

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 248

Introduced by Vargas, 7.

Read first time January 10, 2023

Committee: Judiciary

1 A BILL FOR AN ACT relating to civil rights; to amend sections 20-139,
2 20-301, 20-303, 20-317, 20-318, 20-320, 20-321, 20-322, and 20-325,
3 Reissue Revised Statutes of Nebraska; to define a term; to prohibit
4 discrimination based upon lawful source of income or compliance with
5 public assistance requirements; to create the Landlord Guarantee
6 Program; to state intent regarding funding; to harmonize provisions;
7 and to repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 20-139, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 20-139 The Nebraska Fair Housing Act and sections 20-123, 20-124,
4 and 20-132 to 20-143 shall be administered by the Equal Opportunity
5 Commission, except that the State Fire Marshal shall administer the act
6 and sections as they relate to accessibility standards and specifications
7 set forth in sections 81-5,147 and 81-5,148. The county attorneys are
8 granted the authority to enforce such act and sections 20-123, 20-124,
9 and 20-132 to 20-143 and shall possess the same powers and duties with
10 respect thereto as the commission. If a complaint is filed with the
11 county attorney, the commission shall be notified. Powers granted to and
12 duties imposed upon the commission pursuant to such act and sections
13 shall be in addition to the provisions of the Nebraska Fair Employment
14 Practice Act and shall not be construed to amend or restrict those
15 provisions. In carrying out the Nebraska Fair Housing Act and sections
16 20-123, 20-124, and 20-132 to 20-143, the commission shall have the power
17 to:

18 (1) Seek to eliminate and prevent discrimination in places of public
19 accommodation because of race, color, sex, religion, national origin,
20 familial status as defined in section 20-311, disability as defined in
21 section 20-308.01, or ancestry;

22 (2) Effectuate the purposes of sections 20-132 to 20-143 by
23 conference, conciliation, and persuasion so that persons may be
24 guaranteed their civil rights and goodwill may be fostered;

25 (3) Formulate policies to effectuate the purposes of sections 20-132
26 to 20-143 and make recommendations to agencies and officers of the state
27 or local subdivisions of government in aid of such policies and purposes;

28 (4) Adopt and promulgate rules and regulations to carry out the
29 powers granted by the Nebraska Fair Housing Act and sections 20-123,
30 20-124, and 20-132 to 20-143, subject to the provisions of the
31 Administrative Procedure Act. The commission shall, not later than one

1 hundred eighty days after September 6, 1991, issue draft rules and
2 regulations to implement subsection (3) of section 20-336, which
3 regulations may incorporate regulations of the Department of Housing and
4 Urban Development as applicable;

5 (5) Designate one or more members of the commission or a member of
6 the commission staff to conduct investigations of any complaint alleging
7 discrimination because of race, color, sex, religion, national origin,
8 familial status, disability, ~~or~~ ancestry, or lawful source of income,
9 attempt to resolve such complaint by conference, conciliation, and
10 persuasion, and conduct such conciliation meetings and conferences as are
11 deemed necessary to resolve a particular complaint, which meetings shall
12 be held in the county in which the complaint arose;

13 (6) Determine that probable cause exists for crediting the
14 allegations of a complaint;

15 (7) Determine that a complaint cannot be resolved by conference,
16 conciliation, or persuasion, such determination to be made only at a
17 meeting where a quorum is present;

18 (8) Dismiss a complaint when it is determined there is not probable
19 cause to credit the allegations;

20 (9) Hold hearings, subpoena witnesses and compel their attendance,
21 administer oaths, take the testimony of any person under oath, and in
22 connection therewith require for examination any books or papers relating
23 to any matter under investigation or in question before the commission;
24 and

25 (10) Issue publications and the results of studies and research
26 which will tend to promote goodwill and minimize or eliminate
27 discrimination because of race, color, sex, religion, national origin,
28 familial status, disability, ~~or~~ ancestry, or lawful source of income.

29 Sec. 2. Section 20-301, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 20-301 Sections 20-301 to 20-344 and section 4 of this act shall be

1 known and may be cited as the Nebraska Fair Housing Act.

2 Sec. 3. Section 20-303, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 20-303 For purposes of the Nebraska Fair Housing Act, the
5 definitions found in sections 20-304 to 20-317 and section 4 of this act
6 shall be used.

7 Sec. 4. Lawful source of income includes, but is not limited to:

8 (1) Income derived from social security, child support, foster care
9 subsidies, alimony, or veterans benefits;

10 (2) Any form of federal, state, or local public general assistance
11 or housing assistance whether or not such source of income or credit is
12 paid directly, indirectly, or on behalf of a renter or buyer of housing
13 or is paid or attributed directly to a landlord, including, but not
14 limited to, vouchers given as part of the federal low-income housing
15 assistance authorized under 42 U.S.C. 1437f;

16 (3) Any form of housing assistance payment or credit; and

17 (4) Any other form of lawful income.

18 Sec. 5. Section 20-317, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 20-317 Restrictive covenant shall mean any specification limiting
21 the transfer, rental, or lease of any housing because of race, creed,
22 religion, color, national origin, sex, disability, familial status, ~~or~~
23 ancestry, or lawful source of income.

24 Sec. 6. Section 20-318, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 20-318 (1) Except as exempted by section 20-322, it shall be
27 unlawful to:

28 (a) ~~(1)~~ Refuse to sell or rent after the making of a bona fide
29 offer, refuse to negotiate for the sale or rental of or otherwise make
30 unavailable or deny, refuse to show, or refuse to receive and transmit an
31 offer for a dwelling to any person because of race, color, religion,

1 national origin, disability, familial status, ~~or~~ sex, or lawful source of
2 income or because of any requirement of any federal, state, or local
3 public general assistance or housing assistance program;

4 (b) ~~(2)~~ Discriminate against any person in the terms, conditions, or
5 privileges of sale or rental of a dwelling or in the provision of
6 services or facilities in connection therewith because of race, color,
7 religion, national origin, disability, familial status, ~~or~~ sex, or lawful
8 source of income or because of any requirement of any federal, state, or
9 local public general assistance or housing assistance program;

10 (c) ~~(3)~~ Make, print, publish, or cause to be made, printed, or
11 published any notice, statement, or advertisement with respect to the
12 sale or rental of a dwelling that indicates any preference, limitation,
13 or discrimination based on race, color, religion, national origin,
14 disability, familial status, ~~or~~ sex, or lawful source of income or based
15 on any requirement of any federal, state, or local public general
16 assistance or housing assistance program or that indicates an intention
17 to make any such preference, limitation, or discrimination;

18 (d) ~~(4)~~ Represent to any person because of race, color, religion,
19 national origin, disability, familial status, ~~or~~ sex, or lawful source of
20 income or because of any requirement of any federal, state, or local
21 public general assistance or housing assistance program, that any
22 dwelling is not available for inspection, sale, or rental when such
23 dwelling is in fact so available;

24 (e) ~~(5)~~ Cause to be made any written or oral inquiry or record
25 concerning the race, color, religion, national origin, disability,
26 familial status, ~~or~~ sex, or lawful source of income of a person seeking
27 to purchase, rent, or lease any housing or concerning any requirement of
28 any federal, state, or local public general assistance or housing
29 assistance program with respect to such person;

30 (f) ~~(6)~~ Include in any transfer, sale, rental, or lease of housing
31 any restrictive covenants or honor or exercise or attempt to honor or

1 exercise any restrictive covenant pertaining to housing;

2 (g) ~~(7)~~ Discharge or demote an employee or agent or discriminate in
3 the compensation of such employee or agent because of such employee's or
4 agent's compliance with the Nebraska Fair Housing Act; and

5 (h) ~~(8)~~ Induce or attempt to induce, for profit, any person to sell
6 or rent any dwelling by representations regarding the entry or
7 prospective entry into the neighborhood of a person or persons of a
8 particular race, color, religion, national origin, disability, familial
9 status, ~~or sex~~, or lawful source of income.

10 (2) Nothing in the Nebraska Fair Housing Act shall prohibit
11 otherwise nondiscriminatory conduct intended to benefit recipients of
12 public assistance, such as providing housing limited to recipients of
13 public assistance; providing favorable conditions of loans, leases,
14 mortgages, or contracts; or otherwise offering benefits that are limited
15 to recipients of public assistance.

16 Sec. 7. Section 20-320, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 20-320 (1) It shall be unlawful for any person or other entity whose
19 business includes engaging in transactions related to residential real
20 estate to discriminate against any person in making available such a
21 transaction or in the terms or conditions of such a transaction because
22 of race, color, religion, sex, disability, familial status, ~~or~~ national
23 origin, or lawful source of income.

24 (2) For purposes of this section, transaction related to residential
25 real estate shall mean any of the following:

26 (a) The making or purchasing of loans or providing other financial
27 assistance:

28 (i) For purchasing, constructing, improving, repairing, or
29 maintaining a dwelling; or

30 (ii) Secured by residential real estate; or

31 (b) The selling, brokering, or appraising of residential real

1 property.

2 (3) Nothing in this section shall prohibit a person engaged in the
3 business of furnishing appraisals of real property from taking into
4 consideration factors other than race, color, religion, national origin,
5 sex, disability, ~~or~~ familial status, or lawful source of income.

6 (4) Nothing in this section shall prohibit otherwise
7 nondiscriminatory conduct intended to benefit recipients of public
8 assistance, such as providing housing limited to recipients of public
9 assistance; providing favorable conditions of loans, leases, mortgages,
10 or contracts; or otherwise offering benefits that are limited to
11 recipients of public assistance.

12 Sec. 8. Section 20-321, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 20-321 It shall be unlawful to deny any person access to, or
15 membership or participation in, any multiple listing service, real estate
16 brokers organization, or other service, organization, or facility
17 relating to the business of selling or renting dwellings or to
18 discriminate against any person in the terms or conditions of such
19 access, membership, or participation on account of race, color, religion,
20 national origin, disability, familial status, ~~or~~ sex, or lawful source of
21 income.

22 Sec. 9. Section 20-322, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 20-322 (1) Nothing in the Nebraska Fair Housing Act shall prohibit a
25 religious organization, association, or society or any nonprofit
26 institution or organization operated, supervised, or controlled by or in
27 conjunction with a religious organization, association, or society from
28 limiting the sale, rental, or occupancy of a dwelling which it owns or
29 operates for other than commercial purposes to persons of the same
30 religion or from giving preferences to such persons unless membership in
31 such religion is restricted on account of race, color, national origin,

1 disability, familial status, ~~or~~ sex, or lawful source of income.

2 (2) Nothing in the act shall prohibit a private club not in fact
3 open to the public, which as an incident to its primary purpose or
4 purposes provides lodgings which it owns or operates for other than
5 commercial purposes, from limiting the rental or occupancy of such
6 lodging to its members or from giving preference to its members.

7 (3) Nothing in the act shall prohibit or limit the right of any
8 person or his or her authorized representative to refuse to rent a room
9 or rooms in his or her own home for any reason or for no reason or to
10 change tenants in his or her own home as often as desired, except that
11 this exception shall not apply to any person who makes available for
12 rental or occupancy more than four sleeping rooms to a person or family
13 within his or her own home.

14 (4)(a) Nothing in the act shall limit the applicability of any
15 reasonable local restrictions regarding the maximum number of occupants
16 permitted to occupy a dwelling, and nothing in the act regarding familial
17 status shall apply with respect to housing for older persons.

18 (b) For purposes of this subsection, housing for older persons shall
19 mean housing:

20 (i) Provided under any state program that the commission determines
21 is specifically designed and operated to assist elderly persons as
22 defined in the program;

23 (ii) Intended for and solely occupied by persons sixty-two years of
24 age or older; or

25 (iii) Intended and operated for occupancy by at least one person
26 fifty-five years of age or older per unit. In determining whether housing
27 qualifies as housing for older persons under this subdivision, the
28 commission shall develop regulations which require at least the following
29 factors:

30 (A) The existence of significant facilities and services
31 specifically designed to meet the physical or social needs of older

1 persons or, if the provision of such facilities and services is not
2 practicable, that such housing is necessary to provide important housing
3 opportunities for older persons;

4 (B) That at least eighty percent of the units are occupied by at
5 least one person fifty-five years of age or older per unit; and

6 (C) The publication of and adherence to policies and procedures
7 which demonstrate an intent by the owner or manager to provide housing
8 for persons fifty-five years of age or older.

9 (c) Housing shall not fail to meet the requirements for housing for
10 older persons by reason of:

11 (i) Persons residing in the housing as of September 6, 1991, who do
12 not meet the age requirements of subdivision (b)(ii) or (iii) of this
13 subsection if succeeding occupants of the housing meet the age
14 requirements; or

15 (ii) Unoccupied units if the units are reserved for occupancy by
16 persons who meet the age requirements.

17 (5) Nothing in the act shall prohibit conduct against a person
18 because such person has been convicted by any court of competent
19 jurisdiction of the illegal manufacture or distribution of a controlled
20 substance as defined in section 28-401.

21 Sec. 10. Section 20-325, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 20-325 The commission shall:

24 (1) Make studies with respect to the nature and extent of
25 discriminatory housing practices in representative urban, suburban, and
26 rural communities throughout the state;

27 (2) Publish and disseminate reports, recommendations, and
28 information derived from such studies, including an annual report to the
29 Legislature to be submitted electronically:

30 (a) Specifying the nature and extent of progress made statewide in
31 eliminating discriminatory housing practices and furthering the purposes

1 of the Nebraska Fair Housing Act, obstacles remaining to achieving equal
2 housing opportunity, and recommendations for further legislative or
3 executive action; and

4 (b) Containing tabulations of the number of instances and the
5 reasons therefor in the preceding year in which:

6 (i) Investigations have not been completed as required by
7 subdivision (1)(b) of section 20-326;

8 (ii) Determinations have not been made within the time specified in
9 section 20-333; and

10 (iii) Hearings have not been commenced or findings and conclusions
11 have not been made as required by section 20-337;

12 (3) Cooperate with and render technical assistance to state, local,
13 and other public or private agencies, organizations, and institutions
14 which are formulating or carrying on programs to prevent or eliminate
15 discriminatory housing practices;

16 (4) Electronically submit an annual report to the Legislature and
17 make available to the public data on the age, race, color, religion,
18 national origin, disability, familial status, ~~and sex,~~ and lawful source
19 of income of persons and households who are applicants for, participants
20 in, or beneficiaries or potential beneficiaries of programs administered
21 by the commission. In order to develop the data to be included and made
22 available to the public under this subdivision, the commission shall,
23 without regard to any other provision of law, collect such information
24 relating to those characteristics as the commission determines to be
25 necessary or appropriate;

26 (5) Adopt and promulgate rules and regulations, subject to the
27 approval of the members of the commission, regarding the investigative
28 and conciliation process that provide for testing standards, fundamental
29 due process, and notice to the parties of their rights and
30 responsibilities; and

31 (6) Have authority to enter into agreements with the United States

1 Department of Housing and Urban Development in cooperative agreements
2 under the Fair Housing Assistance Program. The commission shall further
3 have the authority to enter into agreements with testing organizations to
4 assist in investigative activities. The commission shall not enter into
5 any agreements under which compensation to the testing organization is
6 partially or wholly based on the number of conciliations, settlements,
7 and reasonable cause determinations.

8 Sec. 11. (1) There is hereby created the Landlord Guarantee
9 Program. The purpose of the program is to provide grants to reimburse
10 landlords for unpaid rent or damages arising from residential tenancies.
11 The program shall be administered by the commission.

12 (2) A landlord may apply for a grant by submitting an application to
13 the commission in a form and manner prescribed by the commission.

14 (3) The commission shall develop eligibility criteria for grants
15 under this section. At a minimum, the eligibility criteria shall require
16 a landlord to provide documentation that:

17 (a) The landlord is renting to tenants receiving housing assistance;

18 (b) The landlord has unpaid rent or damages arising from rental
19 agreements with such tenants;

20 (c) The landlord delayed terminating such tenancies and unpaid rent
21 or damages accrued or remained unpaid during such period of delay; and

22 (d) Any such tenants live in Nebraska.

23 (4) A landlord may submit an application for a grant based on one or
24 more tenancies in a single application.

25 (5) Grants under the program shall be subject to an annual limit of
26 five thousand dollars per landlord.

27 (6) The commission may adopt and promulgate rules and regulations to
28 carry out this section.

29 (7) It is the intent of the Legislature to appropriate fifty
30 thousand dollars from the General Fund for fiscal year 2023-24 to carry
31 out this section.

1 (8) For purposes of this section:

2 (a) Commission means the Equal Opportunity Commission;

3 (b) Housing assistance means any form of federal, state, or local
4 public general assistance or housing assistance whether or not such
5 assistance is paid directly, indirectly, or on behalf of a renter or
6 buyer of housing or is paid or attributed directly to a landlord,
7 including, but not limited to, vouchers given as part of the federal low-
8 income housing assistance authorized under 42 U.S.C. 1437f;

9 (c) Landlord includes a landlord as defined in section 76-1410 and a
10 landlord as defined in section 76-1462;

11 (d) Residential tenancy means a tenancy, however created, between a
12 landlord and a tenant for a dwelling unit; and

13 (e) Tenant means a current or former occupant of a dwelling unit
14 pursuant to a residential tenancy.

15 Sec. 12. Original sections 20-139, 20-301, 20-303, 20-317, 20-318,
16 20-320, 20-321, 20-322, and 20-325, Reissue Revised Statutes of Nebraska,
17 are repealed.