

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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SENATE BILL 396

Short Title: Equality for All.

(Public)

Sponsors: Senators Murdock, Marcus, and Nickel (Primary Sponsors).

Referred to: Rules and Operations of the Senate

March 31, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO PROTECT ALL NORTH CAROLINIANS AGAINST DISCRIMINATION IN
3 ALL WALKS OF LIFE.

4 The General Assembly of North Carolina enacts:

5
6 **PART I. HOUSING**

7 **SECTION 1.1.** G.S. 41A-3 reads as rewritten:

8 **"§ 41A-3. Definitions.**

9 For the purposes of this Chapter, the following definitions apply:

10 ...

11 (5a) "Protected status" means a person's race, color, national origin, religion, age,
12 disability, sex, marital status, familial status, sexual orientation, gender
13 identity, military or veteran status, or genetic information.

14"

15 **SECTION 1.2.** G.S. 41A-4 reads as rewritten:

16 **"§ 41A-4. Unlawful discriminatory housing practices.**

17 (a) It is an unlawful discriminatory housing practice for any person in a real estate
18 transaction, because of ~~race, color, religion, sex, national origin, handicapping condition, or~~
19 ~~familial status~~ the protected status of another person to:

20 (1) Refuse to engage in a real estate transaction;

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

24 (2a), (2c) Repealed by Session Laws 2009-388, s. 1, effective October 1, 2009.

25 (3) Refuse to receive or fail to transmit a bona fide offer to engage in a real estate
26 transaction;

27 (4) Refuse to negotiate for a real estate transaction;

28 (5) Represent to a person that real property is not available for inspection, sale,
29 rental, or lease when in fact it is so available, or fail to bring a property listing
30 to his attention, or refuse to permit him to inspect real property;

31 (6) Make, print, circulate, post, or mail or cause to be so published a statement,
32 advertisement, or sign, or use a form or application for a real estate transaction,
33 or make a record or inquiry in connection with a prospective real estate
34 transaction, which indicates directly or indirectly, an intent to make a
35 limitation, specification, or discrimination with respect thereto;



- 1 (7) Offer, solicit, accept, use, or retain a listing of real property with the
 2 understanding that any person may be discriminated against in a real estate
 3 transaction or in the furnishing of facilities or services in connection
 4 therewith; or
 5 (8) Otherwise make unavailable or deny housing.

6 ...
 7 (b1) It is an unlawful discriminatory housing practice for any person or other entity whose
 8 business includes engaging in residential real estate related transactions to discriminate against
 9 any person in making available such a transaction, or in the terms and conditions of such a
 10 transaction, because of ~~race, color, religion, sex, national origin, handicapping condition, or~~
 11 ~~familial~~ that person's protected status. As used in this subsection, "residential real estate related
 12 transaction" means:

- 13 (1) The making or purchasing of loans or providing financial assistance (i) for
 14 purchasing, constructing, improving, repairing, or maintaining a dwelling, or
 15 (ii) where the security is residential real estate; or
 16 (2) The selling, brokering, or appraising of residential real estate.

17 The provisions of this subsection shall not prohibit any financial institution from using a loan
 18 application which inquires into a person's financial and dependent obligations or from basing its
 19 actions on the income or financial abilities of any person.

20 (c) It is an unlawful discriminatory housing practice for a person to induce or attempt to
 21 induce another to enter into a real estate transaction from which such person may profit:

- 22 (1) By representing that a change has occurred, or may or will occur in the
 23 composition of the residents of the block, neighborhood, or area in which the
 24 real property is located with respect to ~~race, color, religion, sex, national~~
 25 ~~origin, handicapping condition, or familial~~ the protected status of the owners
 26 or occupants; or
 27 (2) By representing that a change has resulted, or may or will result in the
 28 lowering of property values, an increase in criminal or antisocial behavior, or
 29 a decline in the quality of schools in the block, neighborhood, or area in which
 30 the real property is located.

31 (d) It is an unlawful discriminatory housing practice to deny any person who is otherwise
 32 qualified by State law access to or membership or participation in any real estate brokers'
 33 organization, multiple listing service, or other service, organization, or facility relating to the
 34 business of engaging in real estate transactions, or to discriminate in the terms or conditions of
 35 such access, membership, or participation because of ~~race, color, religion, sex, national origin,~~
 36 ~~handicapping condition, or familial~~ that person's protected status.

37 ...
 38 (g) It is an unlawful discriminatory housing practice to discriminate in land-use decisions
 39 or in the permitting of development based on ~~race, color, religion, sex, national origin,~~
 40 ~~handicapping condition, familial~~ a person's protected status, or, except as otherwise provided by
 41 law, the fact that a development or proposed development contains affordable housing units for
 42 families or individuals with incomes below eighty percent (80%) of area median income. It is
 43 not a violation of this Chapter if land-use decisions or permitting of development is based on
 44 considerations of limiting high concentrations of affordable housing."

45 **SECTION 1.3.** G.S. 41A-5(a) reads as rewritten:

46 "**§ 41A-5. Proof of violation.**

47 (a) It is a violation of this Chapter if:

- 48 (1) A person by his act or failure to act intends to discriminate against a person.
 49 A person intends to discriminate if, in committing an unlawful discriminatory
 50 housing practice described in G.S. 41A-4 he was motivated in full, or in any
 51 part at all, by ~~race, color, religion, sex, national origin, handicapping~~

condition, or familial a person's protected status. An intent to discriminate may be established by direct or circumstantial evidence.

- (2) A person's act or failure to act has the effect, regardless of intent, of discriminating, as set forth in G.S. 41A-4, against a person of a particular race, color, religion, sex, national origin, handicapping condition, or familial of a protected status. However, it is not a violation of this Chapter if a person whose action or inaction has an unintended discriminatory effect, proves that his action or inaction was motivated and justified by business necessity.

...."

SECTION 1.4. G.S. 41A-6(a) reads as rewritten:

"§ 41A-6. Exemptions.

(a) The provisions of G.S. 41A-4, except for subdivision (a)(6), do not apply to the following:

...

- (3) Religious institutions or organizations or charitable or educational organizations operated, supervised, or controlled by religious institutions or organizations which give preference to members of the same religion in a real estate transaction, as long as membership in such religion is not restricted by race, color, sex, national origin, handicapping condition, or familial status; a protected status other than religion;

...."

PART II. EMPLOYMENT

SECTION 2.1. G.S. 143-422.2 reads as rewritten:

"§ 143-422.2. Legislative declaration.

(a) It is the public policy of this State to protect and safeguard the right and opportunity of all persons to seek, obtain and hold employment without discrimination or abridgement on account of race, religion, color, national origin, age, sex or handicap sex, sexual orientation, gender identity, disability, marital status, familial status, military or veteran status, or genetic information by employers which regularly employ ~~15~~ one or more employees.

(b) It is recognized that the practice of denying employment opportunity and discriminating in the terms of employment foments domestic strife and unrest, deprives the State of the fullest utilization of its capacities for advancement and development, and substantially and adversely affects the interests of employees, employers, and the public in general.

(c) Repealed by Session Laws 2017-4, s. 1, effective March 30, 2017."

SECTION 2.2. G.S. 126-16 reads as rewritten:

"§ 126-16. Equal opportunity for employment and compensation by State departments and agencies and local political subdivisions.

All State agencies, departments, and institutions and all local political subdivisions of North Carolina shall give equal opportunity for employment and compensation, without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, marital status, familial status, military or veteran status, age, disability, or genetic information to all persons otherwise qualified."

SECTION 2.3. G.S. 126-34.02(b) reads as rewritten:

"(b) The following issues may be heard as contested cases after completion of the agency grievance procedure and the Office of State Human Resources review:

- (1) Discrimination or harassment. – An applicant for State employment, a State employee, or former State employee may allege discrimination or harassment based on race, religion, color, national origin, sex, sexual orientation, gender identity, marital status, familial status, military or veteran status, age, disability, genetic information, or political affiliation if the employee believes

1 that he or she has been discriminated against in his or her application for
2 employment or in the terms and conditions of the employee's employment, or
3 in the termination of his or her employment.

4 (2) Retaliation. – An applicant for State employment, a State employee, or former
5 State employee may allege retaliation for protesting discrimination based on
6 race, religion, color, national origin, sex, sexual orientation, gender identity,
7 marital status, familial status, military or veteran status, age, disability,
8 political affiliation, or genetic information if the employee believes that he or
9 she has been retaliated against in his or her application for employment or in
10 the terms and conditions of the employee's employment, or in the termination
11 of the employee's employment.

12 (3) Just cause for dismissal, demotion, or suspension. – A career State employee
13 may allege that he or she was dismissed, demoted, or suspended for
14 disciplinary reasons without just cause. A dismissal, demotion, or suspension
15 which is not imposed for disciplinary reasons shall not be considered a
16 disciplinary action within the meaning of this section. However, in contested
17 cases conducted pursuant to this section, an employee may appeal an
18 involuntary nondisciplinary separation due to an employee's unavailability in
19 the same fashion as if it were a disciplinary action, but the agency shall only
20 have the burden to prove that the employee was unavailable. In cases of such
21 disciplinary action the employee shall, before the action is taken, be furnished
22 with a statement in writing setting forth the specific acts or omissions that are
23 the reasons for the disciplinary action and the employee's appeal rights. The
24 employee shall be permitted 15 days from the date the statement is delivered
25 to appeal under the agency grievance procedure. However, an employee may
26 be suspended without warning pending the giving of written reasons in order
27 to avoid undue disruption of work, to protect the safety of persons or property,
28 or for other serious reasons.

29 (4) Veteran's preference. – An applicant for State employment or a State
30 employee may allege that he or she was denied veteran's preference in
31 violation of the law.

32 (5) Failure to post or give priority consideration. – An applicant for State
33 employment or a State employee may allege that he or she was denied hiring
34 or promotion because a position was not posted in accordance with this
35 Chapter; or a career State employee may allege that he or she was denied a
36 promotion as a result of a failure to give priority consideration for promotion
37 as required by G.S. 126-7.1; or a career State employee may allege that he or
38 she was denied hiring as a result of the failure to give him or her a
39 reduction-in-force priority.

40 (6) Whistleblower. – A whistleblower grievance as provided for in this Chapter."

41 42 **PART III. PUBLIC ACCOMMODATIONS**

43 **SECTION 3.1.** Chapter 143 of the General Statutes is amended by adding a new
44 Article to read:

45 "Article 49B.

46 "Equal Access to Public Accommodations.

47 **"§ 143-422.10. Short title.**

48 This Article shall be known and may be cited as the "Equal Access to Public
49 Accommodations Act."

50 **"§ 143-422.11. Legislative declaration.**

1 It is the public policy of this State to protect and safeguard the right and opportunity of all
2 individuals within the State to enjoy fully and equally the goods, services, facilities, privileges,
3 advantages, and accommodations of places of public accommodation free of discrimination
4 because of race, religion, color, national origin, sex, sexual orientation, gender identity,
5 disability, marital status, familial status, military or veteran status, or genetic information. It shall
6 not be deemed to constitute discrimination on the basis of sexual orientation or gender identity
7 for a public accommodation to provide separate bathrooms or changing facilities based on
8 gender, but a place of public accommodation shall provide access to such facilities based on a
9 person's gender identity.

10 **"§ 143-422.12. Place of public accommodations defined.**

11 For purposes of this Article, place of public accommodations has the same meaning as
12 defined in G.S. 168A-3(8) but shall exclude any private club or other establishment not, in fact,
13 open to the public.

14 **"§ 143-422.13. Investigations; conciliations.**

15 (a) The Human Relations Commission in the Department of Administration shall have
16 the authority to receive, investigate, and conciliate complaints of discrimination in public
17 accommodations. Throughout this process, the Human Relations Commission shall use its good
18 offices to effect an amicable resolution of the complaints of discrimination.

19 (b) If the Commission is unable to effect an amicable resolution of the charges of
20 discrimination, the complainant and the Commission may proceed with an enforcement action
21 using the procedures provided in G.S. 41A-7."

22
23 **PART IV. CREDIT**

24 **SECTION 4.1.** Article 1 of Chapter 75 of the General Statutes is amended by adding
25 a new section to read:

26 **"§ 75-44. Discrimination by lenders prohibited.**

27 (a) Discrimination Prohibited. – No person engaged in any form of lending money in this
28 State, or to residents of this State, shall discriminate in the extension of credit on the basis of
29 race, color, national origin, religion, age, disability, sex, marital status, familial status, sexual
30 orientation, gender identity, military or veteran status, or genetic information.

31 (b) Filing of Complaint With Human Relations Commission. – Any person who claims
32 to have been injured by a violation of subsection (a) of this section or who reasonably believes
33 that he or she will be irrevocably injured by a violation of that subsection may file a complaint
34 with the North Carolina Human Relations Commission established under G.S. 7A-761. Upon
35 receipt of a complaint, the Commission shall work with the relevant parties to develop an
36 amicable resolution to the charge of discrimination. If the Commission is unable to effect an
37 amicable resolution of the charges of discrimination, the complainant and the Commission may
38 proceed with an enforcement action using the procedures provided in G.S. 41A-7. Filing of a
39 complaint pursuant to this subsection shall not preclude the filing of an action pursuant to
40 subsection (c) of this section.

41 (c) Violation an Unfair and Deceptive Trade Practice. – A violation of subsection (a) of
42 this section shall constitute an unfair trade practice in violation of G.S. 75-1.1."

43
44 **PART V. INSURANCE**

45 **SECTION 5.1.** G.S. 58-3-25 reads as rewritten:

46 **"§ 58-3-25. Discriminatory practices prohibited.**

47 ...

48 (c) No insurer shall refuse to insure or refuse to continue to insure an individual; limit the
49 amount, extent, or kind of coverage available to an individual; or charge an individual a different
50 rate for the same coverage, because of the race, color, ~~or~~ national or ethnic ~~origin~~ origin, religion,
51 sex, marital status, familial status, sexual orientation, gender identity, disability, military or

1 veteran status, or genetic information of that individual. This subsection supplements the
2 provisions of G.S. 58-3-120, 58-33-80, 58-58-35, and 58-63-15(7)."

4 **PART VI. EDUCATION**

5 **SECTION 6.1.** G.S. 115C-47 is amended by adding a new subdivision to read:

6 "(65) To Adopt a Policy on Nondiscrimination in Schools. – Each local board of
7 education shall adopt a policy to establish that the local board of education
8 and school personnel employed by the local board shall not discriminate on
9 the basis of race, color, national origin, religion, age, disability, sex, marital
10 status, familial status, sexual orientation, gender identity, military or veteran
11 status, or genetic information. The policy shall include that any person who
12 claims to have been injured by an unlawful discriminatory practice or who
13 reasonably believes that he or she will be irrevocably injured by an unlawful
14 discriminatory practice may file a complaint with the North Carolina Human
15 Relations Commission established under G.S. 7A-761. Upon receipt of a
16 complaint, the Commission shall work with the relevant parties to develop an
17 amicable resolution to the charge of discrimination. If the Commission is
18 unable to effect an amicable resolution of the charges of discrimination, the
19 complainant and the Commission may proceed with an enforcement action
20 using the procedures provided in G.S. 41A-7."

21 **SECTION 6.2.** Part II of Article 9 of Chapter 115C of the General Statutes is
22 amended by adding a new section to read:

23 **"§ 115C-112.10. Nondiscrimination requirement.**

24 A nonpublic school that accepts eligible students receiving scholarship grants shall not
25 discriminate on the basis of race, color, national origin, religion, age, disability, sex, marital
26 status, familial status, sexual orientation, gender identity, military or veteran status, or genetic
27 information. Any person who claims to have been injured by an unlawful discriminatory practice
28 or who reasonably believes that he or she will be irrevocably injured by an unlawful
29 discriminatory practice may file a complaint with the North Carolina Human Relations
30 Commission (Commission) established under G.S. 7A-761. Upon receipt of a complaint, the
31 Commission shall work with the relevant parties to develop an amicable resolution to the charge
32 of discrimination. If the Commission is unable to effect an amicable resolution of the charge of
33 discrimination, the complainant and the Commission may proceed with an enforcement action
34 using the procedures provided by G.S. 41A-7."

35 **SECTION 6.3.(a)** G.S. 115C-218.45(e) reads as rewritten:

36 "(e) Except as otherwise provided by law or the mission of the school as set out in the
37 charter, the school shall not limit admission to students on the basis of intellectual ability,
38 measures of achievement or aptitude, athletic ability, or disability. A charter school shall not limit
39 admission to students on the basis of race, ~~ereed,~~ color, national origin, religion, ~~or ancestry,~~ age,
40 sex, marital status, familial status, sexual orientation, gender identity, military or veteran status,
41 or genetic information. A charter school whose mission is single-sex education may limit
42 admission on the basis of sex. A charter school that serves only certain grade levels may limit
43 admission based on age. Within one year after the charter school begins operation, the charter
44 school shall make efforts for the population of the school to reasonably reflect the racial and
45 ethnic composition of the general population residing within the local school administrative unit
46 in which the school is located or the racial and ethnic composition of the special population that
47 the school seeks to serve residing within the local school administrative unit in which the school
48 is located. The school shall be subject to any court-ordered desegregation plan in effect for the
49 local school administrative unit."

50 **SECTION 6.3.(b)** G.S. 115C-218.55 reads as rewritten:

51 **"§ 115C-218.55. Nondiscrimination in charter schools.**

1 A charter school shall not discriminate ~~against any student~~ on the basis of ~~ethnicity, national~~
2 ~~origin, gender, race, color, religion, age, sex, marital status, familial status, sexual orientation,~~
3 ~~gender identity, military or veteran status, genetic information, or disability. Any person who~~
4 ~~claims to have been injured by an unlawful discriminatory practice or who reasonably believes~~
5 ~~that he or she will be irrevocably injured by an unlawful discriminatory practice may file a~~
6 ~~complaint with the North Carolina Human Relations Commission established under~~
7 ~~G.S. 7A-761. Upon receipt of a complaint, the Commission shall work with the relevant parties~~
8 ~~to develop an amicable resolution to the charge of discrimination. If the Commission is unable~~
9 ~~to effect an amicable resolution of the charges of discrimination, the complainant and the~~
10 ~~Commission may proceed with an enforcement action using the procedures provided in~~
11 ~~G.S. 41A-7."~~

12 **SECTION 6.4.** G.S. 115C-521.2 is repealed.

13 **SECTION 6.5.** G.S. 115C-562.5(c1) reads as rewritten:

14 "(c1) A nonpublic school shall not discriminate ~~with respect to the categories listed in 42~~
15 ~~U.S.C. § 2000d, as that statute read on January 1, 2014, on the basis of race, color, national origin,~~
16 ~~religion, age, disability, sex, marital status, familial status, sexual orientation, gender identity,~~
17 ~~military or veteran status, or genetic information. Any person who claims to have been injured~~
18 ~~by an unlawful discriminatory practice or who reasonably believes that he or she will be~~
19 ~~irrevocably injured by an unlawful discriminatory practice may file a complaint with the North~~
20 ~~Carolina Human Relations Commission established under G.S. 7A-761. Upon receipt of a~~
21 ~~complaint, the Commission shall work with the relevant parties to develop an amicable resolution~~
22 ~~to the charge of discrimination. If the Commission is unable to effect an amicable resolution of~~
23 ~~the charges of discrimination, the complainant and the Commission may proceed with an~~
24 ~~enforcement action using the procedures provided in G.S. 41A-7."~~

25 **SECTION 6.6.** G.S. 115D-77 reads as rewritten:

26 "**§ 115D-77. Nondiscrimination policy.**

27 It is the policy of the State Board of Community Colleges and of local boards of trustees of
28 the State of North Carolina not to discriminate ~~among students~~ on the basis of race, ~~gender, color,~~
29 national origin, religion, age, ~~sex, marital status, familial status, sexual orientation, gender~~
30 ~~identity, military or veteran status, genetic information, or disability.~~

31 The State Board and each board of trustees shall give equal opportunity for employment and
32 compensation of personnel at community colleges, without regard to race, religion, color, creed,
33 national origin, sex, age, ~~marital status, familial status, sexual orientation, gender identity,~~
34 ~~military or veteran status, genetic information, or disability, except where specific age, sex or~~
35 ~~physical or mental requirements constitute bona fide occupational qualifications.~~

36 ~~Any person who claims to have been injured by an unlawful discriminatory practice or who~~
37 ~~reasonably believes that he or she will be irrevocably injured by an unlawful discriminatory~~
38 ~~practice may file a complaint with the North Carolina Human Relations Commission established~~
39 ~~under G.S. 7A-761. Upon receipt of a complaint, the Commission shall work with the relevant~~
40 ~~parties to develop an amicable resolution to the charge of discrimination. If the Commission is~~
41 ~~unable to effect an amicable resolution of the charges of discrimination, the complainant and the~~
42 ~~Commission may proceed with an enforcement action using the procedures provided in~~
43 ~~G.S. 41A-7."~~

44 **SECTION 6.7.** G.S. 116-11 is amended by adding a new subdivision to read:

45 "(2b) ~~The Board of Governors shall adopt a policy to provide that The University~~
46 ~~of North Carolina and its affiliates and personnel employed by The University~~
47 ~~of North Carolina and its affiliates shall not discriminate on the basis of race,~~
48 ~~color, national origin, religion, age, disability, sex, marital status, familial~~
49 ~~status, sexual orientation, gender identity, military or veteran status, or genetic~~
50 ~~information. The policy shall include that any person who claims to have been~~
51 ~~injured by an unlawful discriminatory practice or who reasonably believes that~~

1 he or she will be irrevocably injured by an unlawful discriminatory practice
2 may file a complaint with the North Carolina Human Relations Commission
3 established under G.S. 7A-761. Upon receipt of a complaint, the Commission
4 shall work with the relevant parties to develop an amicable resolution to the
5 charge of discrimination. If the Commission is unable to effect an amicable
6 resolution of the charges of discrimination, the complainant and the
7 Commission may proceed with an enforcement action using the procedures
8 provided in G.S. 41A-7."
9

10 **PART VII. JURY SERVICE**

11 **SECTION 7.1.** G.S. 15A-1214 is amended by adding a new subsection to read:

12 "(k) A citizen may not be excluded from jury service in this State on account of race, color,
13 national origin, religion, age, disability, sex, marital status, familial status, sexual orientation,
14 gender identity, military or veteran status, or genetic information."
15

16 **PART VIII. ALIGN STATE ANTIDISCRIMINATION LAWS**

17 **SECTION 8.1.(a)** The General Assembly finds that:

- 18 (1) North Carolina does not have a comprehensive antidiscrimination statute
19 similar in scope to some of the ordinances that cities in this State have adopted.
- 20 (2) Instead, the State has a patchwork of protections against unlawful
21 discrimination with a range of requirements and remedies that are not
22 necessarily consistent.
- 23 (3) Therefore, this legislation amends various protection statutes that now exist in
24 order to broaden and refine existing State antidiscrimination law to achieve
25 equality for all.
- 26 (4) Aligning all State antidiscrimination laws into a single and consistent array of
27 rights, obligations, and protections will best serve the people of this State.

28 **SECTION 8.1.(b)** The Legislative Research Commission shall conduct a review of
29 State antidiscrimination laws to develop legislative proposals that will further equality for all in
30 North Carolina through comprehensive legislation.
31

32 **PART IX. EFFECTIVE DATE**

33 **SECTION 9.1.** This act becomes effective July 1, 2021.