

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 HOUSE BILL 1816

By: Dunnington

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6 AS INTRODUCED

7 An Act relating to definitions and general
8 provisions; amending 25 O.S. 2011, Sections 1350, as
9 amended by Section 5, Chapter 214, O.S.L. 2013, 1402,
10 1452, as amended by Section 7, Chapter 214, O.S.L.
2013 (25 O.S. Supp. 2016, Sections 1350 and 1452),
which relate to discrimination; modifying protected
classes; and providing an effective date.

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

14 SECTION 1. AMENDATORY 25 O.S. 2011, Section 1350, as
15 amended by Section 5, Chapter 214, O.S.L. 2013 (25 O.S. Supp. 2016,
16 Section 1350), is amended to read as follows:

17 Section 1350. A. A cause of action for employment-based
18 discrimination is hereby created and any common law remedies are
19 hereby abolished.

20 B. In order to have standing in a court of law to allege
21 discrimination arising from an employment-related matter, in a cause
22 of action against an employer for discrimination based on race,
23 color, religion, sex or gender, which shall include assumptions and
24 stereotypes associated with sex-based considerations, national

1 origin, age, disability, genetic information, creed, familial-
2 status, political affiliation, place of birth, ancestry or veteran-
3 status with respect to the employee, or retaliation, an aggrieved
4 party ~~must~~ shall, within one hundred eighty (180) days from the last
5 date of alleged discrimination, file a charge of discrimination in
6 employment with the Attorney General's Office of Civil Rights
7 Enforcement or the Equal Employment Opportunity Commission alleging
8 the basis of discrimination believed to have been perpetrated on the
9 aggrieved party. Upon completion of any investigation, the Attorney
10 General's Office of Civil Rights Enforcement may transmit the
11 results of any administrative hearing and determination to the Equal
12 Employment Opportunity Commission or issue the complaining party a
13 Notice of a Right to Sue.

14 C. Should a charge of discrimination be filed with the Attorney
15 General's Office of Civil Rights Enforcement and not be resolved to
16 the satisfaction of the charging party within one hundred eighty
17 (180) days from the date of filing of such charge, the Attorney
18 General's Office of Civil Rights Enforcement, upon request of any
19 party shall issue a Notice of a Right to Sue, which ~~must~~ shall be
20 first obtained in order to commence a civil action under this
21 section.

22 D. All civil actions brought pursuant to a Notice of a Right to
23 Sue from the Attorney General's Office of Civil Rights Enforcement
24 for redress against any person who is alleged to have discriminated

1 against the charging party and against any person named as
2 respondent in the charge shall be commenced in the district court of
3 this state for the county in which the unlawful employment practice
4 is alleged to have been committed.

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

7 F. The defending party may allege any defense that is available
8 under Title VII of the Civil Rights Act of 1964, the Age
9 Discrimination in Employment Act, the Pregnancy Discrimination Act,
10 the Rehabilitation Act, the Americans with Disabilities Act, or the
11 Genetic Information Nondiscrimination Act.

12 G. If it is determined in such action that the defendant or
13 defendants in such action have discriminated against the charging
14 party as charged in the petition, the court may enjoin the defendant
15 or defendants from engaging in such unlawful employment practice
16 charged in the petition, the court may enjoin respondent from
17 engaging in such unlawful practice and order such affirmative action
18 as reinstatement or hiring of employees. A prevailing aggrieved
19 party shall also be entitled to backpay and an additional amount as
20 liquidated damages. Interim earnings or amounts earnable with
21 reasonable diligence by the person discriminated against shall
22 operate to reduce the backpay otherwise allowable. If an individual
23 was refused employment or advancement, was suspended ~~and~~ or was
24 discharged for legitimate reasons other than discrimination as

1 provided by this act, then no order of the court shall require the
2 hiring, reinstatement or promotion of that individual as an
3 employee, nor shall it order payment of any backpay.

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

7 I. No action may be filed in district court as provided in this
8 section more than ninety (90) days after receiving a Notice of a
9 Right to Sue from the Attorney General's Office of Civil Rights
10 Enforcement.

11 SECTION 2. AMENDATORY 25 O.S. 2011, Section 1402, is
12 amended to read as follows:

13 Section 1402. It is a discriminatory practice for a person to
14 deny an individual the full and equal enjoyment of the goods,
15 services, facilities, privileges, advantages, and accommodations of
16 a "place of public accommodation" because of race, color, religion,
17 sex or gender, which shall include assumptions and stereotypes
18 associated with sex-based considerations, national origin, age, ~~or~~
19 disability, genetic information, creed, familial-status, political
20 affiliation, place of birth, ancestry or veteran-status.

21 SECTION 3. AMENDATORY 25 O.S. 2011, Section 1452, as
22 amended by Section 7, Chapter 214, O.S.L. 2013 (25 O.S. Supp. 2016,
23 Section 1452), is amended to read as follows:

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

4 1. To refuse to sell or rent after the making of a bona fide
5 offer, or to refuse to negotiate for the sale or rental of any
6 housing, or otherwise make unavailable or deny any housing because
7 of race, color, religion, sex or gender, which shall include
8 assumptions and stereotypes associated with sex-based
9 considerations, national origin, age, ~~familial status, or~~
10 disability, genetic information, creed, familial-status, political
11 affiliation, place of birth, ancestry or veteran-status;

12 2. To discriminate against any person in the terms, conditions,
13 or privileges of sale or rental of housing, or in the provision of
14 services or facilities in connection with any housing because of
15 race, color, religion, sex or gender, which shall include
16 assumptions and stereotypes associated with sex-based
17 considerations, national origin, age, ~~familial status, or~~
18 disability, genetic information, creed, familial-status, political
19 affiliation, place of birth, ancestry or veteran-status;

20 3. To make, print, publish, or cause to be made, printed, or
21 published any notice, statement, or advertisement, with respect to
22 the sale or rental of housing that indicates any preference,
23 limitation, discrimination, or intention to make any such
24 preference, limitation, or discrimination because of race, color,

1 religion, sex or gender, which shall include assumptions and
2 stereotypes associated with sex-based considerations, national
3 origin, age, ~~familial status,~~ or disability, genetic information,
4 creed, familial-status, political affiliation, place of birth,
5 ancestry or veteran-status;

6 4. To represent to any person, for reasons of discrimination,
7 that any housing is not available for inspection, sale, or rental
8 when such housing is in fact so available because of race, color,
9 religion, sex or gender, which shall include assumptions and
10 stereotypes associated with sex-based considerations, national
11 origin, age, ~~familial status,~~ or disability, genetic information,
12 creed, familial-status, political affiliation, place of birth,
13 ancestry or veteran-status;

14 5. To deny any person access to, or membership or participation
15 in, a multiple-listing service, real estate brokers' organization or
16 other service, organization, or facility relating to the business of
17 selling or renting dwellings, or discriminate against a person in
18 the terms or conditions of access, membership, or participation in
19 such an organization, service, or facility because of race, color,
20 religion, sex or gender, which shall include assumptions and
21 stereotypes associated with sex-based considerations, national
22 origin, age, ~~familial status,~~ or disability, genetic information,
23 creed, familial-status, political affiliation, place of birth,
24 ancestry or veteran-status;

1 6. To include in any transfer, sale, rental, or lease of
2 housing any restrictive covenant that discriminates, or for any
3 person to honor or exercise, or attempt to honor or exercise, any
4 discriminatory covenant pertaining to housing because of race,
5 color, religion, sex or gender, which shall include assumptions and
6 stereotypes associated with sex-based considerations, national
7 origin, age, ~~familial status, or disability~~, genetic information,
8 creed, familial-status, political affiliation, place of birth,
9 ancestry or veteran-status;

10 7. To refuse to consider the income of both applicants when
11 both applicants seek to buy or lease housing because of race, color,
12 religion, sex or gender, which shall include assumptions and
13 stereotypes associated with sex-based considerations, national
14 origin, age, ~~familial status, or disability~~, genetic information,
15 creed, familial-status, political affiliation, place of birth,
16 ancestry or veteran-status;

17 8. To refuse to consider as a valid source of income any public
18 assistance, alimony, or child support, awarded by a court, when that
19 source can be verified as to its amount, length of time received,
20 regularity, or receipt because of race, color, religion, sex or
21 gender, which shall include assumptions and stereotypes associated
22 with sex-based considerations, national origin, age, ~~familial~~
23 ~~status, or disability~~, genetic information, creed, familial-status,
24 political affiliation, place of birth, ancestry or veteran-status;

1 9. To discriminate against a person in the terms, conditions,
2 or privileges relating to the obtaining or use of financial
3 assistance for the acquisition, construction, rehabilitation,
4 repair, or maintenance of any housing because of race, color,
5 religion, sex or gender, which shall include assumptions and
6 stereotypes associated with sex-based considerations, national
7 origin, age, ~~familial status~~, or disability, genetic information,
8 creed, familial-status, political affiliation, place of birth,
9 ancestry or veteran-status;

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

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

18 12. To knowingly induce or attempt to induce another person to
19 transfer an interest in real property, or to discourage another
20 person from purchasing real property, by representations regarding
21 the existing or potential proximity of real property owned, used, or
22 occupied by persons of any particular race, color, religion, sex or
23 gender, which shall include assumptions and stereotypes associated
24 with sex-based considerations, national origin, age, ~~familial status~~

1 ~~or~~ disability, genetic information, creed, familial-status,
2 political affiliation, place of birth, ancestry or veteran-status,
3 or to represent that such existing or potential proximity shall or
4 may result in:

- 5 a. the lowering of property values,
- 6 b. a change in the racial, religious, or ethnic character
7 of the block, neighborhood, or area in which the
8 property is located,
- 9 c. an increase in criminal or antisocial behavior in the
10 area, or
- 11 d. a decline in quality of the schools serving the area;

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

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

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

22 (1) that buyer or renter,

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

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

6 b. to discriminate against any person in the terms,
7 conditions, or privileges of sale or rental of a
8 dwelling or in the provision of services or facilities
9 in connection with the dwelling because of a
10 disability of:

11 (1) that person,

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

15 (3) any person associated with that person;

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

19 a. a refusal to permit, at the expense of the disabled
20 person, reasonable modifications of existing premises
21 occupied or to be occupied by the person if the
22 modifications may be necessary to afford the person
23 full enjoyment of the premises, provided that such
24 person also provides a surety bond guaranteeing

1 restoration of the premises to their prior condition,
2 if necessary to make the premises suitable for
3 nondisabled tenants,

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

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

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

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

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

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

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

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

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

9 (4) compliance with the appropriate requirements of
10 the American National Standard for buildings and
11 facilities providing accessibility and usability
12 for physically disabled people, commonly cited as
13 "ANSI A 117.1", suffices to satisfy the
14 requirements of division (3) of this
15 subparagraph,

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

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

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

23 (6) nothing in this subsection requires that a
24 dwelling be made available to an individual whose

1 tenancy would constitute a direct threat to the
2 health or safety of other individuals or whose
3 tenancy would result in substantial physical
4 damage to the property of others; or

5 17. a. A person whose business includes engaging in
6 residential real estate related transactions may not
7 discriminate against a person in making a real estate
8 related transaction available or in the terms or
9 conditions of a real estate related transaction
10 because of race, color, religion, sex or gender, which
11 shall include assumptions and stereotypes associated
12 with sex-based considerations, national origin, age,
13 ~~disability, familial status, national origin or age~~
14 genetic information, creed, familial-status, political
15 affiliation, place of birth, ancestry or veteran-
16 status.

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

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

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

23 (b) to secure residential real estate, or
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1 (2) selling, brokering, or appraising residential
2 real property.

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

7 C. No other categories or classes of persons are protected
8 pursuant to Sections 1451 through 1453 of this title. The Attorney
9 General's Office of Civil Rights Enforcement shall have no authority
10 or jurisdiction to act on complaints based on any kind of
11 discrimination other than those kinds of discrimination prohibited
12 pursuant to Section 1101 et seq. of this title or any other
13 specifically authorized by law.

14 SECTION 4. This act shall become effective November 1, 2017.

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