

Chapter 58 HUMAN RELATIONS

Chapter 58 HUMAN RELATIONS ^[1]

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FOOTNOTE(S):

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State Law reference— Texas Fair Housing Act, V.T.C.A., Property Code ch. 301. [\(Back\)](#)

ARTICLE I. IN GENERAL

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Secs. 58-1—58-30. Reserved.

ARTICLE II. DISCRIMINATION

DIVISION 1. - GENERALLY

DIVISION 2. - FAIR HOUSING

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Secs. 58-31—58-50. Reserved.

DIVISION 2. FAIR HOUSING ^[2]

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Sec. 58-51. Policy.

Through fair, orderly and lawful procedures, it is the policy of the city to promote the opportunity for each person to obtain housing without regard to race, color, sex, disability, familial status, religion or national origin. This policy is grounded upon the recognition of the right of every person to have access to adequate housing of the person's choice; and the denial of this right, because of race, color, sex, disability, familial status, religion or national origin, is detrimental to the health, safety and welfare of the inhabitants of the city and constitutes an unjust deprivation of rights, which is within the power and proper responsibility of government to prevent.

(Code 1978, § 8.5-12)

Sec. 58-52. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Actor means a person identified in a complaint as having committed an unlawful act under this article.

Bona fide offer to purchase means an offer in writing, accompanied by an earnest money deposit, in such form and amount as customarily in use in that type of transaction by an offeror financially competent to close the transaction.

Bona fide offer to rent means an oral or written offer, made in a manner customarily used in the rental or leasing of dwellings, by an offeror financially competent to close the transaction.

Commission means the state commission on human rights.

Disability means a mental or physical impairment that substantially limits at least one major life activity, a record of the impairment or being regarded as having the impairment. The term does not include current illegal use or addiction to any drug or illegal or federally controlled substance, and does not apply to an individual because of an individual's sexual orientation or because that individual is a transvestite.

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Discriminatory housing practice means an act that is unlawful under section 58-54, or declared unlawful under the Fair Housing Act of 1968 (Public Law 90-284).

Family includes a single individual.

Grievance officer means the person serving as the fair housing grievance officer and includes the assistants, agents or employees assigned to work with the grievance officer.

Housing unit means any building, structure, manufactured home or portion thereof, which is occupied, designed or intended for occupancy by a family or families, as a residence, and any vacant land offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

Person includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries, whether acting as principal or agent in the transaction, or two or more persons having a joint or common economic interest.

Persons aggrieved means any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory practice that is about to occur.

To rent means to lease, sublease or let, or to grant in any other manner, for a consideration, the right to occupy premises not owned by the occupant.

(Code 1978, § 8.5-13)

Cross reference— Definitions generally, § 1-2.

Sec. 58-53. Familial status; housing for elderly exempted.

- (a) A discriminatory act is committed because of familial status if the act is committed because the person who is the subject of discrimination is:
 - (1) Pregnant;
 - (2) Domiciled with an individual younger than 18 years of age in regard to whom the person:
 - a. Is the parent or legal custodian; or
 - b. Has the written permission of the parent or legal custodian for domicile with that person; or
 - (3) In the process of obtaining legal custody of an individual younger than 18 years of age.
- (b) The provisions of this division, relating to familial status, do not apply to housing:
 - (1) That the commission determines is specifically designed and operated to assist elderly individuals under a federal or state program;
 - (2) Intended for, an solely occupied by, individuals 62 years of age or older; or
 - (3) Intended and operated for occupancy by at least one individual 55 years of age or older for each unit as determined by commission rules.

Sec. 58-54. Discriminatory housing practices.

- (a) It shall be unlawful for a person, on the basis of race, color, sex, disability, familial status, religion or national origin:

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- (1) To refuse to sell or rent an available housing unit to another person after the other person makes a bona fide offer to buy or rent the housing unit.
 - (2) To refuse to negotiate with a person for the sale or rental of a housing unit.
 - (3) To discriminate against a prospective buyer or renter in connection with the showing of a housing unit.
 - (4) To discriminate against a person in the terms, conditions or privileges of sale or rental of a housing unit, or in the provision of services or facilities in connection therewith.
 - (5) To represent to a person that any housing unit is not available for inspection, sale or rental when such housing unit is in fact so available, or to otherwise make unavailable or deny such housing unit to any person.
 - (6) As to a multiple-listing service, real estate brokers' organizations or other service, organization or facility relating to the business of selling or renting housing units:
 - a. To deny a person access to or membership or participation in the service organization or facility; or
 - b. To discriminate against a person in the terms or conditions of such access, membership or participation.
- (b) It shall be unlawful:
- (1) To make an oral or written statement indicating a policy of the actor, or of a person represented by the actor, to discriminate on the basis of race, color, sex, disability, familial status, religion or national origin in the selling or renting of a housing unit.
 - (2) For gain or profit, to induce, or attempt to induce, a person to sell or rent a housing unit by a representation that a person of a particular race, color, sex, disability, familial status, religion or national origin is in proximity to, is present in, or may enter into the neighborhood in which such housing unit is located.
 - (3) To make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement which, with respect to the sale or rental of a housing unit, indicates any preference, limitation or discrimination based on race, color, sex, disability, familial status, religion or national origin, or an intention to make any such preference, limitation or discrimination.
 - (4) For a person whose business consists in whole, or in part, in the making of commercial real estate loans, with respect to a loan or financial assistance, for the purpose of purchasing, constructing, improving, repairing or maintaining a housing unit, and because of race, color, sex, disability, familial status, religion or national origin:
 - a. To deny such loan or other financial assistance to a person; or
 - b. To discriminate against such person in the fixing of the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance.

(Code 1978, § 8.5-14)

Sec. 58-55. Sales and rentals exempted.

- (a) Nothing in section 58-54, other than section 58-54(b)(3), shall apply to:
- (1) The sale or rental of a single-family house sold or rented by the owner if:
 - a. The owner does not:

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1. Own more than three single-family houses at any one time; or
 2. Own any interest in, nor is there owned or reserved on the person's behalf, under any express or voluntary agreement, title to or any right to any part of the proceeds from the sale or rental of more than three single-family houses at any one time; and
- b. The house is sold or rented without:
1. The use of the sales or rental facilities or services of a real estate broker, agent or salesman licensed under the Real Estate License Act (Vernon's Ann. Civ. St. art. 6573a), or of an employee or agent of a licensed broker, agent or salesman, or the facilities or services of the owner of a dwelling designed or intended for occupancy by five or more families; or
 2. The publication, posting or mailing of a notice, statement or advertisement prohibited by section 58-54(b)(3); or
- (2) The sale or rental of the rooms or units in a dwelling containing living quarters occupied by or intended to be occupied by not more than four families living independently of each other, if the owner maintains and occupies one of the living quarters as the owner's residence.
- (b) The exemption in subsection (a)(1) of this section applies only to one sale or rental in a 24-month period, if the owner was not the most recent resident of the house at the time of the sale or rental.

(Code 1978, § 8.5-15(a))

Sec. 58-56. Religious organization, private club and appraisal exemption.

- (a) This division does not prohibit a religious organization, association or society, or a nonprofit institution or organization, operated, supervised or controlled by, or in conjunction with, a religious organization, association or society from:
- (1) Limiting the sale, rental or occupancy of dwellings that it owns or operates for other than a commercial purpose to persons of the same religion; or
 - (2) Giving preference to persons of the same religion, unless membership in the religion is restricted because of race, color or national origin.
- (b) This article does not prohibit a private club that is not open to the public and that, as an incident to its primary purpose, provides lodging that it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of the lodging to its members or from giving preference to its members.
- (c) This article does not prohibit a person engaged in the business of furnishing appraisals of real property from considering in those appraisals factors other than race, color, religion, sex, disability, familial status or national origin.

(Code 1978, § 8.5-15(b))

Sec. 58-57. Grievance officer.

The city council shall appoint a fair housing grievance officer and provide the grievance officer with a staff adequate to effectively enforce this article. The fair housing grievance officer shall implement and enforce this article in a manner affirmatively to further the purpose of this article. The grievance officer shall cooperate with the Secretary of Housing and Urban Development and the Attorney General of the

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United States in the enforcement of the Fair Housing Act of 1968, Public Law 90-284, and may assist the secretary or attorney general in any way consistent with the purpose and policy of this article.

(Code 1978, § 8.5-16)

Cross reference— Officers and employees, § 2-36 et seq.

Sec. 58-58. Complaints.

- (a) An aggrieved person may report any discriminatory housing practice to the grievance officer and may file a complaint not more than one year after the commission of the practice of which complaint is made. A complaint may also be filed by the grievance officer, if such officer has evidence to believe that a person has committed a discriminatory housing practice.
- (b) The grievance officer shall treat a complaint referred by the Secretary of Housing and Urban Development or the Attorney General of the United States under the Fair Housing Act of 1968, Public Law 90-284, as a complaint filed under subsection (a) of this section.
- (c) A complaint shall be in writing, verified and contain the following information:
 - (1) Name of aggrieved person;
 - (2) Street address of current residence of aggrieved person;
 - (3) Telephone number, if any, of aggrieved person;
 - (4) Name of actor;
 - (5) Street address of actor, if known to the aggrieved person;
 - (6) Date of alleged discriminatory practice;
 - (7) Street address of property involved;
 - (8) General statement of facts pertaining to the offense, including the basis of the alleged discriminatory practice (race, color, sex, disability, familial status, religion or national origin);
 - (9) Date of filing complaint;
 - (10) Signature of aggrieved person;
 - (11) If complainant is other than aggrieved person, the signature, name and street address of the complainant, in addition to the above information.
- (d) Not more than five working days after the filing of complaint by certified mail, the grievance officer shall notify the actor named in the complaint that:
 - (1) A complaint alleging the commission of a discriminatory housing practice has been filed against the actor and shall furnish a copy of the complaint to the actor;
 - (2) The actor may file a verified written answer to the complaint within ten days after the complaint is received by the actor.
- (e) A complaint or answer may be amended at any time before the grievance officer notifies the city attorney, under section 58-62, of a discriminatory housing practice upon which the complaint is based. The grievance officer, by certified mail, shall furnish a copy of each amended complaint or answer to the actor or the complainant, respectively, as promptly as practicable.
- (f) A person may not be prosecuted in municipal court for a discriminatory housing practice for which the person is charged if a complaint is filed more than one year after such discriminatory housing practice has been committed.

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- (g) The grievance officer and staff may not make public, without the written consent of the persons concerned, the name of the actor or the aggrieved person, or any information relative to a complaint, before the grievance officer notifies the city attorney of a discriminatory housing practice alleged to have been committed in a complaint, or while the complaint is in the process of being investigated and prior to completion of all negotiations.

(Code 1978, § 8.5-17)

Sec. 58-59. Investigation.

- (a) With respect to each discriminatory housing practice alleged in a complaint, the grievance officer shall conduct, as promptly as practicable, an investigation to determine whether there is probable cause to believe a discriminatory housing practice was committed and the facts of the practice. The grievance officer has authority to conduct such other investigation or to use other lawful enforcement procedures such officer deems necessary to enforce this article.
- (b) If the grievance officer determines that there is not probable cause to believe that a particular alleged or suspected discriminatory housing practice has been committed, the grievance officer shall take no further action with respect to the alleged or suspected discriminatory housing practice.

(Code 1978, § 8.5-18)

Sec. 58-60. Conciliation.

- (a) If the grievance officer determines that there is probable cause to believe that a discriminatory housing practice alleged in a complaint has been committed, the grievance officer and the actor, or a person who owns, controls or manages the housing unit involved in the discriminatory practice, or a person who employs the actor, may voluntarily enter into a conciliation agreement.
- (b) If a conciliation agreement is executed under this section, a party to the agreement may not be prosecuted in municipal court for an offense specified in the agreement, as provided under subsection (d)(1) of this section, unless the grievance officer determines that the agreement has been violated and notifies the city attorney in writing of the violation.
- (c) A conciliation must be in writing in a form approved by the city attorney, and must be signed and verified by the grievance officer and each other party to the agreement. A conciliation agreement that is not executed before the expiration of 30 days after the notification to the actor, as required under section 58-58(d), must be specifically approved by the city attorney prior to its execution. A conciliation agreement is executed upon its signing and verification by all parties to the agreement.
- (d) A conciliation agreement executed under this section must contain:
 - (1) An identification of the discriminatory housing practice and corresponding actor that gives rise to the conciliation agreement under subsection (a) of this section, and the identification of any other discriminatory housing practice and actor that the parties agree to make subject to the limitation on prosecution in subsection (b) of this section;
 - (2) Identification of the housing unit subject to the conciliation agreement; and
 - (3) A statement that each party entering into the conciliation agreement with the grievance officer agrees:
 - a. Not to violate this article or the conciliation agreement; and
 - b. To file with the grievance officer a monthly activity report, in accordance with the following regulations:

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1. If the practice giving rise to the conciliation agreement under subsection (a) of this section involves:
 - i. An actor who engages in a business relating to the selling or renting of housing units;
 - ii. A housing unit occupied or intended for occupancy on a rental or sale basis; or
 - iii. A violation of section 58-54(b)(4).

The activity report must state, with respect to each person of the specified class (the race, color, sex, disability, familial status, religion or national origin alleged as the basis of discrimination in the complaint), who in person contacts a party to the conciliation agreement concerning the sale, rental or financing of a housing unit, the name, street address and telephone number, if any, of such person, the date of each contact and the result of each contact.

2. If the practice giving rise to the conciliation agreement under subsection (a) of this section involves a violation of section 58-54(b)(2), the activity report must state the number and manner of solicitations concerning housing units made by the party and the approximate boundaries of each neighborhood in which the solicitations are made.
 3. The party who prepares the activity report shall sign and verify the report.
 4. An activity report must be filed each month with the grievance officer, on the date specified in the conciliation agreement for a period of not less than three months nor more than 24 months, as required by the conciliation agreement.
- (e) In addition to the requirements of subsection (d) of this section, a conciliation agreement may include any other term or condition agreed to by the parties.
- (f) If the grievance officer determines that a conciliation agreement has been violated, the grievance officer shall give written notice, by certified mail, to all actors subject to the agreement.

(Code 1978, § 8.5-19)

Sec. 58-61. Violation of conciliation agreement.

- (a) A person commits an offense if, after such person and the grievance officer execute a conciliation agreement under section 58-60, such person violates subsection 58-60(d)(3)a or b.
- (b) It is no defense to prosecution under this section that, with respect to a discriminatory housing practice that gave rise to the conciliation agreement under section 58-60(a):
 - (1) The actor did not commit the offense; or
 - (2) The grievance officer did not have probable cause to believe the offense was committed.

(Code 1978, § 8.5-20)

Sec. 58-62. Notification to city attorney.

- (a) Except as otherwise provided in subsection (b) of this section, if the grievance officer determines that there is probable cause to believe that a discriminatory housing practice alleged in a complaint has been committed, the grievance officer shall promptly notify the city attorney in writing of the identification of the actor and the discriminatory housing practice and request that appropriate action be taken.

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- (b) If the grievance officer elects to attempt a conciliation under section 58-60, the grievance officer may postpone the notification to the city attorney required under subsection (a) of this section, for a period of not more than 30 days after notification to the actor of a complaint as required under section 58-58(d). However, if a conciliation agreement is executed during the 30-day period of postponement, the grievance officer is not required to notify the city attorney of the identification of the actor or of a discriminatory housing practice specified in the conciliation agreement (as provided in section 58-60(d)(1)) unless the grievance officer determines that the agreement has been violated.
- (c) Notification required under subsection (a) of this section is not a prerequisite to prosecution or referral to Housing and Urban Development as a discriminatory housing practice under this article. This section does not limit any communications, otherwise lawful, between the grievance officer and the city attorney.

(Code 1978, § 8.5-21)

Sec. 58-63. Dismissal of complaint.

If, after the city attorney files a complaint in the municipal court charging an actor with a discriminatory housing practice, a conciliation agreement is executed under section 58-60 before commencement of trial on the discriminatory housing practice, the city attorney may cease prosecution and move for dismissal of the complaint.

(Code 1978, § 8.5-22)

Sec. 58-64. Additional remedies.

The procedures prescribed by this chapter do not constitute an administrative prerequisite to another action or remedy available under other law.

(Code 1978, § 8.5-23)

Sec. 58-65. Education and public information.

The grievance officer may conduct such educational and public information activities as are designed to promote the policy of this article.

(Code 1978, § 8.5-24)

Sec. 58-66. Penalties.

Any person who violates this article is guilty of a separate offense for each day or portion of a day on which the violation is committed, and each offense is punishable as provided in section 1-11.

(Code 1978, § 8.5-25)

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FOOTNOTE(S):

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Cross reference— Housing code, § 18-141 et seq.; businesses, ch. 22. ([Back](#))