

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5327

By Delegate Young

[Introduced January 29, 2024; Referred to the
Committee on Government Organization]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §5-11C-1, §5-11C-2, §5-11C-3, §5-11C-4, §5-11C-5, §5-11C-6, and §5-11C-7,
 3 all relating to creating the Housing Opportunities Made Equal Act.

Be it enacted by the Legislature of West Virginia:

ARTICLE 11C. HOUSING OPPORTUNITIES MADE EQUAL ACT.

§5-11C-1. Definitions.

1 (a) The following definitions shall be used in this section:

2 (1) "Disability" means:

3 (A) A physical or mental impairment that substantially limits one or more of an individual's
 4 major life activities;

5 (B) A record of having a physical or mental impairment that substantially limits one or more
 6 of an individual's major life activities; or

7 (C) Being regarded as having a physical or mental impairment that substantially limits one
 8 or more of an individual's major life activities.

9 (2) "Discriminatory housing practice" means an act that is prohibited under §5-11A-5, §5-
 10 11A-6, §5-11A-7, and §5-11C-1 et seq. of this code.

11 (3) "Dwelling" means:

12 (A) Any building, structure, or portion of a building or structure that is occupied, or designed
 13 or intended for occupancy, as a residence by one or more families; and

14 (B) Any vacant land that is offered for sale or lease for the construction or location on the
 15 land of any building, structure, or portion of a building or structure described in §5-11C-1(a)(3)(A)
 16 of this code.

17 (4) "Familial status" means the status of one or more minors who are domiciled with:

18 (A) A parent or other person having legal custody of the minor; or

19 (B) The designee of a parent or other person having legal custody of the minor with the
 20 written permission of the parent or other person.

- 21 (C) "Familial status" includes the status of being:
- 22 (i) A pregnant woman; or
- 23 (ii) An individual who is in the process of securing legal custody of a minor.
- 24 (5) "Family" includes households with a single individual.
- 25 (6) "In the business of selling or renting dwellings" means:
- 26 (A) Within the preceding 12 months, participating as a principal in three or more
- 27 transactions involving the sale or rental of any dwelling or any interest in a dwelling;
- 28 (B) Within the preceding 12 months, participating as an agent, other than in the sale of the
- 29 individual's own personal residence, in providing sales or rental facilities or services in two or more
- 30 transactions involving the sale or rental of any dwelling or any interest in a dwelling; or
- 31 (C) Being the owner of any dwelling occupied, or designed or intended for occupancy, by
- 32 five or more families.
- 33 (7) "Marital status" means the state of being single, married, separated, divorced, or
- 34 widowed.
- 35 (8) "Rent" includes to lease, sublease, let, or otherwise grant for a consideration the right to
- 36 occupy premises not owned by the occupant.
- 37 (9) "Source of income" means any lawful source of money paid directly or indirectly to or on
- 38 behalf of a renter or buyer of housing.
- 39 (A) "Source of income" includes income from:
- 40 (i) A lawful profession, occupation, or job;
- 41 (ii) Any government or private assistance, grant, loan, or rental assistance program,
- 42 including low-income housing assistance certificates and vouchers issued under the United States
- 43 Housing Act of 1937;
- 44 (iii) A gift, an inheritance, a pension, an annuity, alimony, child support, or any other
- 45 consideration or benefit; or
- 46 (iv) The sale or pledge of property or an interest in property.

§5-11C-2. State policy; administration and enforcement of article.

1 (a) It is the policy of the State:

2 (1) To provide for fair housing throughout the State to all, regardless of race, color, religion,
3 sex, familial status, national origin, marital status, sexual orientation, gender identity, disability, or
4 source of income; and

5 (2) To that end, to prohibit discriminatory practices with respect to residential housing by
6 any person, in order to protect and ensure the peace, health, safety, prosperity, and general
7 welfare of all.

8 (b) The provisions of this article shall be administered and enforced by the Human Rights
9 Commission.

§5-11C-3. Scope of article.

10 (a) This article does not apply to:

11 (1) The sale or rental of a single-family dwelling, if the dwelling is sold or rented without:

12 (A) The use of the sales or rental facilities or services of any:

13 (i) Real estate broker, agent, or salesperson;

14 (ii) Agent of any real estate broker, agent, or salesperson;

15 (iii) Person in the business of selling or renting dwellings; or

16 (iv) Agent of a person in the business of selling or renting dwellings; or

17 (B) The publication, posting, or mailing, after notice, of any advertisement or written notice
18 in violation of this subtitle; and

19 (2) With respect to discrimination on the basis of sex, sexual orientation, gender identity,
20 marital status, or source of income if the source of income is low-income housing assistance
21 certificates or vouchers issued under the United States Housing Act of 1937:

22 (A) The rental of rooms in any dwelling, if the owner maintains the dwelling as the owner's
23 principal residence; or

24 (B) The rental of any apartment in a dwelling that contains not more than five rental units, if

25 the owner maintains the dwelling as the owner's principal residence.

26 (b) The use of attorneys, escrow agents, abstractors, title companies, and other similar
27 professional assistance as necessary to perfect or transfer the title to a single-family dwelling does
28 not subject a person to this subtitle if the person otherwise would be exempted under subsection
29 (a) of this section.

30 (c)(1) In this subsection, "housing for older persons" means housing:

31 (A) Provided under any State or federal program that is specifically designed and operated
32 to assist elderly persons, as defined in the State or federal program;

33 (B) Intended for, and solely occupied by, persons who are at least 62 years old;

34 (C) Intended and operated for occupancy by at least one person who is at least 55 years
35 old in each unit; or

36 (D) That meets the requirements set forth in regulations adopted by the Secretary of
37 Housing and Urban Development under 42 U.S.C. §3607(b)(2)(C).

38 (2) "Housing for older persons" includes:

39 (A) Unoccupied units, if the units are reserved for occupancy by persons who meet the age
40 requirements of subparagraph (i) of this paragraph; or

41 (B) Units occupied as of September 13, 1988, by persons who do not meet the age
42 requirements of subparagraph (i) of this paragraph, if the new occupant of the unit meets the age
43 requirement.

44 (3) The provisions in this subtitle concerning familial status do not apply to housing for
45 older persons.

46 (d) The prohibitions in this article against discrimination based on source of income do not:

47 (1) Prohibit a person from determining the ability of a potential buyer or renter to pay a
48 purchase price or pay rent by verifying in a commercially reasonable and nondiscriminatory
49 manner the source and amount of income or creditworthiness of the potential buyer or renter;

50 (2) Prevent a person from refusing to consider income derived from any criminal activity; or

51 (3) Prohibit a person from determining, in accordance with applicable federal and State
52 laws, the ability of a potential buyer to repay a mortgage loan.

§5-11C-4. Discriminatory housing practices in the sale or rental of a dwelling.

1 (a) Except as otherwise provided in this article, a person may not:

2 (1) Refuse to sell or rent after the making of a bona fide offer, refuse to negotiate for the
3 sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race,
4 color, religion, sex, disability, marital status, familial status, sexual orientation, gender identity,
5 national origin, or source of income;

6 (2) Discriminate against any person in the terms, conditions, or privileges of the sale or
7 rental of a dwelling, or in the provision of services or facilities in connection with the sale or rental of
8 a dwelling, because of race, color, religion, sex, disability, marital status, familial status, sexual
9 orientation, gender identity, national origin, or source of income;

10 (3) Make, print, or publish, or cause to be made, printed, or published, any notice,
11 statement, or advertisement with respect to the sale or rental of a dwelling that indicates any
12 preference, limitation, or discrimination based on race, color, religion, sex, disability, marital status,
13 familial status, sexual orientation, gender identity, national origin, or source of income, or an
14 intention to make any preference, limitation, or discrimination;

15 (4) Represent to any person, because of race, color, religion, sex, disability, marital status,
16 familial status, sexual orientation, gender identity, national origin, or source of income, that any
17 dwelling is not available for inspection, sale, or rental when the dwelling is available; or

18 (5) For profit, induce or attempt to induce any person to sell or rent any dwelling by
19 representations regarding the entry or prospective entry into the neighborhood of a person of a
20 particular race, color, religion, sex, disability, marital status, familial status, sexual orientation,
21 gender identity, national origin, or source of income.

§5-11C-5. Discrimination in residential real estate-related transactions; discrimination in

professional services or organizations.

1 (a) In this section, "residential real estate-related transaction" means:

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

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

4 (B) Secured by residential real estate; or

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

6 (b)(1) A person whose business includes engaging in residential real estate-related
7 transactions may not discriminate against any person in making available a transaction, or in the
8 terms or conditions of a transaction, because of race, color, religion, sex, disability, marital status,
9 familial status, sexual orientation, gender identity, national origin, or source of income.

10 (2) Subdivision (1) of this section does not prohibit a person engaged in the business of
11 furnishing appraisals of real property from taking into consideration factors other than race, color,
12 religion, sex, disability, marital status, familial status, sexual orientation, gender identity, national
13 origin, or source of income.

14 (c) A person may not, because of race, color, religion, sex, disability, marital status, familial
15 status, sexual orientation, gender identity, national origin, or source of income:

16 (1) Deny a person access to, or membership or participation in, a multiple-listing service,
17 real estate brokers' organization, or other service, organization, or facility relating to the business
18 of selling or renting dwellings; or

19 (2) Discriminate against a person in the terms or conditions of membership or participation.

§5-11C-6. Injury, intimidation, or interference with protected housing activities.

1 (a) Words used in this section shall share the same definitions as §5-11C-1 of this code.

2 (b) Whether or not acting under color of law, a person may not, by force or threat of force,
3 willfully injure, intimidate, interfere with, or attempt to injure, intimidate, or interfere with:

4 (1) Any person because of race, color, religion, sex, disability, marital status, familial status,
5 sexual orientation, gender identity, national origin, or source of income and because the person is

6 or has been:

7 (A) Selling, purchasing, renting, financing, occupying, or contracting or negotiating for the
8 sale, purchase, rental, financing, or occupation of any dwelling; or

9 (B) Applying for or participating in any service, organization, or facility relating to the
10 business of selling or renting dwellings;

11 (2) Any person because the person is or has been, or in order to intimidate the person or
12 any other person or any class of persons from:

13 (A) Participating, without discrimination on account of race, color, religion, sex, disability,
14 marital status, familial status, sexual orientation, gender identity, national origin, or source of
15 income, in any of the activities, services, organizations, or facilities described in this article; or

16 (B) Affording another person or class of persons the opportunity or protection to participate
17 in any of the activities, services, organizations, or facilities described in this article; or

18 (3) Any person because the person is or has been, or in order to discourage the person or
19 any other person from:

20 (A) Lawfully aiding or encouraging other persons to participate, without discrimination on
21 account of race, color, religion, sex, disability, marital status, familial status, sexual orientation,
22 gender identity, national origin, or source of income, in any of the activities, services,
23 organizations, or facilities described in item (1) of this subsection; or

24 (B) Participating lawfully in speech or peaceful assembly opposing any denial of the
25 opportunity to participate in any of the activities, services, organizations, or facilities described in
26 item (1) of this subsection.

27 (c) A person who violates this section is guilty of a misdemeanor and on conviction is
28 subject to:

29 (1) Imprisonment up to 1 year, a fine not exceeding \$1,000, or both;

30 (2) If the violation results in bodily injury, imprisonment up to 10 years, a fine not exceeding
31 \$10,000, or both; or

32 (3) If the violation results in death, imprisonment up to a life sentence.

§5-11C-7. Limitations and effective date.

1 Nothing in this article shall limit the rights or remedies that are otherwise available to a
2 landlord or tenant under any other part of this code. This article shall become effective upon
3 passage.

NOTE: The purpose of this bill is to create the Housing Opportunities Made Equal Act.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.