

**ESHB 2661** - S COMM AMD

By Committee on Financial Institutions, Housing & Consumer  
Protection

ADOPTED 01/27/2006

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 49.60.010 and 1997 c 271 s 1 are each amended to read  
4 as follows:

5 This chapter shall be known as the "law against  
6 discrimination((=))." It is an exercise of the police power of the  
7 state for the protection of the public welfare, health, and peace of  
8 the people of this state, and in fulfillment of the provisions of the  
9 Constitution of this state concerning civil rights. The legislature  
10 hereby finds and declares that practices of discrimination against any  
11 of its inhabitants because of race, creed, color, national origin,  
12 families with children, sex, marital status, sexual orientation, age,  
13 or the presence of any sensory, mental, or physical disability or the  
14 use of a trained dog guide or service animal by a disabled person are  
15 a matter of state concern, that such discrimination threatens not only  
16 the rights and proper privileges of its inhabitants but menaces the  
17 institutions and foundation of a free democratic state. A state agency  
18 is herein created with powers with respect to elimination and  
19 prevention of discrimination in employment, in credit and insurance  
20 transactions, in places of public resort, accommodation, or amusement,  
21 and in real property transactions because of race, creed, color,  
22 national origin, families with children, sex, marital status, sexual  
23 orientation, age, or the presence of any sensory, mental, or physical  
24 disability or the use of a trained dog guide or service animal by a  
25 disabled person; and the commission established hereunder is hereby  
26 given general jurisdiction and power for such purposes.

27 **Sec. 2.** RCW 49.60.020 and 1993 c 510 s 2 are each amended to read  
28 as follows:

29 The provisions of this chapter shall be construed liberally for the

1 accomplishment of the purposes thereof. Nothing contained in this  
2 chapter shall be deemed to repeal any of the provisions of any other  
3 law of this state relating to discrimination because of race, color,  
4 creed, national origin, sex, marital status, sexual orientation, age,  
5 or the presence of any sensory, mental, or physical disability, other  
6 than a law which purports to require or permit doing any act which is  
7 an unfair practice under this chapter. Nor shall anything herein  
8 contained be construed to deny the right to any person to institute any  
9 action or pursue any civil or criminal remedy based upon an alleged  
10 violation of his or her civil rights. This chapter shall not be  
11 construed to endorse any specific belief, practice, behavior, or  
12 orientation. Inclusion of sexual orientation in this chapter shall not  
13 be construed to modify or supersede state law relating to marriage.

14 **Sec. 3.** RCW 49.60.030 and 1997 c 271 s 2 are each amended to read  
15 as follows:

16 (1) The right to be free from discrimination because of race,  
17 creed, color, national origin, sex, sexual orientation, or the presence  
18 of any sensory, mental, or physical disability or the use of a trained  
19 dog guide or service animal by a disabled person is recognized as and  
20 declared to be a civil right. This right shall include, but not be  
21 limited to:

22 (a) The right to obtain and hold employment without discrimination;

23 (b) The right to the full enjoyment of any of the accommodations,  
24 advantages, facilities, or privileges of any place of public resort,  
25 accommodation, assemblage, or amusement;

26 (c) The right to engage in real estate transactions without  
27 discrimination, including discrimination against families with  
28 children;

29 (d) The right to engage in credit transactions without  
30 discrimination;

31 (e) The right to engage in insurance transactions or transactions  
32 with health maintenance organizations without discrimination:  
33 PROVIDED, That a practice which is not unlawful under RCW 48.30.300,  
34 48.44.220, or 48.46.370 does not constitute an unfair practice for the  
35 purposes of this subparagraph; and

36 (f) The right to engage in commerce free from any discriminatory  
37 boycotts or blacklists. Discriminatory boycotts or blacklists for

1 purposes of this section shall be defined as the formation or execution  
2 of any express or implied agreement, understanding, policy or  
3 contractual arrangement for economic benefit between any persons which  
4 is not specifically authorized by the laws of the United States and  
5 which is required or imposed, either directly or indirectly, overtly or  
6 covertly, by a foreign government or foreign person in order to  
7 restrict, condition, prohibit, or interfere with or in order to exclude  
8 any person or persons from any business relationship on the basis of  
9 race, color, creed, religion, sex, sexual orientation, the presence of  
10 any sensory, mental, or physical disability, or the use of a trained  
11 dog guide or service animal by a disabled person, or national origin or  
12 lawful business relationship: PROVIDED HOWEVER, That nothing herein  
13 contained shall prohibit the use of boycotts as authorized by law  
14 pertaining to labor disputes and unfair labor practices.

15 (2) Any person deeming himself or herself injured by any act in  
16 violation of this chapter shall have a civil action in a court of  
17 competent jurisdiction to enjoin further violations, or to recover the  
18 actual damages sustained by the person, or both, together with the cost  
19 of suit including reasonable attorneys' fees or any other appropriate  
20 remedy authorized by this chapter or the United States Civil Rights Act  
21 of 1964 as amended, or the Federal Fair Housing Amendments Act of 1988  
22 (42 U.S.C. Sec. 3601 et seq.).

23 (3) Except for any unfair practice committed by an employer against  
24 an employee or a prospective employee, or any unfair practice in a real  
25 estate transaction which is the basis for relief specified in the  
26 amendments to RCW 49.60.225 contained in chapter 69, Laws of 1993, any  
27 unfair practice prohibited by this chapter which is committed in the  
28 course of trade or commerce as defined in the Consumer Protection Act,  
29 chapter 19.86 RCW, is, for the purpose of applying that chapter, a  
30 matter affecting the public interest, is not reasonable in relation to  
31 the development and preservation of business, and is an unfair or  
32 deceptive act in trade or commerce.

33 **Sec. 4.** RCW 49.60.040 and 1997 c 271 s 3 are each amended to read  
34 as follows:

35 (~~As used in this chapter:~~) The definitions in this section apply  
36 throughout this chapter unless the context clearly requires otherwise.

1 (1) "Person" includes one or more individuals, partnerships,  
2 associations, organizations, corporations, cooperatives, legal  
3 representatives, trustees and receivers, or any group of persons; it  
4 includes any owner, lessee, proprietor, manager, agent, or employee,  
5 whether one or more natural persons; and further includes any political  
6 or civil subdivisions of the state and any agency or instrumentality of  
7 the state or of any political or civil subdivision thereof;

8 (2) "Commission" means the Washington state human rights  
9 commission;

10 (3) "Employer" includes any person acting in the interest of an  
11 employer, directly or indirectly, who employs eight or more persons,  
12 and does not include any religious or sectarian organization not  
13 organized for private profit;

14 (4) "Employee" does not include any individual employed by his or  
15 her parents, spouse, or child, or in the domestic service of any  
16 person;

17 (5) "Labor organization" includes any organization which exists for  
18 the purpose, in whole or in part, of dealing with employers concerning  
19 grievances or terms or conditions of employment, or for other mutual  
20 aid or protection in connection with employment;

21 (6) "Employment agency" includes any person undertaking with or  
22 without compensation to recruit, procure, refer, or place employees for  
23 an employer;

24 (7) "Marital status" means the legal status of being married,  
25 single, separated, divorced, or widowed;

26 (8) "National origin" includes "ancestry";

27 (9) "Full enjoyment of" includes the right to purchase any service,  
28 commodity, or article of personal property offered or sold on, or by,  
29 any establishment to the public, and the admission of any person to  
30 accommodations, advantages, facilities, or privileges of any place of  
31 public resort, accommodation, assemblage, or amusement, without acts  
32 directly or indirectly causing persons of any particular race, creed,  
33 color, sex, sexual orientation, national origin, or with any sensory,  
34 mental, or physical disability, or the use of a trained dog guide or  
35 service animal by a disabled person, to be treated as not welcome,  
36 accepted, desired, or solicited;

37 (10) "Any place of public resort, accommodation, assemblage, or  
38 amusement" includes, but is not limited to, any place, licensed or

1 unlicensed, kept for gain, hire, or reward, or where charges are made  
2 for admission, service, occupancy, or use of any property or  
3 facilities, whether conducted for the entertainment, housing, or  
4 lodging of transient guests, or for the benefit, use, or accommodation  
5 of those seeking health, recreation, or rest, or for the burial or  
6 other disposition of human remains, or for the sale of goods,  
7 merchandise, services, or personal property, or for the rendering of  
8 personal services, or for public conveyance or transportation on land,  
9 water, or in the air, including the stations and terminals thereof and  
10 the garaging of vehicles, or where food or beverages of any kind are  
11 sold for consumption on the premises, or where public amusement,  
12 entertainment, sports, or recreation of any kind is offered with or  
13 without charge, or where medical service or care is made available, or  
14 where the public gathers, congregates, or assembles for amusement,  
15 recreation, or public purposes, or public halls, public elevators, and  
16 public washrooms of buildings and structures occupied by two or more  
17 tenants, or by the owner and one or more tenants, or any public library  
18 or educational institution, or schools of special instruction, or  
19 nursery schools, or day care centers or children's camps: PROVIDED,  
20 That nothing contained in this definition shall be construed to include  
21 or apply to any institute, bona fide club, or place of accommodation,  
22 which is by its nature distinctly private, including fraternal  
23 organizations, though where public use is permitted that use shall be  
24 covered by this chapter; nor shall anything contained in this  
25 definition apply to any educational facility, columbarium, crematory,  
26 mausoleum, or cemetery operated or maintained by a bona fide religious  
27 or sectarian institution;

28 (11) "Real property" includes buildings, structures, dwellings,  
29 real estate, lands, tenements, leaseholds, interests in real estate  
30 cooperatives, condominiums, and hereditaments, corporeal and  
31 incorporeal, or any interest therein;

32 (12) "Real estate transaction" includes the sale, appraisal,  
33 brokering, exchange, purchase, rental, or lease of real property,  
34 transacting or applying for a real estate loan, or the provision of  
35 brokerage services;

36 (13) "Dwelling" means any building, structure, or portion thereof  
37 that is occupied as, or designed or intended for occupancy as, a

1 residence by one or more families, and any vacant land that is offered  
2 for sale or lease for the construction or location thereon of any such  
3 building, structure, or portion thereof;

4 (14) "Sex" means gender;

5 (15) "Sexual orientation" means heterosexuality, homosexuality,  
6 bisexuality, and gender expression or identity. As used in this  
7 definition, "gender expression or identity" means having or being  
8 perceived as having a gender identity, self-image, appearance,  
9 behavior, or expression, whether or not that gender identity, self-  
10 image, appearance, behavior, or expression is different from that  
11 traditionally associated with the sex assigned to that person at birth;

12 (16) "Aggrieved person" means any person who: (a) Claims to have  
13 been injured by an unfair practice in a real estate transaction; or (b)  
14 believes that he or she will be injured by an unfair practice in a real  
15 estate transaction that is about to occur;

16 ((+16+)) (17) "Complainant" means the person who files a complaint  
17 in a real estate transaction;

18 ((+17+)) (18) "Respondent" means any person accused in a complaint  
19 or amended complaint of an unfair practice in a real estate  
20 transaction;

21 ((+18+)) (19) "Credit transaction" includes any open or closed end  
22 credit transaction, whether in the nature of a loan, retail installment  
23 transaction, credit card issue or charge, or otherwise, and whether for  
24 personal or for business purposes, in which a service, finance, or  
25 interest charge is imposed, or which provides for repayment in  
26 scheduled payments, when such credit is extended in the regular course  
27 of any trade or commerce, including but not limited to transactions by  
28 banks, savings and loan associations or other financial lending  
29 institutions of whatever nature, stock brokers, or by a merchant or  
30 mercantile establishment which as part of its ordinary business permits  
31 or provides that payment for purchases of property or service therefrom  
32 may be deferred;

33 ((+19+)) (20) "Families with children status" means one or more  
34 individuals who have not attained the age of eighteen years being  
35 domiciled with a parent or another person having legal custody of such  
36 individual or individuals, or with the designee of such parent or other  
37 person having such legal custody, with the written permission of such  
38 parent or other person. Families with children status also applies to

1 any person who is pregnant or is in the process of securing legal  
2 custody of any individual who has not attained the age of eighteen  
3 years;

4 ((+20+)) (21) "Covered multifamily dwelling" means: (a) Buildings  
5 consisting of four or more dwelling units if such buildings have one or  
6 more elevators; and (b) ground floor dwelling units in other buildings  
7 consisting of four or more dwelling units;

8 ((+21+)) (22) "Premises" means the interior or exterior spaces,  
9 parts, components, or elements of a building, including individual  
10 dwelling units and the public and common use areas of a building;

11 ((+22+)) (23) "Dog guide" means a dog that is trained for the  
12 purpose of guiding blind persons or a dog that is trained for the  
13 purpose of assisting hearing impaired persons;

14 ((+23+)) (24) "Service animal" means an animal that is trained for  
15 the purpose of assisting or accommodating a disabled person's sensory,  
16 mental, or physical disability.

17 **Sec. 5.** RCW 49.60.120 and 1997 c 271 s 4 are each amended to read  
18 as follows:

19 The commission shall have the functions, powers, and duties:

20 (1) To appoint an executive director and chief examiner, and such  
21 investigators, examiners, clerks, and other employees and agents as it  
22 may deem necessary, fix their compensation within the limitations  
23 provided by law, and prescribe their duties.

24 (2) To obtain upon request and utilize the services of all  
25 governmental departments and agencies.

26 (3) To adopt, (~~promulgate,~~) amend, and rescind suitable rules  
27 (~~and regulations~~) to carry out the provisions of this chapter, and  
28 the policies and practices of the commission in connection therewith.

29 (4) To receive, impartially investigate, and pass upon complaints  
30 alleging unfair practices as defined in this chapter.

31 (5) To issue such publications and (~~such~~) results of  
32 investigations and research as in its judgment will tend to promote  
33 good will and minimize or eliminate discrimination because of sex,  
34 sexual orientation, race, creed, color, national origin, marital  
35 status, age, or the presence of any sensory, mental, or physical  
36 disability, or the use of a trained dog guide or service animal by a  
37 disabled person.

1 (6) To make such technical studies as are appropriate to effectuate  
2 the purposes and policies of this chapter and to publish and distribute  
3 the reports of such studies.

4 (7) To cooperate and act jointly or by division of labor with the  
5 United States or other states, with other Washington state agencies,  
6 commissions, and other government entities, and with political  
7 subdivisions of the state of Washington and their respective human  
8 rights agencies to carry out the purposes of this chapter. However,  
9 the powers which may be exercised by the commission under this  
10 subsection permit investigations and complaint dispositions only if the  
11 investigations are designed to reveal, or the complaint deals only  
12 with, allegations which, if proven, would constitute unfair practices  
13 under this chapter. The commission may perform such services for these  
14 agencies and be reimbursed therefor.

15 (8) To foster good relations between minority and majority  
16 population groups of the state through seminars, conferences,  
17 educational programs, and other intergroup relations activities.

18 **Sec. 6.** RCW 49.60.130 and 1997 c 271 s 5 are each amended to read  
19 as follows:

20 The commission has power to create such advisory agencies and  
21 conciliation councils, local, regional, or statewide, as in its  
22 judgment will aid in effectuating the purposes of this chapter. The  
23 commission may empower them to study the problems of discrimination in  
24 all or specific fields of human relationships or in specific instances  
25 of discrimination because of sex, race, creed, color, national origin,  
26 marital status, sexual orientation, age, or the presence of any  
27 sensory, mental, or physical disability or the use of a trained dog  
28 guide or service animal by a disabled person; to foster through  
29 community effort or otherwise good will, cooperation, and conciliation  
30 among the groups and elements of the population of the state, and to  
31 make recommendations to the commission for the development of policies  
32 and procedures in general and in specific instances, and for programs  
33 of formal and informal education which the commission may recommend to  
34 the appropriate state agency.

35 Such advisory agencies and conciliation councils shall be composed  
36 of representative citizens, serving without pay, but with reimbursement  
37 for travel expenses in accordance with RCW 43.03.050 and 43.03.060 as



1 now existing or hereafter amended, and the commission may make  
2 provision for technical and clerical assistance to such agencies and  
3 councils and for the expenses of such assistance. The commission may  
4 use organizations specifically experienced in dealing with questions of  
5 discrimination.

6 **Sec. 7.** RCW 49.60.175 and 1997 c 271 s 7 are each amended to read  
7 as follows:

8 It shall be an unfair practice to use the sex, race, creed, color,  
9 national origin, marital status, sexual orientation, or the presence of  
10 any sensory, mental, or physical disability of any person, or the use  
11 of a trained dog guide or service animal by a disabled person,  
12 concerning an application for credit in any credit transaction to  
13 determine the credit worthiness of an applicant.

14 **Sec. 8.** RCW 49.60.176 and 1997 c 271 s 8 are each amended to read  
15 as follows:

16 (1) It is an unfair practice for any person whether acting for  
17 himself, herself, or another in connection with any credit transaction  
18 because of race, creed, color, national origin, sex, marital status,  
19 sexual orientation, or the presence of any sensory, mental, or physical  
20 disability or the use of a trained dog guide or service animal by a  
21 disabled person:

22 (a) To deny credit to any person;

23 (b) To increase the charges or fees for or collateral required to  
24 secure any credit extended to any person;

25 (c) To restrict the amount or use of credit extended or to impose  
26 different terms or conditions with respect to the credit extended to  
27 any person or any item or service related thereto;

28 (d) To attempt to do any of the unfair practices defined in this  
29 section.

30 (2) Nothing in this section shall prohibit any party to a credit  
31 transaction from considering the credit history of any individual  
32 applicant.

33 (3) Further, nothing in this section shall prohibit any party to a  
34 credit transaction from considering the application of the community  
35 property law to the individual case or from taking reasonable action  
36 thereon.

1       **Sec. 9.** RCW 49.60.178 and 1997 c 271 s 9 are each amended to read  
2 as follows:

3       It is an unfair practice for any person whether acting for himself,  
4 herself, or another in connection with an insurance transaction or  
5 transaction with a health maintenance organization to cancel or fail or  
6 refuse to issue or renew insurance or a health maintenance agreement to  
7 any person because of sex, marital status, sexual orientation, race,  
8 creed, color, national origin, or the presence of any sensory, mental,  
9 or physical disability or the use of a trained dog guide or service  
10 animal by a disabled person: PROVIDED, That a practice which is not  
11 unlawful under RCW 48.30.300, 48.44.220, or 48.46.370 does not  
12 constitute an unfair practice for the purposes of this section. For  
13 the purposes of this section, "insurance transaction" is defined in RCW  
14 48.01.060, health maintenance agreement is defined in RCW 48.46.020,  
15 and "health maintenance organization" is defined in RCW 48.46.020.

16       The fact that such unfair practice may also be a violation of  
17 chapter 48.30, 48.44, or 48.46 RCW does not constitute a defense to an  
18 action brought under this section.

19       The insurance commissioner, under RCW 48.30.300, and the human  
20 rights commission, under chapter 49.60 RCW, shall have concurrent  
21 jurisdiction under this section and shall enter into a working  
22 agreement as to procedure to be followed in complaints under this  
23 section.

24       **Sec. 10.** RCW 49.60.180 and 1997 c 271 s 10 are each amended to  
25 read as follows:

26       It is an unfair practice for any employer:

27       (1) To refuse to hire any person because of age, sex, marital  
28 status, sexual orientation, race, creed, color, national origin, or the  
29 presence of any sensory, mental, or physical disability or the use of  
30 a trained dog guide or service animal by a disabled person, unless  
31 based upon a bona fide occupational qualification: PROVIDED, That the  
32 prohibition against discrimination because of such disability shall not  
33 apply if the particular disability prevents the proper performance of  
34 the particular worker involved: PROVIDED, That this section shall not  
35 be construed to require an employer to establish employment goals or  
36 quotas based on sexual orientation.

1 (2) To discharge or bar any person from employment because of age,  
2 sex, marital status, sexual orientation, race, creed, color, national  
3 origin, or the presence of any sensory, mental, or physical disability  
4 or the use of a trained dog guide or service animal by a disabled  
5 person.

6 (3) To discriminate against any person in compensation or in other  
7 terms or conditions of employment because of age, sex, marital status,  
8 sexual orientation, race, creed, color, national origin, or the  
9 presence of any sensory, mental, or physical disability or the use of  
10 a trained dog guide or service animal by a disabled person: PROVIDED,  
11 That it shall not be an unfair practice for an employer to segregate  
12 washrooms or locker facilities on the basis of sex, or to base other  
13 terms and conditions of employment on the sex of employees where the  
14 commission by regulation or ruling in a particular instance has found  
15 the employment practice to be appropriate for the practical realization  
16 of equality of opportunity between the sexes.

17 (4) To print, or circulate, or cause to be printed or circulated  
18 any statement, advertisement, or publication, or to use any form of  
19 application for employment, or to make any inquiry in connection with  
20 prospective employment, which expresses any limitation, specification,  
21 or discrimination as to age, sex, marital status, sexual orientation,  
22 race, creed, color, national origin, or the presence of any sensory,  
23 mental, or physical disability or the use of a trained dog guide or  
24 service animal by a disabled person, or any intent to make any such  
25 limitation, specification, or discrimination, unless based upon a bona  
26 fide occupational qualification: PROVIDED, Nothing contained herein  
27 shall prohibit advertising in a foreign language.

28 **Sec. 11.** RCW 49.60.190 and 1997 c 271 s 11 are each amended to  
29 read as follows:

30 It is an unfair practice for any labor union or labor organization:

31 (1) To deny membership and full membership rights and privileges to  
32 any person because of age, sex, marital status, sexual orientation,  
33 race, creed, color, national origin, or the presence of any sensory,  
34 mental, or physical disability or the use of a trained dog guide or  
35 service animal by a disabled person.

36 (2) To expel from membership any person because of age, sex,  
37 marital status, sexual orientation, race, creed, color, national

1 origin, or the presence of any sensory, mental, or physical disability  
2 or the use of a trained dog guide or service animal by a disabled  
3 person.

4 (3) To discriminate against any member, employer, employee, or  
5 other person to whom a duty of representation is owed because of age,  
6 sex, marital status, sexual orientation, race, creed, color, national  
7 origin, or the presence of any sensory, mental, or physical disability  
8 or the use of a trained dog guide or service animal by a disabled  
9 person.

10 **Sec. 12.** RCW 49.60.200 and 1997 c 271 s 12 are each amended to  
11 read as follows:

12 It is an unfair practice for any employment agency to fail or  
13 refuse to classify properly or refer for employment, or otherwise to  
14 discriminate against, an individual because of age, sex, marital  
15 status, sexual orientation, race, creed, color, national origin, or the  
16 presence of any sensory, mental, or physical disability or the use of  
17 a trained dog guide or service animal by a disabled person, or to print  
18 or circulate, or cause to be printed or circulated any statement,  
19 advertisement, or publication, or to use any form of application for  
20 employment, or to make any inquiry in connection with prospective  
21 employment, which expresses any limitation, specification or  
22 discrimination as to age, sex, race, sexual orientation, creed, color,  
23 or national origin, or the presence of any sensory, mental, or physical  
24 disability or the use of a trained dog guide or service animal by a  
25 disabled person, or any intent to make any such limitation,  
26 specification, or discrimination, unless based upon a bona fide  
27 occupational qualification: PROVIDED, Nothing contained herein shall  
28 prohibit advertising in a foreign language.

29 **Sec. 13.** RCW 49.60.215 and 1997 c 271 s 13 are each amended to  
30 read as follows:

31 It shall be an unfair practice for any person or the person's agent  
32 or employee to commit an act which directly or indirectly results in  
33 any distinction, restriction, or discrimination, or the requiring of  
34 any person to pay a larger sum than the uniform rates charged other  
35 persons, or the refusing or withholding from any person the admission,  
36 patronage, custom, presence, frequenting, dwelling, staying, or lodging

1 in any place of public resort, accommodation, assemblage, or amusement,  
2 except for conditions and limitations established by law and applicable  
3 to all persons, regardless of race, creed, color, national origin,  
4 sexual orientation, sex, the presence of any sensory, mental, or  
5 physical disability, or the use of a trained dog guide or service  
6 animal by a disabled person: PROVIDED, That this section shall not be  
7 construed to require structural changes, modifications, or additions to  
8 make any place accessible to a disabled person except as otherwise  
9 required by law: PROVIDED, That behavior or actions constituting a  
10 risk to property or other persons can be grounds for refusal and shall  
11 not constitute an unfair practice.

12 **Sec. 14.** RCW 49.60.222 and 1997 c 400 s 3 and 1997 c 271 s 14 are  
13 each reenacted and amended to read as follows:

14 (1) It is an unfair practice for any person, whether acting for  
15 himself, herself, or another, because of sex, marital status, sexual  
16 orientation, race, creed, color, national origin, families with  
17 children status, the presence of any sensory, mental, or physical  
18 disability, or the use of a trained dog guide or service animal by a  
19 disabled person:

20 (a) To refuse to engage in a real estate transaction with a person;

21 (b) To discriminate against a person in the terms, conditions, or  
22 privileges of a real estate transaction or in the furnishing of  
23 facilities or services in connection therewith;

24 (c) To refuse to receive or to fail to transmit a bona fide offer  
25 to engage in a real estate transaction from a person;

26 (d) To refuse to negotiate for a real estate transaction with a  
27 person;

28 (e) To represent to a person that real property is not available  
29 for inspection, sale, rental, or lease when in fact it is so available,  
30 or to fail to bring a property listing to his or her attention, or to  
31 refuse to permit the person to inspect real property;

32 (f) To discriminate in the sale or rental, or to otherwise make  
33 unavailable or deny a dwelling, to any person; or to a person residing  
34 in or intending to reside in that dwelling after it is sold, rented, or  
35 made available; or to any person associated with the person buying or  
36 renting;

1 (g) To make, print, circulate, post, or mail, or cause to be so  
2 made or published a statement, advertisement, or sign, or to use a form  
3 of application for a real estate transaction, or to make a record or  
4 inquiry in connection with a prospective real estate transaction, which  
5 indicates, directly or indirectly, an intent to make a limitation,  
6 specification, or discrimination with respect thereto;

7 (h) To offer, solicit, accept, use, or retain a listing of real  
8 property with the understanding that a person may be discriminated  
9 against in a real estate transaction or in the furnishing of facilities  
10 or services in connection therewith;

11 (i) To expel a person from occupancy of real property;

12 (j) To discriminate in the course of negotiating, executing, or  
13 financing a real estate transaction whether by mortgage, deed of trust,  
14 contract, or other instrument imposing a lien or other security in real  
15 property, or in negotiating or executing any item or service related  
16 thereto including issuance of title insurance, mortgage insurance, loan  
17 guarantee, or other aspect of the transaction. Nothing in this section  
18 shall limit the effect of RCW 49.60.176 relating to unfair practices in  
19 credit transactions; or

20 (k) To attempt to do any of the unfair practices defined in this  
21 section.

22 (2) For the purposes of this chapter discrimination based on the  
23 presence of any sensory, mental, or physical disability or the use of  
24 a trained dog guide or service animal by a blind, deaf, or physically  
25 disabled person includes:

26 (a) A refusal to permit, at the expense of the disabled person,  
27 reasonable modifications of existing premises occupied or to be  
28 occupied by such person if such modifications may be necessary to  
29 afford such person full enjoyment of the dwelling, except that, in the  
30 case of a rental, the landlord may, where it is reasonable to do so,  
31 condition permission for a modification on the renter agreeing to  
32 restore the interior of the dwelling to the condition that existed  
33 before the modification, reasonable wear and tear excepted;

34 (b) To refuse to make reasonable accommodation in rules, policies,  
35 practices, or services when such accommodations may be necessary to  
36 afford a person with the presence of any sensory, mental, or physical  
37 disability and/or the use of a trained dog guide or service animal by

1 a blind, deaf, or physically disabled person equal opportunity to use  
2 and enjoy a dwelling; or

3 (c) To fail to design and construct covered multifamily dwellings  
4 and premises in conformance with the federal fair housing amendments  
5 act of 1988 (42 U.S.C. Sec. 3601 et seq.) and all other applicable laws  
6 or regulations pertaining to access by persons with any sensory,  
7 mental, or physical disability or use of a trained dog guide or service  
8 animal. Whenever the requirements of applicable laws or regulations  
9 differ, the requirements which require greater accessibility for  
10 persons with any sensory, mental, or physical disability shall govern.

11 Nothing in (a) or (b) of this subsection shall apply to: (i) A  
12 single-family house rented or leased by the owner if the owner does not  
13 own or have an interest in the proceeds of the rental or lease of more  
14 than three such single-family houses at one time, the rental or lease  
15 occurred without the use of a real estate broker or salesperson, as  
16 defined in RCW 18.85.010, and the rental or lease occurred without the  
17 publication, posting, or mailing of any advertisement, sign, or  
18 statement in violation of subsection (1)(g) of this section; or (ii)  
19 rooms or units in dwellings containing living quarters occupied or  
20 intended to be occupied by no more than four families living  
21 independently of each other if the owner maintains and occupies one of  
22 the rooms or units as his or her residence.

23 (3) Notwithstanding any other provision of this chapter, it shall  
24 not be an unfair practice or a denial of civil rights for any public or  
25 private educational institution to separate the sexes or give  
26 preference to or limit use of dormitories, residence halls, or other  
27 student housing to persons of one sex or to make distinctions on the  
28 basis of marital or families with children status.

29 (4) Except pursuant to subsection (2)(a) of this section, this  
30 section shall not be construed to require structural changes,  
31 modifications, or additions to make facilities accessible to a disabled  
32 person except as otherwise required by law. Nothing in this section  
33 affects the rights, responsibilities, and remedies of landlords and  
34 tenants pursuant to chapter 59.18 or 59.20 RCW, including the right to  
35 post and enforce reasonable rules of conduct and safety for all tenants  
36 and their guests, provided that chapters 59.18 and 59.20 RCW are only  
37 affected to the extent they are inconsistent with the nondiscrimination  
38 requirements of this chapter. Nothing in this section limits the

1 applicability of any reasonable federal, state, or local restrictions  
2 regarding the maximum number of occupants permitted to occupy a  
3 dwelling.

4 (5) Notwithstanding any other provision of this chapter, it shall  
5 not be an unfair practice for any public establishment providing for  
6 accommodations offered for the full enjoyment of transient guests as  
7 defined by RCW 9.91.010(1)(c) to make distinctions on the basis of  
8 families with children status. Nothing in this section shall limit the  
9 effect of RCW 49.60.215 relating to unfair practices in places of  
10 public accommodation.

11 (6) Nothing in this chapter prohibiting discrimination based on  
12 families with children status applies to housing for older persons as  
13 defined by the federal fair housing amendments act of 1988, 42 U.S.C.  
14 Sec. 3607(b)(1) through (3), as amended by the housing for older  
15 persons act of 1995, P.L. 104-76, as enacted on December 28, 1995.  
16 Nothing in this chapter authorizes requirements for housing for older  
17 persons different than the requirements in the federal fair housing  
18 amendments act of 1988, 42 U.S.C. Sec. 3607(b)(1) through (3), as  
19 amended by the housing for older persons act of 1995, P.L. 104-76, as  
20 enacted on December 28, 1995.

21 (7) Nothing in this chapter shall apply to real estate transactions  
22 involving the sharing of a dwelling unit, or rental or sublease of a  
23 portion of a dwelling unit, when the dwelling unit is to be occupied by  
24 the owner or sublessor. For purposes of this section, "dwelling unit"  
25 has the same meaning as in RCW 59.18.030.

26 **Sec. 15.** RCW 49.60.223 and 1997 c 271 s 15 are each amended to  
27 read as follows:

28 It is an unfair practice for any person, for profit, to induce or  
29 attempt to induce any person to sell or rent any real property by  
30 representations regarding the entry or prospective entry into the  
31 neighborhood of a person or persons of a particular race, creed, color,  
32 sex, national origin, sexual orientation, families with children  
33 status, or with any sensory, mental, or physical disability and/or the  
34 use of a trained dog guide or service animal by a blind, deaf, or  
35 physically disabled person.



1           **Sec. 16.** RCW 49.60.224 and 1997 c 271 s 16 are each amended to  
2 read as follows:

3           (1) Every provision in a written instrument relating to real  
4 property which purports to forbid or restrict the conveyance,  
5 encumbrance, occupancy, or lease thereof to individuals of a specified  
6 race, creed, color, sex, national origin, sexual orientation, families  
7 with children status, or with any sensory, mental, or physical  
8 disability or the use of a trained dog guide or service animal by a  
9 blind, deaf, or physically disabled person, and every condition,  
10 restriction, or prohibition, including a right of entry or possibility  
11 of reverter, which directly or indirectly limits the use or occupancy  
12 of real property on the basis of race, creed, color, sex, national  
13 origin, sexual orientation, families with children status, or the  
14 presence of any sensory, mental, or physical disability or the use of  
15 a trained dog guide or service animal by a blind, deaf, or physically  
16 disabled person is void.

17           (2) It is an unfair practice to insert in a written instrument  
18 relating to real property a provision that is void under this section  
19 or to honor or attempt to honor such a provision in the chain of title.

20           **Sec. 17.** RCW 49.60.225 and 1997 c 271 s 17 are each amended to  
21 read as follows:

22           (1) When a reasonable cause determination has been made under RCW  
23 49.60.240 that an unfair practice in a real estate transaction has been  
24 committed and a finding has been made that the respondent has engaged  
25 in any unfair practice under RCW 49.60.250, the administrative law  
26 judge shall promptly issue an order for such relief suffered by the  
27 aggrieved person as may be appropriate, which may include actual  
28 damages as provided by the federal fair housing amendments act of 1988  
29 (42 U.S.C. Sec. 3601 et seq.), and injunctive or other equitable  
30 relief. Such order may, to further the public interest, assess a civil  
31 penalty against the respondent:

32           (a) In an amount up to ten thousand dollars if the respondent has  
33 not been determined to have committed any prior unfair practice in a  
34 real estate transaction;

35           (b) In an amount up to twenty-five thousand dollars if the  
36 respondent has been determined to have committed one other unfair

1 practice in a real estate transaction during the five-year period  
2 ending on the date of the filing of this charge; or

3 (c) In an amount up to fifty thousand dollars if the respondent has  
4 been determined to have committed two or more unfair practices in a  
5 real estate transaction during the seven-year period ending on the date  
6 of the filing of this charge, for loss of the right secured by RCW  
7 49.60.010, 49.60.030, 49.60.040, and 49.60.222 through 49.60.224, as  
8 now or hereafter amended, to be free from discrimination in real  
9 property transactions because of sex, marital status, race, creed,  
10 color, national origin, sexual orientation, families with children  
11 status, or the presence of any sensory, mental, or physical disability  
12 or the use of a trained dog guide or service animal by a blind, deaf,  
13 or physically disabled person. Enforcement of the order and appeal  
14 therefrom by the complainant or respondent may be made as provided in  
15 RCW 49.60.260 and 49.60.270. If acts constituting the unfair practice  
16 in a real estate transaction that is the object of the charge are  
17 determined to have been committed by the same natural person who has  
18 been previously determined to have committed acts constituting an  
19 unfair practice in a real estate transaction, then the civil penalty of  
20 up to fifty thousand dollars may be imposed without regard to the  
21 period of time within which any subsequent unfair practice in a real  
22 estate transaction occurred. All civil penalties assessed under this  
23 section shall be paid into the state treasury and credited to the  
24 general fund.

25 (2) Such order shall not affect any contract, sale, conveyance,  
26 encumbrance, or lease consummated before the issuance of an order that  
27 involves a bona fide purchaser, encumbrancer, or tenant who does not  
28 have actual notice of the charge filed under this chapter.

29 (3) Notwithstanding any other provision of this chapter, persons  
30 awarded damages under this section may not receive additional damages  
31 pursuant to RCW 49.60.250.

32 **Sec. 18.** RCW 48.30.300 and 2005 c 223 s 19 are each amended to  
33 read as follows:

34 Notwithstanding any provision contained in Title 48 RCW to the  
35 contrary:

36 A person or entity engaged in the business of insurance in this  
37 state may not refuse to issue any contract of insurance or cancel or

1 decline to renew such contract because of the sex ((~~or~~)), marital  
2 status, or sexual orientation as defined in RCW 49.60.040, or the  
3 presence of any sensory, mental, or physical handicap of the insured or  
4 prospective insured. The amount of benefits payable, or any term,  
5 rate, condition, or type of coverage may not be restricted, modified,  
6 excluded, increased, or reduced on the basis of the sex ((~~or~~)), marital  
7 status, or sexual orientation, or be restricted, modified, excluded, or  
8 reduced on the basis of the presence of any sensory, mental, or  
9 physical handicap of the insured or prospective insured. This  
10 subsection does not prohibit fair discrimination on the basis of sex,  
11 or marital status, or the presence of any sensory, mental, or physical  
12 handicap when bona fide statistical differences in risk or exposure  
13 have been substantiated."

**ESHB 2661** - S COMM AMD

By Committee on Financial Institutions, Housing & Consumer  
Protection

**ADOPTED 01/27/2006**

14 On page 1, line 2 of the title, after "commission;" strike the  
15 remainder of the title and insert "amending RCW 49.60.010, 49.60.020,  
16 49.60.030, 49.60.040, 49.60.120, 49.60.130, 49.60.175, 49.60.176,  
17 49.60.178, 49.60.180, 49.60.190, 49.60.200, 49.60.215, 49.60.223,  
18 49.60.224, 49.60.225, and 48.30.300; and reenacting and amending RCW  
19 49.60.222."

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