



Rep. Camille Y. Lilly

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LRB103 29436 LNS 59804 a

1 AMENDMENT TO HOUSE BILL 2818

2 AMENDMENT NO. _____. Amend House Bill 2818 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Human Rights Act is amended by
5 changing Sections 3-102.10 and 3-106 and by adding Sections
6 3-102.2 and 7-114 as follows:

7 (775 ILCS 5/3-102.2 new)

8 Sec. 3-102.2. Civil rights violations; conviction record.

9 (A) It is a civil rights violation for an owner or any
10 other person engaging in a real estate transaction, or for a
11 real estate broker or salesman, because of a conviction
12 record, except as provided by subsection (C), to:

13 (1) refuse to engage in a real estate transaction or
14 otherwise make unavailable or deny real property;

15 (2) alter the terms, conditions, or privilege of a
16 real estate transaction or in the furnishing of facilities

1 or services in connection therewith;

2 (3) refuse to receive or to fail to transmit a bona
3 fide offer to engage in a real estate transaction from a
4 person;

5 (4) refuse to negotiate for a real estate transaction
6 with a person;

7 (5) represent to a person that real property is not
8 available for inspection, sale, rental, or lease when in
9 fact it is so available, or to fail to bring a property
10 listing to his or her attention, or to refuse to permit him
11 or her to inspect real property;

12 (6) make, print, circulate, post, mail, publish, or
13 cause to be made, printed, circulated, posted, mailed, or
14 published any notice, statement, advertisement, or sign,
15 or use a form of application for a real estate
16 transaction, or make a record or inquiry in connection
17 with a prospective real estate transaction, that indicates
18 any preference or limitation, or an intention to make any
19 such preference, limitation, or discrimination; or

20 (7) offer, solicit, accept, use, or retain a listing
21 of real property with knowledge that discrimination in a
22 real estate transaction is intended.

23 (B) It is a civil rights violation to inquire into a
24 person's conviction record prior to making a conditional offer
25 to sell, lease, or rent real property. For the purposes of this
26 subsection, "conditional offer" means an offer to sell, lease,

1 or rent real property contingent on conducting a criminal
2 history check or criminal background check.

3 (C) Nothing in this Article shall be construed to require
4 an owner or any other person to conduct a criminal history
5 check or criminal background check when engaging in a real
6 estate transaction. An owner or any other person who elects
7 to, or is otherwise required to, consider a person's
8 conviction record in connection with a real estate transaction
9 shall consider the following factors before making a
10 preliminary decision that the conviction record is
11 disqualifying:

12 (1) the nature and severity of the conduct underlying
13 the conviction;

14 (2) the terms of the sentence;

15 (3) the number of convictions on the person's record;

16 (4) the age of the person at the time of the
17 conviction;

18 (5) the length of time since the conviction; and

19 (6) evidence of rehabilitation.

20 (D) If after considering the factors in subsection (C),
21 the owner or any other person engaging in a real estate
22 transaction makes a preliminary decision that the conviction
23 record is disqualifying, the owner or person engaging in a
24 real estate transaction shall provide written notification to
25 the disqualified person within 5 business days which shall
26 contain the following:

1 (1) notice of the disqualifying conviction or
2 convictions that are the basis of the preliminary decision
3 and the reason or reasons for the disqualification;

4 (2) a copy of the conviction record or other
5 information relied upon to make the preliminary decision
6 to disqualify; and

7 (3) an explanation of the disqualified person's right
8 to respond to the decision of the owner or any other person
9 engaging in the real estate transaction before the
10 preliminary decision becomes final. The explanation shall
11 inform the disqualified person that the response may
12 include, but is not limited to, submission of evidence
13 challenging the accuracy of the conviction record that is
14 the basis for the disqualification, or evidence of
15 mitigation, such as rehabilitation.

16 (E) The disqualified person shall have at least 5 business
17 days to respond to the notification as provided under
18 subsection (D).

19 (F) The owner or person engaging in a real estate
20 transaction shall consider information submitted by the
21 disqualified person before making a final decision. If an
22 owner or any other person engaging in a real estate
23 transaction makes a final decision based on the disqualified
24 person's conviction record, the owner or any other person
25 engaging in the real estate transaction shall provide written
26 notification to the disqualified person within 5 business days

1 which shall contain the following:

2 (1) notice of the disqualifying conviction or
3 convictions that are the basis of the final decision and
4 the reasons for the disqualification;

5 (2) any existing procedure the owner or any other
6 person engaging in the real estate transaction has for the
7 disqualified person to challenge the decision or request
8 reconsideration; and

9 (3) the right to file a charge with the Department.

10 (775 ILCS 5/3-102.10)

11 Sec. 3-102.10. Third-party loan modification service
12 provider.

13 (A) It is a civil rights violation for a third-party loan
14 modification service provider, because of unlawful
15 discrimination, familial status, ~~or~~ an arrest record, or a
16 conviction record, to:

17 (1) refuse to engage in loan modification services;

18 (2) alter the terms, conditions, or privileges of such
19 services; or

20 (3) discriminate in making such services available,
21 including, but not limited to, by making a statement,
22 advertisement, representation, inquiry, listing, offer, or
23 solicitation that indicates a preference or the intention
24 to make such a preference in making such services
25 available.

1 (B) For purposes of this Section, "third-party loan
2 modification service provider" means a person or entity,
3 whether licensed or not, who, for or with the expectation of
4 receiving consideration, provides assistance or services to a
5 loan borrower to obtain a modification to a term of an existing
6 real estate loan or to obtain foreclosure relief. "Third-party
7 loan modification service provider" does not include lenders,
8 brokers or appraisers of mortgage loans, or the servicers,
9 subsidiaries, affiliates, or agents of the lender.

10 (Source: P.A. 102-362, eff. 1-1-22.)

11 (775 ILCS 5/3-106) (from Ch. 68, par. 3-106)

12 Sec. 3-106. Exemptions. Nothing contained in Section 3-102
13 or 3-102.2 shall prohibit:

14 (A) Private Sales of Single Family Homes.

15 (1) Any sale of a single family home by its owner so
16 long as the following criteria are met:

17 (a) The owner does not own or have a beneficial
18 interest in more than three single family homes at the
19 time of the sale;

20 (b) The owner or a member of his or her family was
21 the last current resident of the home;

22 (c) The home is sold without the use in any manner
23 of the sales or rental facilities or services of any
24 real estate broker or salesman, or of any employee or
25 agent of any real estate broker or salesman;

1 (d) The home is sold without the publication,
2 posting or mailing, after notice, of any advertisement
3 or written notice in violation of paragraph (F) of
4 Section 3-102.

5 (2) This exemption does not apply to paragraph (F) of
6 Section 3-102.

7 (B) Apartments. Rental of a housing accommodation in a
8 building which contains housing accommodations for not more
9 than 4 families living independently of each other, if the
10 owner resides in one of the housing accommodations. This
11 exemption does not apply to paragraph (F) of Section 3-102.

12 (C) Private Rooms. Rental of a room or rooms in a private
13 home by an owner if he or she or a member of his or her family
14 resides therein or, while absent for a period of not more than
15 twelve months, if he or she or a member of his or her family
16 intends to return to reside therein.

17 (D) Reasonable local, State, or Federal restrictions
18 regarding the maximum number of occupants permitted to occupy
19 a dwelling.

20 (E) Religious Organizations. A religious organization,
21 association, or society, or any nonprofit institution or
22 organization operated, supervised or controlled by or in
23 conjunction with a religious organization, association, or
24 society, from limiting the sale, rental or occupancy of a
25 dwelling which it owns or operates for other than a commercial
26 purpose to persons of the same religion, or from giving

1 preference to such persons, unless membership in such religion
2 is restricted on account of race, color, or national origin.

3 (F) Sex. Restricting the rental of rooms in a housing
4 accommodation to persons of one sex.

5 (G) Persons Convicted of Drug-Related Offenses. Conduct
6 against a person because such person has been convicted by any
7 court of competent jurisdiction of the illegal manufacture or
8 distribution of a controlled substance as defined in Section
9 102 of the federal Controlled Substances Act (21 U.S.C. 802).

10 (H) Persons engaged in the business of furnishing
11 appraisals of real property from taking into consideration
12 factors other than those based on unlawful discrimination or
13 familial status or source of income in furnishing appraisals.

14 (H-1) The owner of an owner-occupied residential building
15 with 4 or fewer units (including the unit in which the owner
16 resides) from making decisions regarding whether to rent to a
17 person based upon that person's sexual orientation.

18 (I) Housing for Older Persons. No provision in this
19 Article regarding familial status shall apply with respect to
20 housing for older persons.

21 (1) As used in this Section, "housing for older
22 persons" means housing:

23 (a) provided under any State or Federal program
24 that the Department determines is specifically
25 designed and operated to assist elderly persons (as
26 defined in the State or Federal program); or

1 (b) intended for, and solely occupied by, persons
2 62 years of age or older; or

3 (c) intended and operated for occupancy by persons
4 55 years of age or older and:

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

8 (ii) the housing facility or community
9 publishes and adheres to policies and procedures
10 that demonstrate the intent required under this
11 subdivision (c); and

12 (iii) the housing facility or community
13 complies with rules adopted by the Department for
14 verification of occupancy, which shall:

15 (aa) provide for verification by reliable
16 surveys and affidavits; and

17 (bb) include examples of the types of
18 policies and procedures relevant to a
19 determination of compliance with the
20 requirement of clause (ii).

21 These surveys and affidavits shall be admissible in
22 administrative and judicial proceedings for the purposes
23 of such verification.

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

26 (a) persons residing in such housing as of the

1 effective date of this amendatory Act of 1989 who do
2 not meet the age requirements of subsections (1)(b) or
3 (c); provided, that new occupants of such housing meet
4 the age requirements of subsections (1)(b) or (c) of
5 this subsection; or

6 (b) unoccupied units; provided, that such units
7 are reserved for occupancy by persons who meet the age
8 requirements of subsections (1)(b) or (c) of this
9 subsection.

10 (3)(a) A person shall not be held personally liable
11 for monetary damages for a violation of this Article if
12 the person reasonably relied, in good faith, on the
13 application of the exemption under this subsection (I)
14 relating to housing for older persons.

15 (b) For the purposes of this item (3), a person may
16 show good faith reliance on the application of the
17 exemption only by showing that:

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

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

24 (J) Child Sex Offender Refusal to Rent. Refusal of a child
25 sex offender who owns and resides at residential real estate
26 to rent any residential unit within the same building in which

1 he or she resides to a person who is the parent or guardian of
2 a child or children under 18 years of age.

3 (K) Arrest Records. Inquiry into or the use of an arrest
4 record if the inquiry or use is otherwise authorized by State
5 or federal law.

6 (K-5) Conviction Record. Inquiry into or the use of a
7 conviction record if the inquiry or use is otherwise
8 authorized by State or federal law.

9 (L) Financial Institutions. A financial institution as
10 defined in Article 4 from considering source of income in a
11 real estate transaction in compliance with State or federal
12 law.

13 (Source: P.A. 101-565, eff. 1-1-20; 102-896, eff. 1-1-23.)

14 (775 ILCS 5/7-114 new)

15 Sec. 7-114. Protected class status for formerly convicted
16 persons.

17 (A) A formerly convicted person may petition the
18 Department for a grant of protected class status as provided
19 in this Section. The Department may grant protected class
20 status to a formerly convicted person who meets the following
21 conditions:

22 (1) the person has complied with each term and
23 condition of the person's parole, mandatory supervised
24 release, probation, or conditional discharge;

25 (2) if the person has not obtained a high school

1 diploma or received a high school equivalency certificate
2 and has not been diagnosed as a person having an
3 intellectual or developmental disability that prevents the
4 person from successfully passing the high school
5 equivalency test, the person must have passed the high
6 school equivalency test and been issued a high school
7 equivalency certificate under Section 3-15.12 of the
8 School Code;

9 (3) the person must:

10 (a) be employed or actively seeking employment
11 unless the person has been diagnosed as a person
12 having an intellectual or developmental disability
13 that prevents the person from being employed; or

14 (b) be enrolled in or have successfully completed
15 a vocational training or college educational program
16 unless the person has been diagnosed as a person
17 having an intellectual or developmental disability
18 that prevents the person from successfully completing
19 a vocational or college educational program;

20 (4) the person must, for a minimum of 5 years after
21 completion of the person's parole, mandatory supervised
22 release, probation, or conditional discharge, not have
23 been convicted of a felony or misdemeanor under the laws
24 of this State or a municipal or county ordinance of a
25 county or municipality of this State, another state,
26 territory, or possession of the United States, federal

1 law, or the laws of another country that guarantees due
2 process rights similar to those of the United States; and

3 (5) must have completed all sanctions imposed upon the
4 person through due process of law for the person's
5 conviction.

6 (B) The Department shall determine by rule:

7 (1) what constitutes having an intellectual or
8 developmental disability that prevents the formerly
9 convicted person from meeting the requirements of
10 paragraphs (2) and (3) of subsection (A); and

11 (2) who is qualified to diagnose such a person.

12 (C) The Department shall adopt rules, subject to the
13 Illinois Administrative Procedure Act, to carry out the
14 provisions of this Section.

15 (D) Protected class status previously granted to a
16 formerly convicted person under this Section shall be revoked
17 by the Department after notice and a hearing, if the formerly
18 convicted person is subsequently convicted of a felony or
19 misdemeanor, other than a minor traffic offense, under the
20 laws of this State, another state, territory, or possession of
21 the United States, federal law, or the laws of another country
22 that guarantees due process rights similar to those of the
23 United States. The revocation process shall be initiated by a
24 petition filed by a State's Attorney, the Attorney General,
25 other prosecutor, or the Department, that sets forth the date
26 of the subsequent offense, description of the offense, date of

1 conviction for the subsequent offense, and sentence imposed
2 for the conviction. A copy of the petition and notice of the
3 hearing date on the petition shall be served on the formerly
4 convicted person.

5 (E) Nothing in this Section shall preclude a law
6 enforcement agency from continuing to conduct background
7 investigations on applicants and employees or disqualifying
8 applicants due to such investigations."