

HOUSE BILL REPORT

EHB 1956

As Passed House:

March 9, 2007

Title: An act relating to discrimination based on lawful source of income.

Brief Description: Prohibiting discrimination based on lawful source of income.

Sponsors: By Representatives Pettigrew, Miloscia, Santos, Sells, Ormsby and Hasegawa.

Brief History:

Committee Activity:

Housing: 2/12/07, 2/19/07 [DP].

Floor Activity:

Passed House: 3/9/07, 72-25.

Brief Summary of Engrossed Bill

- Prohibits discrimination based on a person's lawful source of income in rental housing transactions and creates specific civil penalties for violating this prohibition.

HOUSE COMMITTEE ON HOUSING

Majority Report: Do pass. Signed by 4 members: Representatives Miloscia, Chair; Springer, Vice Chair; Kelley and Ormsby.

Minority Report: Do not pass. Signed by 3 members: Representatives Dunn, Ranking Minority Member; McCune and Schindler.

Staff: Robyn Dupuis (786-7166).

Background:

Under the Human Rights Commission (Commission) statutes, known as the "Law Against Discrimination," the Legislature declares that the right to be free from discrimination because of race, creed, color, national origin, sex, sexual orientation, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person is a civil right.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

In certain real estate transactions, the practice of discrimination because of certain characteristics is illegal. These characteristics include race, creed, color, sex, marital status, national origin, sexual orientation, families with children status, and the presence of any sensory, mental or physical disability or the use of a trained dog guide or service animal by a person with a disability.

The Human Rights Commission is charged with eliminating and preventing such discrimination in: employment; credit and insurance transactions; places of public resort, accommodation, or amusement; and in real estate transactions.

Complaints of discrimination must be filed with the Commission within six months after the alleged act of discrimination or, in the case of certain real estate transactions, within one year after the alleged unfair practice. The Commission must investigate the complaint and, if there is reasonable cause to believe that an unfair practice has or is being committed, the Commission will attempt to eliminate the unfair practice with conciliation.

If an agreement to end the alleged unfair practice cannot be reached, the complaint is heard before an administrative law judge. On finding that the respondent has engaged in an unfair practice, the administrative law judge must issue an order requiring the practice to cease and ordering other action, including action that could be ordered by a court, to effectuate the purposes of the Law Against Discrimination. However, damages awarded to a plaintiff may not exceed \$10,000 for humiliation and mental suffering. In cases involving real estate transactions, penalties are specified and include fines up to \$50,000 depending upon the recent existence of any prior unfair practice violations.

A number of other states include language in their statutes to prohibit discrimination in real estate transactions due to an individual's lawful source of income. These states include California, Connecticut, District of Columbia, Maine, Massachusetts, Minnesota, New Jersey, North Dakota, Oregon, Utah, Vermont and Wisconsin.

Summary of Engrossed Bill:

Discrimination against a person in a rental housing transaction because of the person's lawful source of income is declared to be an unfair practice. This unfair practice does not apply if the rental transactions involves the sharing, rental, or subleasing of a portion of a dwelling unit when the dwelling unit is also to be occupied by the dwelling owner or sublessor. For this exemption, a dwelling unit is a residence used by one person or by two or more persons maintaining a common household.

Penalties are specified for occurrences of this unfair practice. If an administrative law judge finds that discrimination has occurred against a person in a rental housing transaction because of the person's lawful source of income, the administrative law judge may award actual damages and injunctive relief, and may assess the violator a civil penalty of:

- a maximum of \$2,500 for a first violation;

- a maximum of \$7,500 for a violation if the violator has committed a prior unfair practice within a five-year period; and
- a maximum of \$10,000 if the violator has committed two or more violations within a seven-year period.

"Lawful Source of Income" is defined as verifiable, legal income including income derived from any of the following sources:

- employment;
- Social Security;
- Supplemental Security Income;
- other retirement programs;
- child support;
- alimony; and
- federal, state, local or non-profit administered benefit or subsidy programs, including rental assistance, public assistance, and general assistance.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) It is difficult for individuals and families to find apartments that accept Section 8 vouchers and often the waiting lists are just too long. There is a clear pattern of unfair landlord practices in this area. Discriminating on the basis of an individual's source of income could be an underhanded way of discriminating against people of protected class status, as many persons utilizing Section 8 vouchers are also members of at least one of the existing protected classes under the Washington discrimination laws. The bill has nothing to do with rent control; it just requires that landlords consider potential tenants on an equal basis. Discrimination in this area makes it difficult for low-income people to transition from shelters and other supportive housing programs.

(With concerns) Lawful source of income should be limited somehow so it doesn't include income like gambling debts or gifts.

(Opposed) Accepting vouchers should be a voluntary choice on the part of landlords. The federal Section 8 program specifically states that landlords may participate voluntarily.

Persons Testifying: (In support) Chris Jussero, Lynn Sereda and Michele Thomas, Tenants Union of Washington; Pat Tassoni and Janet Blanding, Thurston County Tenants Union; and Mark Foutch, City of Olympia.

(With concerns) Tim Seth, Olympic Rental Association.

(Opposed) John Woodring, Rental Housing Association of Puget Sound.

Persons Signed In To Testify But Not Testifying: None.