

**Editorial Notes****AMENDMENTS**

1988—Pub. L. 100-430, §6(e), inserted “and other prohibited practices” in section catchline.

Subsecs. (a), (b). Pub. L. 100-430, §6(b)(2), inserted “familial status,” after “sex.”

Subsecs. (c) to (e). Pub. L. 100-430, §6(b)(1), inserted “handicap, familial status,” after “sex.”

Subsec. (f). Pub. L. 100-430, §6(a), added subsec. (f).

Subsec. (f)(3)(A). Pub. L. 100-430, §15, which directed the substitution of “except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.” for the period at the end of subpar. (A) was executed by making the substitution for a semicolon as the probable intent of Congress because subpar. (A) ended with a semicolon, not a period.

1974—Pub. L. 93-383 inserted “, sex” after “religion” wherever appearing in cls. (a) to (e).

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE OF 1988 AMENDMENT**

Amendment by Pub. L. 100-430 effective on 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100-430, set out as a note under section 3601 of this title.

**§ 3605. Discrimination in residential real estate-related transactions****(a) In general**

It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

**(b) “Residential real estate-related transaction” defined**

As used in this section, the term “residential real estate-related transaction” means any of the following:

(1) The making or purchasing of loans or providing other financial assistance—

(A) for purchasing, constructing, improving, repairing, or maintaining a dwelling; or

(B) secured by residential real estate.

(2) The selling, brokering, or appraising of residential real property.

**(c) Appraisal exemption**

Nothing in this subchapter prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status.

(Pub. L. 90-284, title VIII, §805, Apr. 11, 1968, 82 Stat. 83; Pub. L. 93-383, title VIII, §808(b)(2), Aug. 22, 1974, 88 Stat. 729; Pub. L. 100-430, §6(c), Sept. 13, 1988, 102 Stat. 1622.)

**Editorial Notes****AMENDMENTS**

1988—Pub. L. 100-430 amended section generally. Prior to amendment, section read as follows: “After December 31, 1968, it shall be unlawful for any bank, building

and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, sex, or national origin of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given: *Provided*, That nothing contained in this section shall impair the scope or effectiveness of the exception contained in section 3603(b) of this title.”

1974—Pub. L. 93-383 inserted “, sex” after “religion”.

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE OF 1988 AMENDMENT**

Amendment by Pub. L. 100-430 effective on 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100-430, set out as a note under section 3601 of this title.

**§ 3606. Discrimination in the provision of brokerage services**

After December 31, 1968, it shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers’ organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, handicap, familial status, or national origin.

(Pub. L. 90-284, title VIII, §806, Apr. 11, 1968, 82 Stat. 84; Pub. L. 93-383, title VIII, §808(b)(3), Aug. 22, 1974, 88 Stat. 729; Pub. L. 100-430, §6(b)(1), Sept. 13, 1988, 102 Stat. 1622.)

**Editorial Notes****AMENDMENTS**

1988—Pub. L. 100-430 inserted “handicap, familial status,” after “sex.”

1974—Pub. L. 93-383 inserted “, sex” after “religion”.

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE OF 1988 AMENDMENT**

Amendment by Pub. L. 100-430 effective on 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100-430, set out as a note under section 3601 of this title.

**§ 3607. Religious organization or private club exemption**

(a) Nothing in this subchapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving pref-

erence to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this subchapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(b)(1) Nothing in this subchapter limits the applicability of any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this subchapter regarding familial status apply with respect to housing for older persons.

(2) As used in this section, "housing for older persons" means housing—

(A) provided under any State or Federal program that the Secretary determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or

(B) intended for, and solely occupied by, persons 62 years of age or older; or

(C) intended and operated for occupancy by persons 55 years of age or older, and—

(i) at least 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older;

(ii) the housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subparagraph; and

(iii) the housing facility or community complies with rules issued by the Secretary for verification of occupancy, which shall—

(I) provide for verification by reliable surveys and affidavits; and

(II) include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of clause (ii). Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification.

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

(A) persons residing in such housing as of September 13, 1988, who do not meet the age requirements of subsections<sup>1</sup> (2)(B) or (C): *Provided*, That new occupants of such housing meet the age requirements of subsections<sup>1</sup> (2)(B) or (C); or

(B) unoccupied units: *Provided*, That such units are reserved for occupancy by persons who meet the age requirements of subsections<sup>1</sup> (2)(B) or (C).

(4) Nothing in this subchapter prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in section 802 of title 21.

(5)(A) A person shall not be held personally liable for monetary damages for a violation of this subchapter if such person reasonably relied,

in good faith, on the application of the exemption under this subsection relating to housing for older persons.

(B) For the purposes of this paragraph, a person may only show good faith reliance on the application of the exemption by showing that—

(i) such person has no actual knowledge that the facility or community is not, or will not be, eligible for such exemption; and

(ii) the facility or community has stated formally, in writing, that the facility or community complies with the requirements for such exemption.

(Pub. L. 90-284, title VIII, §807, Apr. 11, 1968, 82 Stat. 84; Pub. L. 100-430, §6(d), Sept. 13, 1988, 102 Stat. 1622; Pub. L. 104-76, §§2, 3, Dec. 28, 1995, 109 Stat. 787.)

## Editorial Notes

### CODIFICATION

September 13, 1988, referred to in subsec. (b)(3)(A), was in the original "the date of enactment of this Act", which was translated as meaning the date of enactment of Pub. L. 100-430, which enacted subsec. (b) of this section, to reflect the probable intent of Congress.

### AMENDMENTS

1995—Subsec. (b)(2)(C). Pub. L. 104-76, §2, amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the Secretary shall develop regulations which require at least the following factors:

"(i) the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and

"(ii) that at least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; and

"(iii) the publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older."

Subsec. (b)(5). Pub. L. 104-76, §3, added par. (5).

1988—Pub. L. 100-430 designated existing provisions as subsec. (a) and added subsec. (b).

## Statutory Notes and Related Subsidiaries

### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-430 effective on 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100-430, set out as a note under section 3601 of this title.

### REGULATIONS

Pub. L. 102-550, title IX, §919, Oct. 28, 1992, 106 Stat. 3883, provided that: "The Secretary of Housing and Urban Development shall, not later than 180 days after the date of the enactment of this Act [Oct. 28, 1992], make rules defining what are 'significant facilities and services especially designed to meet the physical or social needs of older persons' required under section 807(b)(2) of the Fair Housing Act [42 U.S.C. 3607(b)(2)] to meet the definition of the term 'housing for older persons' in such section."

<sup>1</sup> So in original. Probably should be "paragraph".

**§ 3608. Administration****(a) Authority and responsibility**

The authority and responsibility for administering this Act shall be in the Secretary of Housing and Urban Development.

**(b) Assistant Secretary**

The Department of Housing and Urban Development shall be provided an additional Assistant Secretary.

**(c) Delegation of authority; appointment of administrative law judges; location of conciliation meetings; administrative review**

The Secretary may delegate any of his functions, duties, and powers to employees of the Department of Housing and Urban Development or to boards of such employees, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter under this subchapter. The person to whom such delegations are made with respect to hearing functions, duties, and powers shall be appointed and shall serve in the Department of Housing and Urban Development in compliance with sections 3105, 3344, 5372, and 7521 of title 5. Insofar as possible, conciliation meetings shall be held in the cities or other localities where the discriminatory housing practices allegedly occurred. The Secretary shall by rule prescribe such rights of appeal from the decisions of his administrative law judges to other administrative law judges or to other officers in the Department, to boards of officers or to himself, as shall be appropriate and in accordance with law.

**(d) Cooperation of Secretary and executive departments and agencies in administration of housing and urban development programs and activities to further fair housing purposes**

All executive departments and agencies shall administer their programs and activities relating to housing and urban development (including any Federal agency having regulatory or supervisory authority over financial institutions) in a manner affirmatively to further the purposes of this subchapter and shall cooperate with the Secretary to further such purposes.

**(e) Functions of Secretary**

The Secretary of Housing and Urban Development shall—

- (1) make studies with respect to the nature and extent of discriminatory housing practices in representative communities, urban, suburban, and rural, throughout the United States;
- (2) publish and disseminate reports, recommendations, and information derived from such studies, including an annual report to the Congress—
  - (A) specifying the nature and extent of progress made nationally in eliminating discriminatory housing practices and furthering the purposes of this subchapter, obstacles remaining to achieving equal housing opportunity, and recommendations for further legislative or executive action; and
  - (B) containing tabulations of the number of instances (and the reasons therefor) in the preceding year in which—
    - (i) investigations are not completed as required by section 3610(a)(1)(B) of this title;
    - (ii) determinations are not made within the time specified in section 3610(g) of this title; and
    - (iii) hearings are not commenced or findings and conclusions are not made as required by section 3612(g) of this title;
- (3) cooperate with and render technical assistance to Federal, State, local, and other public or private agencies, organizations, and institutions which are formulating or carrying on programs to prevent or eliminate discriminatory housing practices;
- (4) cooperate with and render such technical and other assistance to the Community Relations Service as may be appropriate to further its activities in preventing or eliminating discriminatory housing practices;
- (5) administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of this subchapter; and
- (6) annually report to the Congress, and make available to the public, data on the race, color, religion, sex, national origin, age, handicap, and family characteristics of persons and households who are applicants for, participants in, or beneficiaries or potential beneficiaries of, programs administered by the Department to the extent such characteristics are within the coverage of the provisions of law and Executive orders referred to in subsection (f) which apply to such programs (and in order to develop the data to be included and made available to the public under this subsection, the Secretary shall, without regard to any other provision of law, collect such information relating to those characteristics as the Secretary determines to be necessary or appropriate).

**(f) Provisions of law applicable to Department programs**

The provisions of law and Executive orders to which subsection (e)(6) applies are—

- (1) title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.];
- (2) this subchapter;
- (3) section 794 of title 29;
- (4) the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.];
- (5) the Equal Credit Opportunity Act [15 U.S.C. 1691 et seq.];
- (6) section 1982 of this title;
- (7) section 637(a) of title 15;
- (8) section 1735f-5 of title 12;
- (9) section 5309 of this title;
- (10) section 1701u of title 12;
- (11) Executive orders 11063, 11246, 11625, 12250, 12259, and 12432; and
- (12) any other provision of law which the Secretary specifies by publication in the Federal Register for the purpose of this subsection.

(Pub. L. 90-284, title VIII, §808, Apr. 11, 1968, 82 Stat. 84; Pub. L. 95-251, §3, Mar. 27, 1978, 92 Stat. 184; Pub. L. 95-454, title VIII, §801(a)(3)(J), Oct. 13, 1978, 92 Stat. 1222; Pub. L. 100-430, §7, Sept. 13, 1988, 102 Stat. 1623.)