline in quality of the schools serving the area;

13. To refuse to rent or lease housing to a blind, deaf, or ~~handicapped~~ disabled person on the basis of the person's use or possession of a bona fide, properly trained guide, signal, or service dog;

14. To demand the payment of an additional nonrefundable fee or an unreasonable deposit for rent from a blind, deaf, or ~~handicapped~~ disabled person for such dog. Such blind, deaf, or ~~handicapped~~ disabled person may be liable for any damage done to the dwelling by such dog;

15. a. to discriminate in the sale or rental or otherwise make available or deny a dwelling to any buyer or renter because of a ~~handicap~~ disability of:

(1) that buyer or renter,

(2) a person residing in or intending to reside in that dwelling after it is sold, rented, or made available, or

(3) any person associated with that buyer or renter, or

b. to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of a ~~handicap~~ disability of:

(1) that person,

(2) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available, or

(3) any person associated with that person;

16. For purposes of ~~handicap~~ disability discrimination in housing pursuant to ~~this act~~ Sections 1451 through 1453 of this title, discrimination includes:

a. a refusal to permit, at the expense of the ~~handicapped~~ disabled person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises, provided that such person also provides a surety bond guaranteeing restoration of the premises to their prior condition, if necessary to make the premises suitable for ~~nonhandicapped~~ nondisabled tenants,

b. a refusal to make reasonable accommodations in rules, policies, practices, or services, when the accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling, or

c. in connection with the design and construction of covered multifamily dwellings for first occupancy thirty (30) months after the date of enactment of the federal Fair Housing Amendments Act of 1988 (Public Law 100-430), a failure to design and construct those dwellings in a manner that:

(1) the public use and common use portions of the dwellings are readily accessible to and usable by ~~handicapped~~ disabled persons,

(2) all the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by ~~handicapped~~ disabled persons in wheelchairs, and

(3) all premises within the dwellings contain the following features of adaptive design:

(a) an accessible route into and through the dwelling,

(b) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations,

(c) reinforcements in bathroom walls to allow later installation of grab bars, and

(d) usable kitchen and bathrooms so that an individual in a wheelchair can maneuver about the space,

(4) compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically ~~handicapped~~ disabled people, commonly cited as "ANSI A 117.1", suffices to satisfy the requirements of ~~subdivision~~ division (3) of this subparagraph ~~c of this paragraph~~,

(5) as used in this subsection, the term "covered multifamily dwellings" means:

(a) buildings consisting of four or more units if the buildings have one or more elevators, and

(b) ground floor units in other buildings consisting of four or more units,

(6) nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose

tenancy would result in substantial physical damage to the property of others; or

17. a. A person whose business includes engaging in residential real estate related transactions may not discriminate against a person in making a real estate related transaction available or in the terms or conditions of a real estate related transaction because of race, color, religion, gender, ~~handicap~~ disability, familial status, national origin or age~~,~~.

b. In this section, "residential real estate related transaction" means:

(1) making or purchasing loans or providing other financial assistance:

(a) to purchase, construct, improve, repair, or maintain a dwelling, or

(b) to secure residential real estate, or

(2) selling, brokering, or appraising residential real property~~;~~.

~~18.~~ B. This section does not prohibit discrimination against a person because the person has been convicted under federal law or the law of any state of the illegal manufacture or distribution of a controlled substance.

~~B.~~ C. No other categories or classes of persons are protected pursuant to ~~this act~~ Sections 1451 through 1453 of this title. The

Oklahoma Human Rights Commission shall have no authority or jurisdiction to act on complaints based on any kind of discrimination other than those kinds of discrimination prohibited pursuant to ~~Sections~~ Section 1101 et seq. of ~~Title 25 of the Oklahoma Statutes~~ this title or any other specifically authorized by law.

SECTION 15. AMENDATORY 25 O.S. 2001, Section 1453, is amended to read as follows:

Section 1453. Nothing provided for in Sections 1451 through 1453 of this title shall:

1. Prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of housing which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preferences to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in Sections ~~1 through 7 of this act~~ 1451, 1452, 1453, 1501, 1505 and 1505.1 of this title apply to a private membership club which is a bona fide club and which is exempt from taxation pursuant to Section 501(c) of the Internal Revenue Code of 1954;

2. Prohibit a religious organization, association, or society, or a nonprofit institution or organization operated, supervised, or

controlled by or in conjunction with a religious organization, association, or society, from:

a. limiting the sale, rental, or occupancy of dwellings that it owns or operates for other than a commercial purpose to persons of the same religion, or

b. giving preference to persons of the same religion, unless membership in the religion is restricted because of race, color, or national origin;

3. Prohibit a private club not open to the public that, as an incident to its primary purpose, provides lodging that it owns or operates for other than a commercial purpose from limiting the rental or occupancy of that lodging to its members or from giving preference to its members;

4. Nothing provided for in Sections 1451 through 1453 of this title relating to familial status applies to housing for older persons. As used in this section, "housing for older persons" means housing:

a. that the Oklahoma Human Rights Commission determines is specifically designed and operated to assist elderly persons pursuant to a federal or state program,

b. intended for, and solely occupied by, persons sixty-two (62) years of age or older, or

c. intended and operated for occupancy by at least one person fifty-five (55) years of age or older per unit as determined by Commission rules;

5. a. Subject to subdivision (b) of ~~subparagraph~~ division (1) of this ~~paragraph~~ subparagraph, ~~this act does~~ Sections 1451 through 1453 of this title do not apply to:

(1) the sale or rental of a single-family house sold or rented by an owner if:

(a) the owner does not:

(i) own more than three (3) single-family houses at any one time, or

(ii) own any interest in, or is there owned or reserved on his or her behalf, pursuant to any express or voluntary agreement, title to or any right to any part of the proceeds from the sale or rental of more than three (3) single-family houses at any one time, and

(b) the house was sold or rented without:

(i) the use of the sales or rental facilities or services of a real estate broker, agent, or salesman licensed pursuant to the Oklahoma Real Estate

License Code, or of an employee or agent of a licensed broker, agent, or salesman, or the facilities or services of the owner of a dwelling designed or intended for occupancy by five (5) or more families, or

(ii) the publication, posting, or mailing of a notice, statement, or advertisement prohibited by Section 1452 of this title, or

(2) the sale or rental of rooms or units in a dwelling containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner maintains and occupies one of the living quarters as the owner's residence,

b. the exemption in ~~subdivision~~ division (1) of subparagraph a of this paragraph applies to only one sale or rental in a twenty-four-month period, if the owner was not the most recent resident of the house at the time of the sale or rental;

6. Nothing provided for in Sections 1451 through 1453 of this title shall prohibit a person engaged in the business of furnishing appraisals of real property from taking into consideration factors

other than race, color, age, religion, gender, ~~handicap~~ disability, familial status, or national origin;

7. Nothing provided for in Sections 1451 through 1453 of this title shall affect a reasonable local or state restriction on the maximum number of occupants permitted to occupy a dwelling or restriction relating to health or safety standards;

8. Nothing provided for in Sections 1451 through 1453 of this title shall prevent or restrict the sale, lease, rental, transfer, or development of housing designed or intended for the use of the ~~handicapped~~ disabled;

9. Nothing provided for in Sections 1451 through 1453 of this title shall affect a requirement of nondiscrimination in any other state or federal law;

10. Nothing provided for in Sections 1451 through 1453 of this title shall prohibit the transfer of property by will, intestate succession, or by gift.

SECTION 16. AMENDATORY 25 O.S. 2001, Section 1506.9, is amended to read as follows:

Section 1506.9 A. A person commits an offense if the person, whether or not acting under color of law, by force or threat of force, intentionally intimidates or interferes with a person:

1. Because of the person's race, color, religion, gender, ~~handicap~~ disability, familial status, or national origin and because the person is or has been selling, purchasing, renting, financing,

occupying, contracting, or negotiating for the sale, purchase, rental, financing, or occupation of any dwelling, or applying for or participating in a service, organization, or facility relating to the business of selling or renting dwellings; or

2. Because the person is or has been, or has attempted to intimidate the person from:

a. participating, without discrimination because of race, color, religion, gender, ~~handicap~~ disability, familial status, or national origin, in an activity, service, organization, or facility described in paragraph 1 of this subsection,

b. affording another person opportunity or protection to so participate, or

c. lawfully aiding or encouraging other persons to participate, without discrimination because of race, color, religion, gender, ~~handicap~~ disability, familial status, or national origin, in an activity, service, organization, or facility described in paragraph 1 of this subsection.

B. An offense pursuant to this section is a misdemeanor.

SECTION 17. AMENDATORY 25 O.S. 2001, Section 1702, is amended to read as follows:

Section 1702. A political subdivision may adopt and enforce an ordinance prohibiting discrimination because of race, color,

religion, sex, national origin, age, ~~or handicap~~ disability, or genetic information not in conflict with a provision of ~~Sections 1101 through 1706~~ Section 1101 et seq. of this title.

SECTION 18. AMENDATORY 25 O.S. 2001, Section 1703, is amended to read as follows:

Section 1703. A political subdivision, or two or more political subdivisions acting jointly, may create a local commission to promote the purposes of ~~Sections 1101 through 1706~~ Section 1101 et seq. of this title and to secure for all individuals within the jurisdiction of the political subdivision or subdivisions freedom from discrimination because of race, color, religion, sex, national origin, age, ~~or handicap~~ disability, or genetic information, and may appropriate funds for the expenses of the local commission.

SECTION 19. AMENDATORY 25 O.S. 2001, Section 1704, is amended to read as follows:

Section 1704. A local commission may have the following powers in addition to powers authorized by other laws:

1. To employ an executive director and other employees and agents and fix their compensation;

2. To cooperate with individuals and state, local, and other agencies, both public and private, including agencies of the federal government and other states and municipalities;

3. To accept gifts, bequests, grants, or other payments, public or private, to help finance its activities;

4. To receive, initiate, investigate, and seek to conciliate complaints alleging violations of ~~this act~~ Section 1101 et seq. of this title or of an ordinance prohibiting discrimination because of race, color, religion, sex, national origin, age, ~~or handicap~~ disability, or genetic information or legislation establishing the commission;

5. To make studies appropriate to effectuate its purposes and policies and to make the results thereof available to the public; and

6. To render at least annually a report, a copy of which shall be furnished to the ~~State~~ Oklahoma Human Rights Commission.

SECTION 20. AMENDATORY 25 O.S. 2001, Section 1705, is amended to read as follows:

Section 1705. A. The ~~State~~ Oklahoma Human Rights Commission:

1. Whether or not a complaint has been filed under the provisions of ~~Sections~~ Section 1502 or 1704 of this title, may refer a matter involving discrimination because of race, color, religion, sex, national origin, age, ~~or handicap~~ disability, or genetic information to a local commission for investigation, study, and report; and

2. May refer a complaint alleging a violation of ~~this act~~ Section 1101 et seq. of this title to a local commission for:

a. investigation,

b. determination whether there is reasonable cause to believe that the respondent has engaged in a discriminatory practice, or

c. assistance in eliminating a discriminatory practice by conference, conciliation, or persuasion.

B. Upon referral by the ~~State~~ Commission, the local commission shall make a report and may make recommendations to the ~~State~~ Commission and take other appropriate action within the scope of its powers.

SECTION 21. REPEALER 25 O.S. 2001, Section 1901, is hereby repealed.

SECTION 22. This act shall become effective November 1, 2011.

53-1-7433 EK 04/05/11