

## DIVISION 3. - DISCRIMINATION IN REAL ESTATE TRANSACTIONS

## Sec. 16½-35. - Discriminatory practices in real estate transactions.

It is unlawful for any person, including but not limited to any owner, lessee, lessor, sublessee, sublessor, assignee, assignor, manager, real estate broker, salesperson, condominium association, homeowners' association, cooperative association, or any representative of any of the foregoing:

- (a) To refuse to sell or rent after the making of a bona fide offer, to refuse to negotiate for the sale or rental of, or otherwise to make unavailable or deny, a dwelling to any person because of a discriminatory classification.
- (b) To discriminate against any person in the terms, conditions, or privileges of the sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of a discriminatory classification.
- (c) To represent to any person because of a discriminatory classification that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.
- (d) 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 a discriminatory classification, or an intention to make any such preference, limitation, or discrimination.
- (e) To induce or attempt to induce, for profit, any person to sell or rent any dwelling by a representation regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, national origin, marital status, age, familial status, political affiliation, disability, sexual orientation, gender identity or expression, pregnancy status, veteran or service member status, lawful source of income, or being the victim of dating violence, domestic violence, or stalking.
- (f) To discriminate in the sale or rental of, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of:
  - (1) That buyer or renter;
  - (2) A person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or

- (3) Any person associated with the buyer or renter.
- (g) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provisions of services or facilities in connection with such dwelling, because of a disability of:
- (1) That buyer or renter;
  - (2) A person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or
  - (3) Any person associated with the buyer or renter.
- (h) For purposes of subsections (f) and (g), discrimination includes:
- (1) Refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by such person if such modification may be necessary to afford such person full enjoyment of the premises. In the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before modification, reasonable wear and tear excepted.
  - (2) A refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.
- (i) Covered multifamily dwellings as defined herein that are intended for first occupancy after March 13, 1991, shall be designed and constructed to have at least one (1) building entrance on an accessible route. Such buildings shall also be designed and constructed in such a manner that:
- (1) The public use and common use portions of such dwellings are readily accessible and usable by disabled persons.
  - (2) All doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by a person in a wheelchair.
  - (3) All premises within such dwellings contain the following features of adaptive design:
    - a. An accessible route into and through the dwelling.
    - b. Light switches, electrical outlets, thermostats, and other

environmental controls in accessible locations.

- c. Reinforcements in bathroom walls to allow later installation of grab bars.
- d. Usable kitchens and bathrooms such that a person in a wheelchair can maneuver about the space.
- (j) Compliance with the appropriate requirements of the American National Standard Institute for buildings and facilities providing accessibility and usability for physically disabled people, commonly cited as ANSI A117.1-1986, shall satisfy the requirements of Subsection 16½-35(i).
- (k) State agencies with building construction regulation responsibility or local governments, as appropriate, may review the plans and specifications for the construction of covered multifamily dwellings to determine consistency with the requirements of this section. However, determinations of compliance or non-compliance by a state agency or unit of local government, under this subsection, are not conclusive in enforcement proceedings brought pursuant to this Act.
- (l) Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

(Ord. No. 2011-14, § 1, 8-16-11; Ord. No. 2013-29, § 1, 9-10-13; Ord. No. 2017-36, § 3, 12-5-17)

Sec. 16½-35.1. - Discriminatory financial practices.

- (a) It is unlawful for any person or entity, whose business consists, in whole or in part, of the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying for a loan for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling because of a discriminatory classification. It is also unlawful to discriminate against a person in the fixing of the amount, interest rate, duration, or other term or condition of such loan or other financial assistance, because of the discriminatory classification of such person or of any person associated with such person in connection with such loan or other financial assistance, or because of the discriminatory classification of

the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given.

- (b) It is unlawful for any person or entity whose business includes engaging in residential real estate transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of a discriminatory classification.

(Ord. No. 2011-14, § 1, 8-16-11)

Sec. 16½-35.2. - Blockbusting.

It is unlawful for a person, for the purpose of inducing a real estate transaction from which such person may benefit financially:

- (a) To represent that a change has occurred, or may or will occur, in the composition, with respect to a discriminatory classification of the owners or occupants, in the block, neighborhood, or area in which the real estate is located;
- (b) To represent that such change will or may result in the increase or decrease of property values, have an adverse or positive impact on the neighborhood, increase or decrease criminal or antisocial behavior, or raise or diminish the quality of the schools, neighborhood, or area in which the real property is located; or
- (c) To induce or attempt to induce, for profit, any person to sell or rent any dwelling by representations regarding the entry or exit or prospective entry or exit into or from the neighborhood of a person or persons of a particular race, color, religion, sex, national origin, marital status, age, familial status, political affiliation, disability, sexual orientation, pregnancy status, gender identity or expression, veteran or service member status, lawful source of income, or being the victim of dating violence, domestic violence, or stalking.

(Ord. No. 2011-14, § 1, 8-16-11; Ord. No. 2017-36, § 4, 12-5-17)

Sec. 16½-35.3. - Brokerage services.

It is 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 such person in the terms or conditions of such access, membership, or participation, on the basis of a discriminatory classification.

(Ord. No. 2011-14, § 1, 8-16-11)

Sec. 16½-35.4. - Exemptions; real estate transactions.

(a) Except for the provisions of Subsection 16½-35(d), and Sections 16½-35.1 and 16½-35.3, this article shall not apply to:

(1) Any single-family house sold or rented by its private, individual owner, provided that such owner does not:

- a. Own more than three (3) such single-family houses at any one time; or
- b. Own any interest in, nor is there owned or reserved on his or her 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 (3) single-family houses at any one time.

(2) The sale or rental of any such single-family house shall be exempted only if the house is sold or rented without:

- a. The use of the sales or rental facilities, or services for sale or rental, of any real estate broker, agent, or salesperson or any person in the business of selling or renting a dwelling, or of any employee or agent of such; and
- b. The making, printing, publication, posting, or mailing of any advertisement or written notice in violation of this section.

Nothing in this section prohibits the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer title to real property.

(3) The sale or rental of rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies

any such living quarters as his or her residence. For the purposes of this section, a person is deemed to be in the business of selling or renting dwellings if:

- a. He or she has, within the preceding twelve (12) months, participated as a principal in three (3) or more transactions involving the sale or rental of any dwelling or interest therein;
  - b. He or she has, within the preceding twelve (12) months, participated as an agent, other than in the sale or rental of his or her own personal residence, in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or interest therein; or
  - c. He or she is the owner of any dwelling designed or intended for occupancy by, or occupied by, five (5) or more families.
- (4) A private club not open to the public that, as an incident to its primary purpose or purposes, provides lodging that it owns or operates for other than a commercial purpose and that limits or gives preference in the rental or occupancy of such lodgings to its members, unless membership is restricted on account of a discriminatory classification as set forth in Section 16½-34.
- (5) A religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by, or in conjunction with, a religious organization, association, or society, from limiting the sale, rental, or occupancy of any dwelling that it owns or operates for other than a commercial purpose, to persons of the same religion or from giving preference to such persons, unless membership in such religion is restricted on account of a discriminatory classification.
- (6) The exemption in paragraph (a)(1) above applies only to one (1) such sale in any twenty-four (24) month period.
- (b) Nothing in this section:
- (1) Prohibits a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, national origin, religion, sex, age, marital status, political affiliation, disability, familial status, sexual orientation, pregnancy, gender identity or expression,

veteran or service member status, lawful source of income, being the victim of dating violence, domestic violence, or stalking, or other discriminatory classification.

- (2) Limits the applicability of any reasonable local restriction regarding the maximum number of occupants permitted to occupy a dwelling.
  - (3) Requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.
  - (4) Prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the unlawful manufacture or distribution of a controlled substance as defined under Chapter 893, Florida Statutes.
- (c) The provisions of this Act concerning residential real estate transactions shall not apply to any religious school, religious institution, religious association, or religious organization when an allegation(s) of a discriminatory housing practice(s) is based upon sexual orientation or gender identity or expression.

(Ord. No. 2011-14, § 1, 8-16-11; Ord. No. 2017-36, § 5, 12-5-17)

Sec. 16½-35.5. - Exemptions; housing for older persons.

- (a) The provisions regarding discrimination based on familial status in this Division shall not apply to housing intended and operated for older persons as defined in Subsection 16½-3(ee).
- (b) Housing, as defined in Subsection 16½-3(ee), qualifies for this exemption if the housing community or facility complies with:
  - a. Section 807(b)(2)(C) (42 U.S.C. § 3607(b)) of the Fair Housing Act as amended; and
  - b. Title 24 CFR Sections 100.305, 100.306, and 100.307.
- (c) For purposes of this subpart, housing facility or community means any dwelling or group of dwelling units governed by a common set of rules, regulations, or restrictions. A portion or portions of a single building shall not constitute a housing facility or community. Examples of a housing facility or community include, but are not limited to:

- (1) A condominium association;
  - (2) A cooperative;
  - (3) A property governed by a homeowners' or resident association;
  - (4) A municipally zoned area;
  - (5) Leased property under common private ownership;
  - (6) A mobile home park; or
  - (7) A manufactured housing community.
- (d) For purposes of this subpart, older person means a person fifty-five (55) years of age or older.
- (e) A housing facility or community qualifies as housing for older persons under this section if at least eighty percent (80%) of its occupied units are occupied by at least one (1) person fifty-five (55) years of age or older.
- (f) For purposes of this subpart, occupied unit means:
- (1) A dwelling unit that is actually occupied by one (1) or more persons on the date that the exemption is claimed; or
  - (2) A temporarily vacant unit, if the primary occupant has resided in the unit during the past year and intends to return on a periodic basis.
- (g) For purposes of this subpart, occupied by at least one (1) person fifty-five (55) years of age or older means that on the date the exemption for housing intended and operated for persons who are fifty-five (55) years of age or older is claimed:
- (1) At least one (1) occupant of the dwelling unit is fifty-five (55) years of age or older; or
  - (2) If the dwelling unit is temporarily vacant, at least one (1) of the occupants immediately prior to the date on which the unit was temporarily vacated was fifty-five (55) years of age or older.
- (h) Newly-constructed housing for first occupancy after March 12, 1989, need not comply with the requirements of this section until at least twenty-five percent (25%) of the units are occupied. For purposes of this section, newly-constructed housing includes a facility or community that has been wholly unoccupied for at least ninety (90) days prior to re-occupancy due to renovation or rehabilitation.
- (i) Housing satisfies the requirements of this section even though:
- (1)



On September 13, 1988, less than eighty percent (80%) of the occupied units in the housing facility or community were occupied by at least one (1) person fifty-five (55) years of age or older, provided that at least eighty percent (80%) of the units occupied by new occupants after September 13, 1988, are occupied by at least one (1) person fifty-five (55) years of age or older.

- (2) There are unoccupied units, provided that at least eighty percent (80%) of the occupied units are occupied by at least one (1) person fifty-five (55) years of age or older.
- (3) There are units occupied by employees of the housing facility or community (and family members residing in the same unit) who are under fifty-five (55) years of age, provided the employees perform substantial duties related to the management or maintenance of the facility or community.
- (4) There are units occupied by persons who are necessary to provide a reasonable accommodation to disabled residents as required by 24 CFR Section 100.204 and who are under the age of fifty-five (55).
- (j) Where application of the eighty percent (80%) rule results in a fraction of a unit, that unit shall be considered to be included in the units that must be occupied by at least one (1) person fifty-five (55) years of age or older.
- (k) Each housing facility or community may determine the age restriction, if any, for units that are not occupied by at least one (1) person fifty-five (55) years of age or older, so long as the housing facility or community complies with the provisions of this section.
- (l) In order for a housing facility or community to qualify as housing intended or operated for persons who are fifty-five (55) years of age or older, it must publish and adhere to policies and procedures that demonstrate its intent to operate as housing for persons fifty-five (55) years of age or older. The following factors, among others, are considered relevant in determining whether the housing facility or community has complied with this requirement:
  - (1) The manner in which the housing facility or community is described to prospective residents;
  - (2) Any advertising designed to attract prospective residents;
  - (3) Lease provisions;
  - (4) Written rules, regulations, covenants, deeds, or other restrictions;
  - (5) The maintenance and consistent application of relevant procedures;

- (6) Actual practices of the housing facility or community; and
- (7) Public posting in common areas of statements describing the facility or community as housing for persons fifty-five (55) years of age or older.
- (m) Phrases such as "adult living," "adult community," or similar statements in any written advertisement or prospectus are not consistent with the intent that the housing facility or community intends to operate as housing for persons fifty-five (55) years of age or older.
- (n) If there is language in deeds or other community or facility documents that is inconsistent with the intent to provide housing for persons who are fifty-five (55) years of age or older, the Human Rights Section shall consider documented evidence of a good faith attempt to remove such language in determining whether the housing facility or community complies with the requirements of this section in conjunction with other evidence of intent.
- (o) A housing facility or community may allow occupancy by families with children as long as it meets the requirements of this section.
- (p) In order for a housing facility or community to qualify as housing for persons fifty-five (55) years of age or older, it must be able to produce, in response to a complaint filed under this Act, verification of compliance with this section through reliable surveys and affidavits.
- (q) A facility or community shall develop procedures for routinely determining the occupancy of each unit, including the identification of whether at least one (1) occupant of each unit is fifty-five (55) years of age or older. Such procedures may be part of a normal leasing or purchasing arrangement.
- (r) The procedures described in subsection (l) of this section must provide for regular updates, through surveys or other means, of the initial information supplied by the occupants of the housing facility or community. Such updates must take place at least once every two (2) years. A survey may include information regarding whether any units are occupied by persons described in this section.
- (s) Any of the following documents are considered reliable documentation of the age of the occupants of the housing facility or community:
  - (1) Driver's license;
  - (2) Birth certificate;
  - (3) Passport;

- (4) Immigration card;
  - (5) Military identification;
  - (6) Any other state, local, national, or international official documents containing a birth date of comparable reliability; or
  - (7) A certification in a lease, application, affidavit, or other document signed by any member of the household age eighteen (18) or older asserting that at least one (1) person in the unit is fifty-five (55) years of age or older.
- (t) A facility or community shall consider any one (1) of the forms of verification identified above as adequate for verification of age, provided that it contains specific information about current age or date of birth.
- (u) The housing facility or community must establish and maintain appropriate policies to require that occupants comply with the age verification procedures required by this section.
- (1) If the occupants of a particular dwelling unit refuse to comply with the age verification procedures, the housing facility or community may, if it has sufficient evidence, consider the unit to be occupied by at least one (1) person fifty-five (55) years of age or older. Such evidence may include:
    - a. Government records or documents, such as a local household census;
    - b. Prior forms or applications; or
    - c. A statement from an individual who has personal knowledge of the age of the occupants. The individual's statement must set forth the basis for such knowledge and be signed under the penalty of perjury.
  - (2) Surveys and verification procedures that comply with the requirements of this section shall be admissible in administrative and judicial proceedings for the purpose of verifying occupancy.
  - (3) A summary of occupancy surveys shall be available for inspection upon reasonable notice and request by any person.
- (v) A person shall not be held personally liable for monetary damages for discriminating on the basis of familial status if the person acted with the good faith belief that the housing facility or community qualified for a housing for older persons exemption under this subpart.
- (1)

A person claiming the good faith belief defense must have actual knowledge that the housing facility or community has, through an authorized representative, asserted in writing that it qualifies for a housing for older persons exemption.

- (2) Before the date on which the discrimination is claimed to have occurred, a community or facility, through its authorized representatives, must certify, in writing, and under oath or affirmation, to the person subsequently claiming the defense, that it complies with the requirements for such an exemption as housing for persons fifty-five (55) years of age or older in order for such person to claim the defense.
- (3) For purposes of this section, an authorized representative of a housing facility or community means the individual, committee, management company, owner, or other entity having the responsibility for adherence to the requirements established in this subpart.
- (4) For the purposes of this section, a person means a natural person.
- (5) A person shall not be entitled to the good faith defense if the person has actual knowledge that the housing facility or community does not, or will not, qualify as housing for persons fifty-five (55) years of age or older. Such a person will be ineligible for the good faith defense regardless of whether the person received the written assurance described in paragraph (1) of this subsection.

(Ord. No. 2011-14, § 1, 8-16-11)

Sec. 16½-35.6. - Required notices in connection with application to purchase or rent a dwelling.

- (a) Within fifteen (15) days after receipt of any incomplete or incorrectly completed application (or amended application) to purchase or rent a dwelling, the condominium association, homeowners' association, or cooperative association shall provide the applicant with written notice specifically identifying any and all items in the application that need to be completed or corrected.
- (b) Within forty-five (45) days after receipt of a correctly completed application, the association shall either reject or approve the application and shall provide the applicant with written notice of same. If the application is rejected, the written notice must state with specificity each reason for the rejection.
- (c)

If the condominium association, homeowners' association, or cooperative association fails to comply with the provisions of Sec. 16<sup>1/2</sup>-35.6(a) or (b), the Human Rights Section may send a demand letter requesting that the condominium association, homeowners' association, or cooperative association, within ten (10) days after the date of the demand letter, provide to the applicant and the Human Rights Section a written acknowledgement of application receipt, notice of approval or rejection of the application, and notice specifying each reason for the rejection (if applicable). The failure of the condominium association, homeowners' association, or cooperative association to timely comply with this provision may be considered in determining whether reasonable cause exists to believe the association's decision or action was discriminatory.

(Ord. No. 2013-29, § 1, 9-10-13)