

105TH CONGRESS
1ST SESSION

S. 142

To amend the Fair Labor Housing Act.

IN THE SENATE OF THE UNITED STATES

JANUARY 21, 1997

Mr. FAIRCLOTH introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Fair Labor Housing Act.

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

3 (a) PROTECTED ACTIVITIES.—Section 807 of the
4 Fair Housing Act (42 U.S.C. 3607) is amended by adding
5 at the end the following:

6 “(c) ACTIVITIES PROTECTED BY FIRST AMEND-
7 MENT; ACTIONS BY GOVERNMENT OFFICIALS; ENFORCE-
8 MENT.—

9 “(1) ACTIVITIES PROTECTED BY FIRST AMEND-
10 MENT.—The following conduct does not constitute a
11 violation of this title:

1 “(A) Any speech, activity, belief, affili-
2 ation, or membership protected by the first
3 amendment to the Constitution of the United
4 States, including any—

5 “(i) written or oral communication
6 with a government official or member of an
7 entity exercising government functions;

8 “(ii) nonviolent expression of opinion
9 in any form, including print, speech, or
10 electronic methods of communication; and

11 “(iii) participation, affiliation, or
12 membership in an organization engaged in
13 lawful activity.

14 “(B) The filing of an action in any Federal
15 or State court for damages or to enforce or
16 seek enforcement of any Federal, State, or local
17 law, including regulations or ordinances, if the
18 action satisfies the standards set forth in rule
19 11(b) of the Federal Rules of Civil Procedure.

20 “(2) ACTIVITIES OF GOVERNMENT OFFI-
21 CIALS.—In an action or proceeding against a gov-
22 ernment official, or a member of an entity exercising
23 a government function, in the official capacity of
24 that official or member, for a violation of this title,

1 no evidence of the following shall be admitted as evi-
2 dence or otherwise considered by the trier of fact:

3 “(A) That the official or member received
4 a communication, expression of opinion, or
5 other information pertaining to the membership
6 of another person in an organization described
7 in paragraph (1)(A), or was otherwise exposed
8 to activity or conduct described in paragraph
9 (1)(A).

10 “(B) That the official or member was the
11 defendant or subject of an action otherwise de-
12 scribed in paragraph (1)(B), even if the action
13 did not satisfy the standards set forth in rule
14 11(b) of the Federal Rules of Civil Procedure.

15 “(3) ENFORCEMENT.—Any regulation or guide-
16 line for the determination of housing discrimination
17 under this title that is considered, proposed, or
18 adopted after the date of enactment of this sub-
19 section shall make explicitly clear that any speech,
20 activity, belief, affiliation, or membership protected
21 by the first amendment to the Constitution of the
22 United States is not to be restricted and does not
23 constitute evidence of housing discrimination under
24 this title.”.

1 (b) ADMINISTRATIVE ENFORCEMENT.—Section
 2 810(a)(1) of the Fair Housing Act (42 U.S.C. 3610(a)(1))
 3 is amended—

4 (1) in subparagraph (A), by adding at the end
 5 the following:

6 “(iv) The Secretary shall not file or
 7 accept for filing any complaint, unless—

8 “(I) the complaint describes the
 9 alleged discriminatory housing prac-
 10 tice in sufficient detail to enable the
 11 Secretary to determine whether the
 12 conduct at issue is described in sec-
 13 tion 807(c); and

14 “(II) the Secretary has deter-
 15 mined that the discriminatory housing
 16 practice alleged in the complaint is
 17 not described in section 807(c).”; and

18 (2) in subparagraph (B)(ii)—

19 (A) by inserting “, describing in detail the
 20 alleged unlawful conduct,” after “identifying
 21 the alleged discriminatory housing practice”;
 22 and

23 (B) by inserting “including the protections
 24 and exemptions set forth in section 807(c),”

1 after “procedural rights and obligations of re-
2 spondents under this title,”.

3 (c) SANCTIONS FOR IMPERMISSIBLE COMPLAINTS.—
4 Section 810 of the Fair Housing Act (42 U.S.C. 3610)
5 is amended by adding at the end the following:

6 “(i) SANCTIONS FOR IMPERMISSIBLE COM-
7 PLAINTS.—If a court determines that a complaint filed,
8 or accepted for filing, by the Secretary under this section
9 does not meet the requirements of subsection
10 (a)(1)(A)(iv), the court—

11 “(1) shall promptly dismiss the complaint; and

12 “(2) shall impose appropriate sanctions on the
13 Secretary, including the assessment of all costs (in-
14 cluding attorney’s fees) incurred by the respondent
15 as a result of the filing of the complaint.”.

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