

112TH CONGRESS
1ST SESSION

S. 1605

To amend the Fair Housing Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 22, 2011

Mr. KERRY (for himself, Mrs. GILLIBRAND, Mr. HARKIN, Mr. INOUE, Mr. MERKLEY, Mrs. MURRAY, Mr. WHITEHOUSE, and Mr. COONS) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Fair Housing Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Housing Opportunities
5 Made Equal Act of 2011” or the “HOME Act of 2011”.

6 **SEC. 2. AMENDING THE FAIR HOUSING ACT TO PROHIBIT**
7 **CERTAIN DISCRIMINATION.**

8 (a) IN GENERAL.—

9 (1) Section 804 of the Fair Housing Act (42
10 U.S.C. 3604) is amended—

1 (A) by inserting “actual or perceived” be-
2 fore “race, color” each place that term appears;
3 and

4 (B) by inserting “sexual orientation, gen-
5 der identity, marital status, source of income,”
6 after “sex,” each place that term appears.

7 (2) Section 805 of the Fair Housing Act (42
8 U.S.C. 3605) is amended—

9 (A) by inserting “actual or perceived” be-
10 fore “race, color” each place that term appears;
11 and

12 (B) by inserting “sexual orientation, gen-
13 der identity, marital status, source of income,”
14 after “sex,” each place that term appears.

15 (3) Section 806 of the Fair Housing Act (42
16 U.S.C. 3606) is amended—

17 (A) by inserting “actual or perceived” be-
18 fore “race, color”; and

19 (B) by inserting “sexual orientation, gen-
20 der identity, marital status, source of income,”
21 after “sex,”.

22 (b) PREVENTION OF INTIMIDATION.—Section 901 of
23 the Civil Rights Act of 1968 (42 U.S.C. 3631) is amend-
24 ed—

1 (1) by inserting “actual or perceived” before
2 “race, color” each place that term appears; and

3 (2) by inserting “sexual orientation (as defined
4 in section 802), gender identity (as so defined), mar-
5 ital status (as so defined), source of income (as so
6 defined)” after “sex,” each place that term appears.

7 (c) DEFINITIONS.—Section 802 of the Fair Housing
8 Act (42 U.S.C. 3602) is amended by adding at the end
9 the following:

10 “(p) ‘Gender identity’ means the gender-related iden-
11 tity, appearance, or mannerisms or other gender-related
12 characteristics of an individual, with or without regard to
13 the individual’s designated sex at birth.

14 “(q) ‘Marital status’ has the same meaning given that
15 term for purposes of the Equal Credit Opportunity Act.

16 “(r) ‘Sexual orientation’ means homosexuality, het-
17 erosexuality, or bisexuality.

18 “(s) ‘Source of income’ means the receipt of Federal,
19 State, or local public assistance including medical assist-
20 ance, or the receipt by a tenant or applicant of Federal,
21 State, or local housing subsidies, including rental assist-
22 ance under section 8 of the United States Housing Act
23 of 1937 (42 U.S.C. 1437f) or other rental assistance or
24 rental supplements.”.

1 **SEC. 3. AMENDING THE FAIR HOUSING ACT TO EXTEND**
2 **THE DEFINITION OF DISCRIMINATORY HOUS-**
3 **ING PRACTICE.**

4 Section 802(f) of the Fair Housing Act (42 U.S.C.
5 3602(f)) is amended to read as follows:

6 “(f) ‘Discriminatory housing practice’ means an act
7 that is unlawful under section 804, 805, 806, or 818 of
8 this title, whether occurring pre- or post-acquisition, and
9 also includes a failure to comply with section 808(e)(5)
10 of this title or a regulation issued to carry out section
11 808(e)(5).”.

12 **SEC. 4. AMENDING THE FAIR HOUSING ACT DEFINITION OF**
13 **“FAMILIAL STATUS”.**

14 Section 802(k) of the Fair Housing Act (42 U.S.C.
15 3602(k)) is amended to read as follows:

16 “(k) ‘Familial status’ means one or more individuals
17 (who have not attained the age of 18 years) residing
18 with—

19 “(1) a parent, foster parent, or another person
20 having legal or lawful physical custody of such indi-
21 vidual or individuals; or

22 “(2) anyone standing in loco parentis of such
23 individual or individuals.

24 The protections afforded against discrimination on the
25 basis of familial status apply to any person who is preg-

1 nant or in the process of securing legal custody of an indi-
2 vidual who has not attained the age of 18 years.”.

3 **SEC. 5. AMENDING THE FAIR HOUSING ACT AND THE**
4 **EQUAL CREDIT OPPORTUNITY ACT TO PRO-**
5 **VIDE THE DEPARTMENT OF JUSTICE WITH**
6 **PRE-LITIGATION SUBPOENA POWER.**

7 (a) **EQUAL CREDIT OPPORTUNITY ACT.**—Section
8 706(h) of the Equal Credit Opportunity Act (15 U.S.C.
9 1691e(h)) is amended—

10 (1) by striking “When a” and inserting the fol-
11 lowing:

12 “(1) **IN GENERAL.**—When a”; and

13 (2) by adding at the end the following:

14 “(2) **PRE-LITIGATION SUBPOENA POWER.**—If the
15 Attorney General has reason to believe that any person
16 may be in possession, custody, or control of any documen-
17 tary material or information relevant to an investigation
18 under this title, the Attorney General may, before com-
19 mencing a civil action under paragraph (1), issue in writ-
20 ing and cause to be served upon the person, a civil inves-
21 tigative demand. The authority to issue and enforce civil
22 investigative demands under this paragraph shall be iden-
23 tical to the authority of the Attorney General under sec-
24 tion 3733 of title 31, United States Code, except that the

1 provisions of that section relating to qui tam relators shall
2 not apply.”.

3 (b) FAIR HOUSING ACT.—Section 814(c) of the Fair
4 Housing Act (42 U.S.C. 3614(c)) is amended—

5 (1) by striking “The Attorney General” and in-
6 serting the following:

7 “(1) IN GENERAL.—The Attorney General”;
8 and

9 (2) by adding at the end the following:

10 “(2) CIVIL INVESTIGATIVE DEMANDS.—If the
11 Attorney General has reason to believe that any per-
12 son may be in possession, custody, or control of any
13 documentary material or information relevant to an
14 investigation under this title, the Attorney General
15 may, before commencing a civil proceeding under
16 this subsection, issue in writing and cause to be
17 served upon the person, a civil investigative demand.
18 The authority to issue and enforce civil investigative
19 demands under this paragraph shall be identical to
20 the authority of the Attorney General under section
21 3733 of title 31, United States Code, except that the
22 provisions of that section relating to qui tam relators
23 shall not apply.”.

1 **SEC. 6. FREEDOM FROM DISCRIMINATION IN CREDIT.**

2 (a) PROHIBITION AGAINST DISCRIMINATION ON AC-
3 COUNT OF SEXUAL ORIENTATION OR GENDER IDEN-
4 TITY.—Section 701(a)(1) of the Equal Credit Opportunity
5 Act (15 U.S.C. 1691(a)(1)) is amended—

6 (1) by inserting “actual or perceived” before
7 “race, color”; and

8 (2) by striking “sex or” and inserting “sex, sex-
9 ual orientation, gender identity.”.

10 (b) DEFINITIONS.—Section 702 of the Equal Credit
11 Opportunity Act (15 U.S.C. 1691a) is amended—

12 (1) by redesignating subsections (f) and (g) as
13 subsections (g) and (i), respectively;

14 (2) by inserting after subsection (e) the fol-
15 lowing:

16 “(f) The term ‘gender identity’ means the gender-re-
17 lated identity, appearance, or mannerisms or other gen-
18 der-related characteristics of an individual, with or with-
19 out regard to the individual’s designated sex at birth.”;
20 and

21 (3) by inserting after subsection (g), as so re-
22 designated, the following:

23 “(h) The term ‘sexual orientation’ means homosex-
24 uality, heterosexuality, or bisexuality.”.

1 **SEC. 7. AMENDING THE FAIR HOUSING ACT SO THAT DIS-**
 2 **CRIMINATION IN REAL ESTATE-RELATED**
 3 **TRANSACTIONS INCLUDES THE FAILURE TO**
 4 **MAKE REASONABLE ACCOMMODATIONS FOR**
 5 **PEOPLE WITH DISABILITIES.**

6 Section 805(a) of the Fair Housing Act (42 U.S.C.
 7 3605(a)) is amended by adding at the end the following;
 8 “For the purposes of this section, discrimination against
 9 a person because of handicap includes the failure, in con-
 10 nection with a real estate-related transaction, to make rea-
 11 sonable accommodations for such person.”.

12 **SEC. 8. AMENDING THE FAIR HOUSING ACT TO CHANGE**
 13 **CERTAIN LIMITATIONS ON FILING COM-**
 14 **PLAINTS AND COMMENCING CIVIL ACTIONS.**

15 (a) SECTION 810.—Section 810(a)(1)(A)(i) of the
 16 Fair Housing Act (42 U.S.C. 3610(a)(1)(A)(i)) is amend-
 17 ed by inserting after the first sentence the following: “The
 18 failure to design and construct a dwelling as required by
 19 section 804(f)(3)(C) shall be deemed to continue until
 20 such time as the dwelling conforms to the requirements
 21 of that section.”.

22 (b) SECTION 813.—Section 813(a)(1)(A) of the Fair
 23 Housing Act (42 U.S.C. 3613(a)(1)(A)) is amended by
 24 adding at the end the following: “The failure to design
 25 and construct a dwelling as required by section
 26 804(f)(3)(C) shall be deemed to continue until such time

1 as the dwelling conforms to the requirements of that sec-
2 tion.”.

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