

94-348 –ADOPTED CHANGES TO RULES

Sec. 1. Me. Hum. Rights Comm'n Reg. Ch. 3, Section 3.02, Paragraph D is adopted to read:

D. Sexual Orientation.

- (1) The term "sexual orientation" means a person's actual or perceived heterosexuality, bisexuality, homosexuality, gender identity, or gender expression.
- (2) The term "gender identity" means an individual's gender-related identity, whether or not that identity is different from that traditionally associated with that individual's assigned sex at birth, including, but not limited to, a gender identity that is transgender or androgynous.
- (3) The term "gender expression" means the manner in which an individual's gender identity is expressed, including, but not limited to, through dress, appearance, manner, speech, or lifestyle, whether or not that expression is different from that traditionally associated with that individual's assigned sex at birth.

Sec. 2. Me. Hum. Rights Comm'n Reg. Ch. 3, Section 3.04, Paragraph A, Sub-Paragraphs 1, 2, and 3 are amended to read:

3.04 JOB ADVERTISING AND SOLICITATION

A. Advertising and Solicitation

- (1) It shall be an unlawful employment practice for any person to print or publish or cause to be printed or published any notice or advertisement relating to employment or membership in a labor organization indicating any preference, limitation, specification or discrimination based upon race or color, sex, sexual orientation, physical or mental disability, religion, ancestry or national origin or age unless there is a bona fide occupational qualification for such preference, limitation, specification or discrimination.
- (2) The Commission will consider to be a violation of the Act the acceptance for publication, by any communications medium, of any notice or advertisement relating to employment preference, limitation, specification or discrimination based on race or color, sex, sexual orientation, physical or mental disability, religion, ancestry or national origin or age, unless there is a bona fide occupational qualification for such preference, limitation, specification or discrimination. Placement of any notice or

advertisement of job opportunities in newspaper columns headed "Male" or "Female", will be considered a violation of this Act.

- (3) An employer, union, employment agency, newspaper or other publication may, and is encouraged to, make an inquiry of the Maine Human Rights Commission as to whether race or color, sex, sexual orientation, physical or mental disability, religion, ancestry or national origin or age is a bona fide occupational qualification for a particular job which they intend to publish, print or circulate or cause to be published, printed or circulated.

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Sec. 3. Me. Hum. Rights Comm'n Reg. Ch. 3, Section 3.04, Paragraph B is amended to read:

B. Referral Sources

- (1) Employers are required to use sources of recruitment which do not discriminate on the basis of race or color, sex, sexual orientation, physical or mental handicap, religion, ancestry, or national origin or age. The use of an employment agency, employment service, labor organization, training school or other employee referral source which does not refer available members of one of these classes is considered a violation of the Act if the employer knew or had reason to know of the discriminatory actions of the referral source.
- (2) It is unlawful practice for any employer, employment agency or labor organization to handwrite, print or circulate any interoffice or interagency communication, job order, advertisement, brochure, or notice which expresses directly or indirectly a preference or specification on the basis of race or color, sex, sexual orientation, physical or mental handicap, religion, ancestry or national origin, or age unless the expression is based on a bona fide occupational qualification or made in accordance with a corrective employment program such as an affirmative action plan.

Sec. 4. Me. Hum. Rights Comm'n Reg. Ch. 3, Section 3.12 is renumbered as Section 3.13 as follows:

3.12~~3~~ RETALIATION

No employer, employment agency or labor organization shall discharge or otherwise discriminate against any employee or applicant because of any action taken by such employee or applicant to exercise their rights under the Maine Human Rights Act or because they assisted in the enforcement of the Act. Such

action or assistance includes, but is not limited to: filing a complaint, stating an intent to contact the Commission or to file a complaint, supporting employees who are involved in the complaint process, cooperating with representatives of the Commission during the investigative process, and educating others concerning the coverage of the Maine Human Rights Act.

Sec. 5. Me. Hum. Rights Comm'n Reg. Ch. 3, Section 3.12 is adopted to read:

3.12 SEXUAL ORIENTATION DISCRIMINATION

A. Bona Fide Occupational Qualification

(1) Section 4572(1) of the Act provides an exception to the prohibition of discrimination in employment on account of sexual orientation when such discrimination is based on a bona fide occupational qualification (BFOQ). The BFOQ exception is construed very narrowly, and the employer, employment agency, or labor organization must prove by a preponderance of the evidence that (1) the essence of the business operation requires the discriminatory practice and (2) it had a factual basis to believe that all or substantially all persons in the excluded category would be unable to safely or efficiently perform the duties of the job involved.

(2) The following are examples of cases that do not warrant application of the BFOQ qualification exception and are considered unlawful employment practices:

- a) Refusal to select an individual for a position based on assumptions about comparative employment characteristics based on sexual orientation rather than actual capabilities.
- b) Refusal to select an individual because of the preferences or prejudices of others, including, but not limited to, coworkers, clients, business associates, or customers.

B. Religious Entity Exclusion

(1) Subject to the following paragraph, the Act and these regulations do not prohibit a religious corporation, religious association, religious educational institution, or religious society, that does not receive public funds, from giving preference in employment to individuals of its same religion to perform work connected with the carrying on by the corporation, association, educational institution, or society of its activities. Under the Act and these regulations,

such a religious organization may require that all applicants and employees conform to the religious tenets of that organization.

- (2) The exemptions in the preceding paragraph do not apply to any for-profit organization owned, controlled, or operated by a religious association or corporation and subject to the provisions of the Internal Revenue Code, 26 United States Code, Section 511(a).

C. Pre-employment Inquiries

- (1) Any pre-employment inquiry in connection with prospective employment that expresses directly or indirectly any limitation, specification, or discrimination as to sexual orientation shall be unlawful unless based on a bona fide occupational qualification.
- (2) The term "pre-employment inquiry" includes questions asked on application forms, questions asked in employee interviews, questions asked of references or former employers, requests for photographs, or any other kind of inquiry used before selection.
- (3) Pre-employment inquiries which are made in conformance with the instructions from, or requirements of, an agency or agencies of the local, state or federal government in connection with the administration of fair employment practices programs will not constitute evidence of unlawful employment discrimination under the Act.
- (4) It is not an unlawful employment practice to record any data required by law, or by the rules and regulations of any state or federal agency, provided such records are kept in good faith for the purpose of complying with law, and are not used for the purpose of discrimination in violation of this Act.
- (5) Subsequent to employment, it is not an unlawful employment practice to make a record of such information or features concerning an individual as are needed in good faith for the purpose of identifying that individual, provided these records are intended for and used in good faith solely for such identification, and not for the purpose of unlawful discrimination in violation of this Act.
- (6) No person shall be denied equal consideration for employment, promotion, or any other term, condition, or privilege of employment because that person refused to answer a pre-employment inquiry, if that pre-employment inquiry is prohibited by these rules and the Act.

D. Separate Lines of Progression and Seniority Systems

- (1) It is an unlawful employment practice to classify any job according to sexual orientation or to maintain separate lines of progression or separate seniority lists based on sexual orientation where this would adversely affect any employee unless sexual orientation is a bona fide occupational qualification for that job.

E. Fringe Benefits

- (1) "Fringe benefits" as used herein includes medical, hospital, accident, life insurance and retirement benefits; profit-sharing and bonus plans; leave; "overtime/compensatory time" benefits; and other terms, conditions, and privileges of employment.
- (2) It is an unlawful employment practice for an employer, employment agency, or labor organization to discriminate on the basis of sexual orientation with regard to fringe benefits.

F. Obligation to Make Reasonable Accommodations

- (1) It is an unlawful employment practice for an employer, employment agency, or labor organization to fail or refuse to make reasonable accommodations in rules, policies, practices, or services that apply directly or indirectly to gender identity or gender expression, unless the covered entity can demonstrate that the accommodations would impose an undue hardship on the conduct of the business of the covered entity.
- (2) It is an unlawful employment practice for an employer, employment agency, or labor organization to deny employment or labor organization membership opportunities to an applicant, employee, or labor organization member if the denial is based on the need of the covered entity to make reasonable accommodations in rules, policies, practices, or services that apply directly or indirectly to gender identity or gender expression, unless the covered entity can demonstrate that the accommodations would impose an undue hardship on the operation of the business of the covered entity.
- (3) With respect to the two preceding paragraphs, the burden of proof on the issue of whether the accommodations would impose an undue hardship is on the employer, employment agency, or labor organization. Resolution of such cases depends on the specific factual circumstances and involves a balancing of the needs of the

applicant, employee, or labor organization member with the degree of hardship imposed on the covered entity's business operation.

G. Employment Agencies

Section 4572(1)(B) of the Act states that it shall be unlawful for an employment agency to discriminate against any individual because of sexual orientation.

An employment agency that receives a job order containing an unlawful sexual orientation specification will share responsibility with the employer placing the job order if the agency fills the order knowing that the sexual orientation specification is not based upon a bona fide occupational qualification. However, an employment agency will not be deemed to be in violation of the law, regardless of the determination as to the employer, if the agency does not have reason to believe that the employer's claim of bona fide occupational qualification is without substance and the agency makes and maintains a written record available to the Commission of each such job order. Such record shall include the name of the employer, the description of the job, and the basis for the employer's claim of bona fide occupational qualification.

H. Sexual Orientation Harassment

(1) Harassment on the basis of sexual orientation is a violation of Section 4572 of the Act. Unwelcome comments, jokes, acts, and other verbal or physical conduct on the basis of sexual orientation constitute sexual orientation harassment when:

- a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or union membership;
- b) submission to or rejection of such conduct by an individual is used as the basis for employment or union decisions affecting such individual; or
- c) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working or union environment.

(2) An employer, employment agency, or labor organization (hereinafter collectively referred to as "employer") is responsible for its acts and those of its agents and supervisory employees with respect to sexual orientation harassment. When the supervisor's

harassment culminates in a tangible employment action, such as, but not limited to, discharge, demotion, or undesirable reassignment, liability attaches to the employer regardless of whether the employer knew or should have known of the harassment, and regardless of whether the specific acts complained of were authorized or even forbidden by the employer. When the supervisor's harassment does not culminate in a tangible employment action, the employer may raise an affirmative defense to liability or damages by proving by a preponderance of the evidence:

(a) that the employer exercised reasonable care to prevent and correct promptly any harassing behavior based on sexual orientation, and

(b) that the employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to avoid harm otherwise.

(3) With respect to persons other than those mentioned in paragraph 2 above, an employer is responsible for acts of sexual orientation harassment in the workplace where the employer, or its agents or supervisory employees, knew or should have known of the conduct, unless it can show that it took immediate and appropriate corrective action.

Sec. 6. Me. Hum. Rights Comm'n Reg. Ch. 8, Section 8.02(D) is adopted to read:

D. Nothing in the Act or these regulations regarding discrimination based on sexual orientation applies to the rental of any dwelling owned, controlled, or operated for other than a commercial purpose to its membership by a religious corporation that does not receive public funds. Any for-profit organization owned, controlled, or operated by a religious association or corporation and subject to the provisions of the Internal Revenue Code, 26 United States Code, Section 511(a), is not covered by the exemptions set forth in this paragraph.

Sec. 7. Me. Hum. Rights Comm'n Reg. Ch. 8, Section 8.03 is amended to include:

Sexual orientation means a person's actual or perceived heterosexuality, bisexuality, homosexuality, gender identity, or gender expression.

(a) The term "gender identity" means an individual's gender-related identity, whether or not that identity is different from that traditionally associated with that individual's assigned sex at birth, including, but not limited to, a gender identity that is transgender or androgynous.

- (b) The term “gender expression” means the manner in which an individual’s gender identity is expressed, including, but not limited to, through dress, appearance, manner, speech, or lifestyle, whether or not that expression is different from that traditionally associated with that individual’s assigned sex at birth.

Sec. 8. Me. Hum. Rights Comm’n Reg. Ch. 8, Section 8.04 is amended to read:

8.04 DISCRIMINATORY HOUSING PRACTICES

A. Real estate practices prohibited.

It shall be unlawful to:

- (1) Refuse to sell or rent a dwelling after a *bona fide* offer has been made, or to refuse to negotiate for the sale or rental of a dwelling because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.
- (2) Discriminate in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with sales or rentals, because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.
- (3) Engage in any conduct relating to the provision of housing which otherwise makes unavailable or denies dwellings to persons because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.
- (4) 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 because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.
- (5) Represent to any person because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability that a dwelling is not available for sale or rental when such dwelling is in fact available.
- (6) Engage in blockbusting practices in connection with the sale or rental of dwellings because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.

- (7) Deny access to or membership or participation in, or to discriminate against any person in his or her access to or membership or participation in, any multiple-listing service, real estate brokers' association, or other service organization or facility relating to the business of selling or renting a dwelling or in the terms or conditions of membership or participation, because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.

Nothing contained in Regulation 8.04, other than the prohibitions against discriminatory advertisements, statements and notices, applies to:

- (1) The rental of a one-family unit of a 2-family dwelling, one unit of which is occupied by the owner.
- (2) The rental of not more than 4 rooms of a one-family dwelling which is occupied by the owner.

B. Unlawful refusal to sell or rent or to negotiate for the sale or rental.

- (1) It shall be unlawful for a person to refuse to sell or rent a dwelling to a person who has made a *bona fide* offer, because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability, or to refuse to negotiate with a person for the sale or rental of a dwelling because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.
- (2) Prohibited actions under this section include, but are not limited to:
 - (a) Failing to accept or consider a *bona fide* offer because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.
 - (b) Refusing to sell or rent a dwelling to, or to negotiate for the sale or rental of a dwelling with, any person because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.
 - (c) Imposing different sale prices or rental charges for the sale or rental of a dwelling upon any person because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.
 - (d) Using different qualification criteria or applications, or sale or rental standards or procedures, such as income standards,

application requirements, application fees, credit analysis or sale or rental approval procedures or other requirements, because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.

- (e) Evicting tenants because of their race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability or because of the race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability of a tenant's guest.

C. Discrimination in terms, conditions and privileges and in services and facilities.

- (1) Using different provisions in leases or contracts of sale, such as those relating to rental charges, security deposits and the terms of a lease and those relating to down payment and closing requirements, because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.
- (2) Failing or delaying maintenance or repairs of sale or rental dwellings because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.
- (3) Failing to process an offer for the sale or rental of a dwelling or to communicate an offer accurately because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.
- (4) Limiting the use of privileges, services or facilities associated with a dwelling because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability, of an owner, tenant or a person associated with him or her.
- (5) Denying or limiting services or facilities in connection with the sale or rental of a dwelling, because a person failed or refused to provide sexual favors.

D. Other prohibited sale and rental conduct.

- (1) It shall be unlawful, because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability, to restrict or attempt to restrict the choices of a person by word or conduct in connection with seeking, negotiating for, buying or renting a dwelling so as to perpetuate, or tend to perpetuate, segregated housing patterns, or to discourage or obstruct choices in a community, neighborhood or development.

- (2) It shall be unlawful because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability, to engage in any conduct relating to the provision of housing or of services and facilities in connection therewith that otherwise makes unavailable or denies dwellings to any persons.

- (3) Prohibited practices under this section generally refer to unlawful steering practices that include, but are not limited to:
 - (a) Discouraging any person from inspecting, purchasing, or renting a dwelling because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability of persons in a community, neighborhood or development.

 - (b) Discouraging the purchase or rental of a dwelling because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability, by exaggerating drawbacks or failing to inform any person of desirable features of a dwelling or of a community, neighborhood, or development.

 - (c) Communicating to any prospective purchaser that he or she would not be comfortable or compatible with existing residents of a community, neighborhood or development because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.

 - (d) Assigning any person to a particular section of a community, neighborhood or development or to a particular floor of a building because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.

- (4) It shall be unlawful, because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability, to engage in any conduct relating to the provision of housing or services and facilities in connection therewith that otherwise makes unavailable or denies dwellings to persons. Prohibited sales and rental practices under this section include, but are not limited to:
- (a) Discharging or taking other adverse action against an employee, broker, or agent because he or she refused to participate in a discriminatory housing practice;
 - (b) Employing codes or other devices to segregate or reject applicants, purchasers or renters, refusing to take or to show listings of dwellings in certain areas because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability, or refusing to deal with certain brokers or agents because they or one or more of their clients are of a particular race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability;
 - (c) Denying or delaying the processing of an application made by a purchaser or renter or refusing to approve such a person for occupancy in a cooperative or condominium dwelling because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability;
 - (d) Refusing to provide municipal services or property or hazard insurance for a dwelling or providing such services differently because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.

E. Discriminatory advertisements, statements and notices.

- (1) It shall be 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 which indicates any preference, limitation or discrimination because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability, or an intention to make any such preference, limitation or discrimination.

- (2) The prohibitions in this section shall apply to all written or oral notices or statements by a person engaged in the sale or rental of a dwelling. Written notices and statements include any applications, flyers, brochures, deeds, signs, banners, posters, billboards or any documents used with respect to the sale or rental of a dwelling.
- (3) Discriminatory notices, statements and advertisements include, but are not limited to:
 - (a) Using words, phrases, photographs, illustrations, symbols or forms which convey that dwellings are available or not available to a particular group of persons because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.
 - (b) Expressing to agents, brokers, employees, prospective sellers or renters or any other persons a preference for or limitation on any purchaser or renter because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability of such persons.
 - (c) Selecting media or locations for advertising the sale or rental of dwellings which deny particular segments of the housing market information about housing opportunities because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.
 - (d) Refusing to publish advertising for the sale or rental of dwellings or requiring different charges or terms for such advertising because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.

F. Discriminatory representations on the availability of dwellings.

- (1) It shall be unlawful because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability, to provide inaccurate or untrue information about the availability of dwellings for sale or rental.
- (2) Prohibited actions under this section include, but are not limited to:

- (a) Indicating through words or conduct that a dwelling which is available for inspection, sale, or rental has been sold or rented because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.
- (b) Representing that covenants or other deed, trust or lease provisions which purport to restrict the sale or rental of dwellings because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability, preclude the sale or rental of a dwelling to a person.
- (c) Enforcing covenants or other deed, trust, or lease provisions which preclude the sale or rental of a dwelling to any person because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.
- (d) Limiting information, by word or conduct, regarding suitably priced dwellings available for inspection, sale or rental, because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.
- (e) Providing false or inaccurate information regarding the availability of a dwelling for sale or rental to any person, including testers, regardless of whether such person is actually seeking housing, because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.

G. Blockbusting.

- (1) It shall be unlawful, for profit, to induce or attempt to induce a person to sell or rent a dwelling by representation 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, ancestry, familial status, or with a physical or mental disability.
- (2) In establishing a discriminatory housing practice under this section it is not necessary that there was in fact profit as long as profit was a factor for engaging in the blockbusting activity.

- (3) Prohibited actions under this section include, but are not limited to:
- (a) Engaging, for profit, in conduct (including uninvited solicitations for listings) which conveys to a person that a neighborhood is undergoing or is about to undergo a change in the race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability, of persons residing in it, in order to encourage the person to offer a dwelling for sale or rental.
 - (b) Encouraging, for profit, any person to sell or rent a dwelling through assertions that the entry or prospective entry of persons of a particular race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability, can or will result in undesirable consequences for the project, neighborhood or community, such as lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools or other services or facilities.

H. Discrimination in the provision of brokerage services.

- (1) It shall be unlawful to deny any person 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 to discriminate against any person in the terms or conditions of such access, membership or participation, because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.
- (2) Prohibited actions under this section include, but are not limited to:
 - (a) Setting different fees for access to or membership in a multiple listing service because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.
 - (b) Denying or limiting benefits accruing to members in a real estate brokers' organization because of race, color, religion, sexual orientation, sex, national origin, ancestry, familial status, or physical or mental disability.
 - (c) Imposing different standards or criteria for membership in a real estate sales or rental organization because of race,

color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.

- (d) Establishing geographic boundaries or office location or residence requirements for 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, because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.

Sec. 9. Me. Hum. Rights Comm'n Reg. Ch. 8, Section 8.05 is amended to read:

8.05 DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS

- A. Discriminatory practices in residential real estate-related transactions.

It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.

- B. Discrimination in the making of loans and in the provision of other financial assistance.

- (1) It shall be unlawful for any person or entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available loans or other financial assistance for a dwelling, or which is or is to be secured by a dwelling, because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.

- (2) Prohibited practices under this section include, but are not limited to, failing or refusing to provide to any person, in connection with a residential real estate-related transaction, information regarding the availability of loans or other financial assistance, application requirements, procedures or standards for the review and approval of loans or financial assistance, or providing information which is inaccurate or different from that provided others, because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.

- C. Discrimination in the purchasing of loans.
- (1) It shall be unlawful for any person or entity engaging in the purchasing of loans or other debts or securities which support the purchase, construction, improvement, repair or maintenance of a dwelling, or which are secured by residential real estate, to refuse to purchase such loans, debts, or securities, or to impose different terms or conditions for such purchases, because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.
 - (2) Unlawful conduct under this section includes, but is not limited to:
 - (a) Purchasing loans or other debts or securities which relate to, or which are secured by dwellings in certain communities or neighborhoods but not in others because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability of persons in such neighborhoods or communities.
 - (b) Pooling or packaging loans or other debts or securities which relate to, or which are secured by, dwellings differently because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.
 - (c) Imposing or using different terms or conditions on the marketing or sale of securities issued on the basis of loans or other debts or securities which relate to, or which are secured by, dwellings because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.
 - (3) This section does not prevent consideration, in the purchasing of loans, of factors justified by business necessity, including requirements of State or Federal law, relating to a transaction's financial security or to protection against default or reduction of the value of the security. Thus, this provision would not preclude considerations employed in normal and prudent transactions, provided that no such factor may in any way relate to race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.

- D. Discrimination in the terms and conditions for making available loans or other financial assistance.
- (1) It shall be unlawful for any person or entity engaged in the making of loans or in the provision of other financial assistance relating to the purchase, construction, improvement, repair or maintenance of dwellings or which are secured by residential real estate to impose different terms or conditions for the availability of such loans or other financial assistance because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.
 - (2) Unlawful conduct under this section includes, but is not limited to:
 - (a) Using different policies, practices or procedures in evaluating or in determining creditworthiness of any person in connection with the provision of any loan or other financial assistance for a dwelling or for any loan or other financial assistance which is secured by residential real estate because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.
 - (b) Determining the type of loan or other financial assistance to be provided with respect to a dwelling, or fixing the amount, interest rate, duration or other terms for a loan or other financial assistance for a dwelling or which is secured by residential real estate, because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.
- E. Unlawful practices in the selling, brokering, or appraising of residential real property.
- (1) It shall be unlawful for any person or other entity whose business includes engaging in the selling, brokering, or appraising of residential real property to discriminate against any person in making available such services, or in the performance of such services, because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.
 - (2) For the purposes of this section, the term appraisal means an estimate or opinion of the value of a specified residential real property made in a business context in connection with the sale,

rental, financing or refinancing of a dwelling or in connection with any activity that otherwise affects the availability of a residential real estate-related transaction, whether the appraisal is oral or written, or transmitted formally or informally. The appraisal includes all written comments and other documents submitted as support for the estimate or opinion of value.

- (3) Nothing in this section prohibits a person engaged in the business of making or furnishing appraisals of residential real property from taking into consideration factors other than race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.
- (4) Practices which are unlawful under this section include, but are not limited to, using an appraisal of residential real property in connection with the sale, rental, or financing of any dwelling where the person knows or reasonably should know that the appraisal improperly takes into consideration race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.

Sec. 10. Me. Hum. Rights Comm'n Reg. Ch. 8, Section 8.09 is amended to read:

8.09 INTERFERENCE, COERCION OR INTIMIDATION

- A. It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this part.
- B. Conduct made unlawful under this section includes, but is not limited to, the following:
 - (1) Coercing a person, either orally, in writing, or by other means, to deny or limit the benefits provided that person in connection with the sale or rental of a dwelling or in connection with a residential real estate-related transaction because of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability.
 - (2) Threatening, intimidating or interfering with persons in their enjoyment of a dwelling because of the race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or

physical or mental disability of such persons, or of visitors or associates of such persons.

- (3) Threatening an employee or agent with dismissal or an adverse employment action, or taking such adverse employment action, for any effort to assist a person seeking access to the sale or rental of a dwelling or seeking access to any residential real estate-related transaction, because of the race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, or physical or mental disability of that person or of any person associated with that person.
- (4) Intimidating or threatening any person because that person is engaging in activities designed to make other persons aware of, or encouraging such other persons to exercise, rights granted or protected by this part.
- (5) Retaliating against any person because that person has made a complaint, testified, assisted, or participated in any manner in a proceeding under Subchapter IV of the Maine Human Rights Act.