



# Ohio Legislative Service Commission

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## Bill Analysis

Carla Napolitano

### H.B. 149

131st General Assembly  
(As Introduced)

**Reps.** Dever and Patterson, Blessing, Hambley, Kraus, Manning

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### **BILL SUMMARY**

- Exempts certain landlords and home sellers from the housing discrimination provisions of the Civil Rights Law.
  - Makes permissive the awarding of actual damages and attorney's fees in housing discrimination cases before the Civil Rights Commission.
  - Allows the Civil Rights Commission, to vindicate the public interest, to assess a civil penalty against a person found to have engaged in unlawful housing discrimination, instead of allowing the Civil Rights Commission to award the complainant punitive damages under existing law.
  - Allows a person to recover attorney's fees if the Civil Rights Commission finds that the person did not engage in an unlawful discriminatory practice.
  - Makes other technical, nonsubstantive changes.
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### **CONTENT AND OPERATION**

#### **Ohio Fair Housing Law**

The Ohio Fair Housing Law generally prohibits discrimination in renting, selling, or negotiating for the rental or sale of a home. The bill exempts two types of housing from the prohibition against discrimination.

## **Exemption for the sale or rental of a single-family home**

The bill exempts the sale or rental of any single-family home by the owner from the prohibition against discrimination if all of the following apply:<sup>1</sup>

- The owner does not own more than three such homes at any one time;
- The bona fide owner does not own any interest nor is there owned or reserved on the owner's behalf any right to all or a portion of the sale or rental proceeds from more than three such homes at any one time;
- The home is sold or rented without the use of a real estate agent, broker, or salesperson, that person's facilities, or that person's employees or agents, and the home is sold or rented without making, printing, or publishing any statement or advertisement that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or intention to make any such preference, limitation, or discrimination.

If a single-family home is sold by an owner not residing in the home at the time of the sale or who was not the most recent resident of the home prior to the sale, the exemption applies only with respect to one sale within any 24-month period. The use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title of a home is not prohibited.<sup>2</sup>

## **Exemption for the rental of a unit in a small rental property**

Under the bill, the rental of a room or unit in a home that has four or fewer rental units is exempt from the prohibition against rental discrimination if the owner actually maintains and occupies the living quarters as the owner's residence.<sup>3</sup>

## **Relocation of existing exemptions**

The bill relocates, but does not substantively change, the existing exemptions to the general prohibition against unlawful housing discrimination.<sup>4</sup>

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<sup>1</sup> R.C. 4112.024(F)(1).

<sup>2</sup> R.C. 4112.024(F)(1).

<sup>3</sup> R.C. 4112.024(F)(2).

<sup>4</sup> R.C. 4112.024(A), (B), (C), (D), (E), and (G).



## Assessment of civil penalty for housing discrimination

If the Civil Rights Commission finds that a person is engaging in unlawful housing discrimination, along with actions required by continuing law to eliminate the discrimination, the bill permits the Commission to require the person to pay actual damages and reasonable attorney's fees, and, to vindicate the public interest, permits the Commission to assess a civil penalty against the person. If a civil penalty is assessed under the bill, the penalty must be calculated as follows:<sup>5</sup>

- Generally speaking, a civil penalty in an amount not to exceed \$2,000 (instead of awarding the complainant punitive damages not to exceed \$10,000 under existing law);
- If the following dot point does not apply and if the person has been determined by a final order of the Commission or by a final judgment of a court to have committed one housing discrimination violation during the immediately preceding five-year period, a civil penalty in an amount not to exceed \$5,000 (instead of awarding the complainant punitive damages not to exceed \$25,000 under existing law);
- If the person has been determined by a final order of the Commission or by a final judgment of a court to have committed two or more housing discrimination violations during the immediately preceding seven-year period, a civil penalty in an amount not to exceed \$10,000 (instead of awarding the complainant punitive damages not to exceed \$50,000 under existing law).

Current law requires, instead of permits, the assessment of actual damages and attorney's fees, and permits the assessment of punitive damages as described above, for housing discrimination claims. If the Commission finds that a housing discrimination violation has occurred, continuing law also requires the Commission to serve an order on the person requiring the person to (1) cease and desist from the unlawful discriminatory practice, (2) take any further affirmative or other action that will effectuate the purposes of the Civil Rights Commission Law, including, hiring, reinstatement, or upgrading of employees with or without back pay, or admission or restoration to union membership, and (3) report to the Commission the manner of compliance.<sup>6</sup>

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<sup>5</sup> R.C. 4112.05(G)(1)(b).

<sup>6</sup> R.C. 4112.05(G)(1)(a).



## **Award of attorney's fees if no finding of unlawful discrimination**

Under the bill, if, upon all evidence presented at a hearing on a charge of engaging in an unlawful discriminatory practice, the Commission finds that a person has not engaged in any unlawful discriminatory practice against the complainant or others, the Commission may award to the person reasonable attorney's fees to the extent provided in federal law<sup>7</sup> and accompanying regulations.<sup>8</sup>

## **Cross reference changes**

The bill makes cross references changes in R.C. 4112.08 (liberal construction of the Civil Rights Commission Law) and R.C. 4112.14 (age discrimination).

## **Background – federal fair housing law**

### **Discrimination prohibited under the federal Fair Housing Act**

In the sale and renting of housing, the Fair Housing Act (FHA) prohibits a person from taking any of the following actions based on race, color, national origin, religion, sex, familial status, or handicap:

- Refuse to rent or sell housing;
- Refuse to negotiate for housing;
- Make housing unavailable;
- Deny a dwelling;
- Set different terms, conditions, or privileges for sale or rental of a dwelling;
- Provide different housing services or facilities;
- Falsely deny that housing is available for inspection, sale, or rental;
- For profit, persuade owners to sell or rent (blockbusting);

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<sup>7</sup> 5 U.S.C. 504.

<sup>8</sup> R.C. 4112.05(H).



- Deny anyone access to or membership in a facility or service (such as a multiple listing service) related to the sale or rental of housing.<sup>9</sup>

In addition, the FHA makes it unlawful to "make, print, or publish, or cause to be made, printed or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination."<sup>10</sup>

### **Mrs. Murphy exemption**

The Mrs. Murphy exemption is an exception carved out of the FHA that allows certain single-family houses that are sold or rented by an owner and dwellings that have four or fewer rental units with an owner living in one of those units to be exempt from the nondiscrimination requirements of the FHA.<sup>11</sup> While discrimination is allowed in these certain cases, it is illegal to print or publish a discriminatory statement for any housing.<sup>12</sup> In other words, no housing is exempt from the nondiscrimination in advertising provision of the FHA.

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	04-13-15

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<sup>9</sup> U.S. Department of Housing and Urban Development, "Fair Housing – It's your right," <http://www.hud.gov/offices/fheo/FHLaws/yourrights.cfm>, visited April 13, 2015.

<sup>10</sup> 42 United States Code 3604(c).

<sup>11</sup> 42 U.S.C. 3603(b).

<sup>12</sup> 42 U.S.C. 3603(b) and 3604(c).

