House Bill 2583

Sponsored by Representative FAHEY (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Prohibits establishment or enforcement of occupancy limits on residential dwelling units by public bodies.

A BILL FOR AN ACT

Relating to maximum occupancy of residential dwelling units.

Be It Enacted by the People of the State of Oregon:

SECTION 1. A maximum occupancy limit may not be established or enforced for any residential dwelling unit, as defined in ORS 90.100, by any public body, as defined by ORS 174.109, including the State Fire Marshal, the Department of Consumer and Business Services, or any local government or district.

SECTION 2. ORS 659A.421 is amended to read:

659A.421. (1) As used in this section:

(a) “Dwelling” means:

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

(B) Vacant land offered for sale or lease for the construction or location of a building or structure, or portion of a building or structure, that is occupied, or designed or intended for occupancy, as a residence by one or more families.

(b) “Purchaser” includes an occupant, prospective occupant, renter, prospective renter, lessee, prospective lessee, buyer or prospective buyer.

(c) “Real property” includes a dwelling.

(d)(A) “Source of income” includes federal rent subsidy payments under 42 U.S.C. 1437f and any other local, state or federal housing assistance.

(B) “Source of income” does not include income derived from a specific occupation or income derived in an illegal manner.

(2) A person may not, because of the race, color, religion, sex, sexual orientation, national origin, marital status, familial status or source of income of any person:

(a) Refuse to sell, lease or rent any real property to a purchaser. This paragraph does not prevent a person from refusing to lease or rent real property to a prospective renter or prospective lessee:

(A) Based upon the past conduct of a prospective renter or prospective lessee provided the refusal to lease or rent based on past conduct is consistent with local, state and federal law, including but not limited to fair housing laws; or

(B) Based upon the prospective renter’s or prospective lessee’s inability to pay rent, taking into

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.

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account the value of the prospective renter's or prospective lessee's local, state and federal housing
assistance, provided the refusal to lease or rent based on inability to pay rent is consistent with
local, state and federal law, including but not limited to fair housing laws.

(b) Expel a purchaser from any real property.

(c) Make any distinction, discrimination or restriction against a purchaser in the price, terms,
conditions or privileges relating to the sale, rental, lease or occupancy of real property or in the
furnishing of any facilities or services in connection therewith.

(d) Attempt to discourage the sale, rental or lease of any real property to a purchaser.

(e) Publish, circulate, issue or display, or cause to be published, circulated, issued or displayed,
any communication, notice, advertisement or sign of any kind relating to the sale, rental or leasing
of real property that indicates any preference, limitation, specification or unlawful discrimination
based on race, color, religion, sex, sexual orientation, national origin, marital status, familial status
or source of income.

(f) Assist, induce, incite or coerce another person to commit an act or engage in a practice that
violates this section.

(g) Coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of,
or on account of the person having exercised or enjoyed or having aided or encouraged any other
person in the exercise or enjoyment of, any right granted or protected by this section.

(h) Deny 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 discriminate against any person in the terms or conditions of the access,
membership or participation.

(i) Represent to a person that a dwelling is not available for inspection, sale or rental when the
dwelling in fact is available for inspection, sale or rental.

(j) Otherwise make unavailable or deny a dwelling to a person.

(3)(a) A person whose business includes engaging in residential real estate related transactions
may not discriminate against any person in making a transaction available, or in the terms or condi-
tions of the transaction, because of race, color, religion, sex, sexual orientation, national origin,
marital status, familial status or source of income.

(b) As used in this subsection, “residential real estate related transaction” means any of the
following:

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

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

(ii) Secured by residential real estate; or

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

(4) A real estate licensee may not accept or retain a listing of real property for sale, lease or
rental with an understanding that a purchaser may be discriminated against with respect to the sale,
rental or lease thereof because of race, color, religion, sex, sexual orientation, national origin,
marital status, familial status or source of income.

(5) A person may not, for profit, induce or attempt to induce any other person to sell or rent
any dwelling by representations regarding the entry or prospective entry into the neighborhood of
a person or persons of a particular race, color, religion, sex, sexual orientation, national origin,
marital status, familial status or source of income.

(6) This section does not apply with respect to sex distinction, discrimination or restriction if
the real property involved is such that the application of this section would necessarily result in
common use of bath or bedroom facilities by unrelated persons of opposite sex.

(7)(a) This section does not apply to familial status distinction, discrimination or restriction with respect to housing for older persons.

(b) As used in this subsection, “housing for older persons” means housing:

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

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

(C) Intended and operated for occupancy by at least one person 55 years of age or older per unit. Housing qualifies as housing for older persons under this subparagraph if:

(i) At least 80 percent of the dwellings are occupied by at least one person 55 years of age or older per unit; and

(ii) Policies and procedures that demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older are published and adhered to.

(c) Housing does not fail to meet the requirements for housing for older persons if:

(A) Persons residing in the housing as of September 13, 1988, do not meet the requirements of paragraph (b)(B) or (C) of this subsection. However, new occupants of the housing shall meet the age requirements of paragraph (b)(B) or (C) of this subsection; or

(B) The housing includes unoccupied units that are reserved for occupancy by persons who meet the age requirements of paragraph (b)(B) or (C) of this subsection.

(d) Nothing in this section limits the applicability of any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

(8) The provisions of subsection (2)(a) to (d) and (f) of this section that prohibit actions based upon sex, sexual orientation or familial status do not apply to the renting of space within a single-family residence if the owner actually maintains and occupies the residence as the owner’s primary residence and all occupants share some common space within the residence.

(9) Any violation of this section is an unlawful practice.