

SENATE BILL NO. 368—SENATORS PARKS
AND LESLIE (BY REQUEST)

MARCH 21, 2011

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Prohibits discrimination in housing and certain other transactions involving real property on the basis of sexual orientation or gender identity or expression. (BDR 10-416)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to housing; prohibiting discrimination in housing and certain other transactions involving real property on the basis of sexual orientation or gender identity or expression; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law, commonly referred to as the Nevada Fair Housing Law, prohibits discrimination in housing, including selling or renting a dwelling, on the basis of race, religious creed, color, national origin, disability, ancestry, familial status or sex. The Nevada Fair Housing Law further provides a process and remedies to enforce the law if a person engages in such discrimination, which includes the authority to file a complaint with the Nevada Equal Rights Commission and to file an action in court to obtain an injunction and civil damages. (NRS 118.010-118.120, chapter 233 of NRS) Existing law further makes it a crime to engage in such discrimination as a basis to refuse to rent, lease, sell or otherwise convey property, or to deny a real estate loan or engage in certain other practices relating to such a loan. (NRS 207.300, 207.310) Existing law also makes it a crime for a real estate broker or salesperson to engage in such discrimination with respect to certain real estate transactions and makes a real estate appraiser subject to disciplinary action for refusing to prepare or communicate an appraisal based upon such discrimination. (NRS 645.321, 645C.480) This bill expands those prohibitions and crimes to include such discriminatory practices based upon sexual orientation or gender identity or expression.



* S B 3 6 8 *

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 118 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *“Gender identity or expression” means a gender-related identity, appearance, expression or behavior of a person, regardless of the person’s assigned sex at birth.*

Sec. 3. *“Sexual orientation” means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.*

Sec. 4. NRS 118.010 is hereby amended to read as follows:

118.010 The provisions of NRS 118.010 to 118.120, inclusive, *and sections 2 and 3 of this act* may be cited as the Nevada Fair Housing Law.

Sec. 5. NRS 118.020 is hereby amended to read as follows:

118.020 1. It is hereby declared to be the public policy of the State of Nevada that all people in the State have equal opportunity to inherit, purchase, lease, rent, sell, hold and convey real property without discrimination, distinction or restriction because of race, religious creed, color, national origin, disability, *sexual orientation, gender identity or expression*, ancestry, familial status or sex.

2. Nothing in this chapter shall be deemed to render enforceable a conveyance or other contract made by a person who lacks the capacity to contract.

Sec. 6. NRS 118.030 is hereby amended to read as follows:

118.030 As used in NRS 118.010 to 118.120, inclusive, *and sections 2 and 3 of this act*, unless the context otherwise requires, the words and terms defined in NRS 118.040 to 118.090, inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.

Sec. 7. NRS 118.095 is hereby amended to read as follows:

118.095 The Commission may adopt regulations, consistent with the fair housing provisions of 42 U.S.C. §§ 3601 et seq., to carry out the provisions of NRS 118.010 to 118.120, inclusive ~~1~~, *and sections 2 and 3 of this act*.

Sec. 8. NRS 118.100 is hereby amended to read as follows:

118.100 ~~1. Except as otherwise provided in subsection 2, a~~
A person shall not, because of race, religious creed, color, national origin, disability, *sexual orientation, gender identity or expression*, ancestry, familial status or sex:

~~(a)~~ 1. Refuse to sell or rent or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person.



~~[(b)]~~ 2. Discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, including the amount of breakage or brokerage fees, deposits or other undue penalties, or in the provision of services or facilities in connection therewith.

~~[(e)]~~ 3. Make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination, or an intention to make any preference, limitation or discrimination. As used in this ~~[paragraph,]~~ *subsection*, "dwelling" includes a house, room or unit described in subsection 2 or 3 of NRS 118.060.

~~[(d)]~~ 4. Represent to any person because of race, religious creed, color, national origin, disability, *sexual orientation, gender identity or expression*, ancestry, familial status or sex that any dwelling is not available for inspection, sale or rental when the dwelling is in fact so available.

~~[(e)]~~ 5. For profit, induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person of a particular race, religious creed, color, national origin, disability, *sexual orientation, gender identity or expression*, ancestry, familial status or sex.

~~[(f)]~~ 6. Coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected in this chapter.

~~[(2. — The provisions of subsection 1 do not prohibit any act that is not prohibited by the provisions of the Fair Housing Act of 1968 (42 U.S.C. §§ 3601 et seq.), as amended.)]~~

Sec. 9. NRS 118.115 is hereby amended to read as follows:

118.115 A tenant has a defense in a summary proceeding or other action for possession of a dwelling if the landlord's attempt to terminate the tenancy or regain possession violates any provision of NRS 118.010 to 118.120, inclusive, *and sections 2 and 3 of this act* or the Fair Housing Act of 1968, 42 U.S.C. §§ 3601 et seq.

Sec. 10. NRS 118A.510 is hereby amended to read as follows:

118A.510 1. Except as otherwise provided in subsection 3, the landlord may not, in retaliation, terminate a tenancy, refuse to renew a tenancy, increase rent or decrease essential services required by the rental agreement or this chapter, or bring or threaten to bring an action for possession if:

(a) The tenant has complained in good faith of a violation of a building, housing or health code applicable to the premises and



1 affecting health or safety to a governmental agency charged with the
2 responsibility for the enforcement of that code;

3 (b) The tenant has complained in good faith to the landlord or a
4 law enforcement agency of a violation of this chapter or of a
5 specific statute that imposes a criminal penalty;

6 (c) The tenant has organized or become a member of a tenant's
7 union or similar organization;

8 (d) A citation has been issued resulting from a complaint
9 described in paragraph (a);

10 (e) The tenant has instituted or defended against a judicial or
11 administrative proceeding or arbitration in which the tenant raised
12 an issue of compliance with the requirements of this chapter
13 respecting the habitability of dwelling units;

14 (f) The tenant has failed or refused to give written consent to a
15 regulation adopted by the landlord, after the tenant enters into
16 the rental agreement, which requires the landlord to wait until the
17 appropriate time has elapsed before it is enforceable against the
18 tenant; or

19 (g) The tenant has complained in good faith to the landlord, a
20 government agency, an attorney, a fair housing agency or any other
21 appropriate body of a violation of NRS 118.010 to 118.120,
22 inclusive, *and sections 2 and 3 of this act* or the Fair Housing Act
23 of 1968, 42 U.S.C. §§ 3601 et seq., or has otherwise exercised rights
24 which are guaranteed or protected under those laws.

25 2. If the landlord violates any provision of subsection 1, the
26 tenant is entitled to the remedies provided in NRS 118A.390 and has
27 a defense in any retaliatory action by the landlord for possession.

28 3. A landlord who acts under the circumstances described in
29 subsection 1 does not violate that subsection if:

30 (a) The violation of the applicable building, housing or health
31 code of which the tenant complained was caused primarily by the
32 lack of reasonable care by the tenant, a member of his or her
33 household or other person on the premises with his or her consent;

34 (b) The tenancy is terminated with cause;

35 (c) A citation has been issued and compliance with the
36 applicable building, housing or health code requires alteration,
37 remodeling or demolition and cannot be accomplished unless the
38 tenant's dwelling unit is vacant; or

39 (d) The increase in rent applies in a uniform manner to all
40 tenants.

41 ➔ The maintenance of an action under this subsection does not
42 prevent the tenant from seeking damages or injunctive relief for the
43 landlord's failure to comply with the rental agreement or maintain
44 the dwelling unit in a habitable condition as required by this chapter.



Sec. 11. NRS 207.297 is hereby amended to read as follows:
207.297 As used in NRS 207.300 and 207.310:

1. "Disability" means, with respect to a person:

(a) A physical or mental impairment that substantially limits one or more of the major life activities of the person;

(b) A record of such an impairment; or

(c) Being regarded as having such an impairment.

2. "Familial status" means the fact that a person:

(a) Lives with a child under the age of 18 and has:

(1) Lawful custody of the child; or

(2) Written permission to live with the child from the person who has lawful custody of the child;

(b) Is pregnant; or

(c) Has begun a proceeding to adopt or otherwise obtain lawful custody of a child.

3. *"Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.*

4. *"Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.*

Sec. 12. NRS 207.300 is hereby amended to read as follows:

207.300 It is unlawful for any person to refuse to rent, lease, sell or otherwise convey any real property solely because of race, religious creed, color, national origin, disability, *sexual orientation, gender identity or expression*, ancestry, familial status or sex.

Sec. 13. NRS 207.310 is hereby amended to read as follows:

207.310 1. As used in this section:

(a) "Customer" means a person who applies for a loan or other financial assistance to purchase, construct, improve or repair a dwelling. The term includes a person who does not intend to enter into a transaction for a loan or other financial assistance, but applies for the loan or financial assistance as if the person intended to enter into the transaction.

(b) "Lender" means a bank, savings and loan association, insurance company or other person whose business consists in whole or in part of making commercial real estate loans.

2. It is unlawful for any lender to deny a loan, or other financial assistance rendered by the lender, to any customer or to discriminate against any customer in fixing the amount, conditions, duration, rate of interest or other terms of a loan or other financial assistance or to refuse to purchase a loan from another lender because of the race, color, religious creed, national origin, disability, *sexual orientation, gender identity or expression*, ancestry, familial status or sex of:



- 1 (a) The customer;
- 2 (b) Any person associated with the customer in connection with
- 3 the loan or other financial assistance or with the purpose of the loan
- 4 or other financial assistance; or
- 5 (c) The present or prospective owners, lessees, tenants or
- 6 occupants of the dwelling in relation to which the loan or other
- 7 financial assistance is to be made or given.

8 3. A person who violates the provisions of this section is guilty

9 of:

- 10 (a) A misdemeanor for the first and second offenses.
- 11 (b) A gross misdemeanor for the third and subsequent offenses.

12 **Sec. 14.** NRS 233.010 is hereby amended to read as follows:

13 233.010 1. It is hereby declared to be the public policy of the

14 State of Nevada to protect the welfare, prosperity, health and peace

15 of all the people of the State, and to foster the right of all persons

16 reasonably to seek, obtain and hold employment ~~[and housing~~

17 ~~accommodations]~~ without discrimination, distinction or restriction

18 because of race, religious creed, color, age, sex, disability, national

19 origin or ancestry.

20 2. *It is hereby declared to be the public policy of the State of*

21 *Nevada to protect the welfare, prosperity, health and peace of all*

22 *the people of the State, and to foster the right of all persons*

23 *reasonably to seek and obtain housing accommodations without*

24 *discrimination, distinction or restriction because of race, religious*

25 *creed, color, age, sex, disability, sexual orientation, gender identity*

26 *or expression, national origin or ancestry.*

27 3. It is hereby declared to be the public policy of the State of

28 Nevada to protect the welfare, prosperity, health and peace of all the

29 people of the State, and to foster the right of all persons reasonably

30 to seek and be granted services in places of public accommodation

31 without discrimination, distinction or restriction because of race,

32 religious creed, color, age, sex, disability, sexual orientation,

33 national origin or ancestry.

34 ~~[3.]~~ 4. It is recognized that the people of this State should be

35 afforded full and accurate information concerning actual and alleged

36 practices of discrimination and acts of prejudice, and that such

37 information may provide the basis for formulating statutory

38 remedies of equal protection and opportunity for all citizens in this

39 State.

40 **Sec. 15.** NRS 233.020 is hereby amended to read as follows:

41 233.020 As used in this chapter:

42 1. "Administrator" means the Administrator of the

43 Commission.

44 2. "Commission" means the Nevada Equal Rights Commission

45 within the Department of Employment, Training and Rehabilitation.



3. "Disability" means, with respect to a person:
- (a) A physical or mental impairment that substantially limits one or more of the major life activities of the person;
 - (b) A record of such an impairment; or
 - (c) Being regarded as having such an impairment.

4. *"Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.*

5. "Member" means a member of the Nevada Equal Rights Commission.

~~[S-]~~ 6. "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

Sec. 16. NRS 233.150 is hereby amended to read as follows:

233.150 The Commission may:

1. Order its Administrator to:

(a) With regard to public accommodation, investigate tensions, practices of discrimination and acts of prejudice against any person or group because of race, color, creed, sex, age, disability, sexual orientation, national origin or ancestry, and may conduct hearings with regard thereto.

(b) With regard to employment , ~~[and housing,]~~ investigate tensions, practices of discrimination and acts of prejudice against any person or group because of race, color, creed, sex, age, disability, national origin or ancestry, and may conduct hearings with regard thereto.

(c) With regard to housing, investigate tensions, practices of discrimination and acts of prejudice against any person or group because of race, color, creed, sex, age, disability, sexual orientation, gender identity or expression, national origin or ancestry, and may conduct hearings with regard thereto.

2. Mediate between or reconcile the persons or groups involved in those tensions, practices and acts.

3. Issue subpoenas for the attendance of witnesses or for the production of documents or tangible evidence relevant to any investigations or hearings conducted by the Commission.

4. Delegate its power to hold hearings and issue subpoenas to any of its members or any hearing officer in its employ.

5. Adopt reasonable regulations necessary for the Commission to carry out the functions assigned to it by law.

Sec. 17. NRS 645.321 is hereby amended to read as follows:

645.321 1. It is unlawful, on account of race, religious creed, color, national origin, disability, *sexual orientation, gender identity or expression*, ancestry, familial status or sex, to:

(a) Discriminate against any person:



(1) By denying the person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service or facility relating to the sale or rental of dwellings; or

(2) In the terms or conditions of such access, membership or participation.

(b) Discriminate against any person:

(1) By denying the person access to any opportunity to engage in a transaction regarding residential real estate; or

(2) In the terms or conditions of such a transaction.

2. Any person violating the provisions of subsection 1 shall be punished by a fine of \$500 for the first offense and for the second offense shall show cause why his or her license should not be revoked by the Commission.

3. As used in this section:

(a) "Disability" means, with respect to a person:

(1) A physical or mental impairment that substantially limits one or more of the major life activities of the person;

(2) A record of such an impairment; or

(3) Being regarded as having such an impairment.

(b) "Familial status" means the fact that a person:

(1) Lives with a child under the age of 18 and has:

(I) Lawful custody of the child; or

(II) Written permission to live with the child from the person who has lawful custody of the child;

(2) Is pregnant; or

(3) Has begun a proceeding to adopt or otherwise obtain lawful custody of a child.

(c) "Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.

(d) "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

Sec. 18. NRS 645C.480 is hereby amended to read as follows:

645C.480 1. A certified or licensed appraiser is guilty of unprofessional conduct if the certified or licensed appraiser:

(a) Fails to produce any document, book or record in his or her possession or under his or her control after being requested to do so by the Division as part of its investigation of a complaint;

(b) Refuses to prepare or communicate an appraisal because of age, race, color, national origin, disability, *sexual orientation, gender identity or expression*, familial status, sex or ethnic group; or



- 1 (c) Fails to supervise adequately an intern associated with him
2 or her.
- 3 2. As used in this section:
- 4 (a) "Disability" means, with respect to a person:
- 5 (1) A physical or mental impairment that substantially limits
6 one or more of the major life activities of the person;
7 (2) A record of such an impairment; or
8 (3) Being regarded as having such an impairment.
- 9 (b) "Familial status" means the fact that a person:
- 10 (1) Lives with a child under the age of 18 and has:
- 11 (I) Lawful custody of the child; or
12 (II) Written permission to live with the child from the
13 person who has lawful custody of the child;
14 (2) Is pregnant; or
15 (3) Has begun a proceeding to adopt or otherwise obtain
16 lawful custody of a child.
- 17 (c) *"Gender identity or expression" means a gender-related*
18 *identity, appearance, expression or behavior of a person,*
19 *regardless of the person's assigned sex at birth.*
- 20 (d) *"Sexual orientation" means having or being perceived as*
21 *having an orientation for heterosexuality, homosexuality or*
22 *bisexuality.*



