

HOUSE BILL 114

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Eleanor Chávez

AN ACT

RELATING TO REAL PROPERTY; PROHIBITING THE SUBMISSION OF A DEED OR OTHER INSTRUMENT OF WRITING TO THE OFFICE OF THE COUNTY CLERK THAT HAS ATTACHED A DISCRIMINATORY RESTRICTIVE COVENANT OR GENDER-SPECIFIC LANGUAGE; DECLARING VOID UNLAWFUL DISCRIMINATORY RESTRICTIVE COVENANTS; REQUIRING THE REMOVAL OF UNLAWFUL RESTRICTIVE COVENANTS, RESTRICTIONS AND CONDITIONS FROM INSTRUMENTS AFFECTING THE TRANSFER OF REAL PROPERTY BEFORE INSTRUMENTS CAN BE RECORDED; PROVIDING THAT A DEED OR OTHER INSTRUMENT OF WRITING MAY INCLUDE A STATEMENT THAT A DISCRIMINATORY RESTRICTIVE COVENANT IS VOID AS AGAINST PUBLIC POLICY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 28-1-7 NMSA 1978 (being Laws 1969, Chapter 196, Section 7, as amended) is amended to read:

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1 "28-1-7. UNLAWFUL DISCRIMINATORY PRACTICE.--It is an
2 unlawful discriminatory practice for:

3 A. an employer, unless based on a bona fide
4 occupational qualification or other statutory prohibition, to
5 refuse to hire, to discharge, to promote or demote or to
6 discriminate in matters of compensation, terms, conditions or
7 privileges of employment against any person otherwise qualified
8 because of race, age, religion, color, national origin,
9 ancestry, sex, sexual orientation, gender, gender identity,
10 pregnancy, childbirth or condition related to pregnancy or
11 childbirth, physical or mental disability, serious medical
12 condition or military status, or, if the employer has fifty or
13 more employees, spousal affiliation; provided, however, that 29
14 U.S.C. Section 631(c)(1) and (2) shall apply to discrimination
15 based on age;

16 B. a labor organization to exclude a person or to
17 expel or otherwise discriminate against any of its members or
18 against any employer or employee because of race, religion,
19 color, national origin, ancestry, sex, sexual orientation,
20 gender, gender identity, pregnancy, childbirth or condition
21 related to pregnancy or childbirth, spousal affiliation,
22 physical or mental disability, serious medical condition or
23 military status;

24 C. any employer, labor organization or joint
25 apprenticeship committee to refuse to admit or employ any

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1 person in any program established to provide an apprenticeship
2 or other training or retraining because of race, religion,
3 color, national origin, ancestry, sex, sexual orientation,
4 gender, gender identity, pregnancy, childbirth or condition
5 related to pregnancy or childbirth, physical or mental
6 disability, serious medical condition or military status, or,
7 if the employer has fifty or more employees, spousal
8 affiliation;

9 D. any person, employer, employment agency or labor
10 organization to print or circulate or cause to be printed or
11 circulated any statement, advertisement or publication, to use
12 any form of application for employment or membership or to make
13 any inquiry regarding prospective membership or employment that
14 expresses, directly or indirectly, any limitation,
15 specification or discrimination as to race, color, religion,
16 national origin, ancestry, sex, sexual orientation, gender,
17 gender identity, pregnancy, childbirth or condition related to
18 pregnancy or childbirth, physical or mental disability, serious
19 medical condition or military status, or, if the employer has
20 fifty or more employees, spousal affiliation, unless based on a
21 bona fide occupational qualification;

22 E. an employment agency to refuse to list and
23 properly classify for employment or refer a person for
24 employment in a known available job, for which the person is
25 otherwise qualified, because of race, religion, color, national

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1 origin, ancestry, sex, sexual orientation, gender, gender
2 identity, pregnancy, childbirth or condition related to
3 pregnancy or childbirth, spousal affiliation, physical or
4 mental disability or serious medical condition, unless based on
5 a bona fide occupational qualification, or to comply with a
6 request from an employer for referral of applicants for
7 employment if the request indicates, either directly or
8 indirectly, that the employer discriminates in employment on
9 the basis of race, religion, color, national origin, ancestry,
10 sex, sexual orientation, gender, gender identity, pregnancy,
11 childbirth or condition related to pregnancy or childbirth,
12 spousal affiliation, physical or mental disability, serious
13 medical condition, unless based on a bona fide occupational
14 qualification, or military status;

15 F. any person in any public accommodation to make a
16 distinction, directly or indirectly, in offering or refusing to
17 offer its services, facilities, accommodations or goods to any
18 person because of race, religion, color, national origin,
19 ancestry, sex, sexual orientation, gender, gender identity,
20 pregnancy, childbirth or condition related to pregnancy or
21 childbirth, spousal affiliation, physical or mental disability
22 or military status; provided that the physical or mental
23 disability is unrelated to a person's ability to acquire or
24 rent and maintain particular real property or housing
25 accommodation;

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G. any person to:

(1) refuse to sell, rent, assign, lease or sublease or offer for sale, rental, lease, assignment or sublease any housing accommodation or real property to any person or to refuse to negotiate for the sale, rental, lease, assignment or sublease of any housing accommodation or real property to any person because of race, religion, color, national origin, ancestry, sex, sexual orientation, gender, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, spousal affiliation, physical or mental disability or military status; provided that the physical or mental disability is unrelated to a person's ability to acquire or rent and maintain particular real property or housing accommodation;

(2) discriminate against any person in the terms, conditions or privileges of the sale, rental, assignment, lease or sublease of any housing accommodation or real property or in the provision of facilities or services in connection therewith because of race, religion, color, national origin, ancestry, sex, sexual orientation, gender, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, spousal affiliation, physical or mental disability or military status; provided that the physical or mental disability is unrelated to a person's ability to acquire or rent and maintain particular real

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1 property or housing accommodation; ~~[or]~~

2 (3) print, circulate, display or mail or cause
3 to be printed, circulated, displayed or mailed any statement,
4 advertisement, publication or sign or use any form of
5 application for the purchase, rental, lease, assignment or
6 sublease of any housing accommodation or real property or to
7 make any record or inquiry regarding the prospective purchase,
8 rental, lease, assignment or sublease of any housing
9 accommodation or real property that expresses any preference,
10 limitation or discrimination as to race, religion, color,
11 national origin, ancestry, sex, sexual orientation, gender,
12 gender identity, pregnancy, childbirth or condition related to
13 pregnancy or childbirth, spousal affiliation, physical or
14 mental disability or military status; provided that the
15 physical or mental disability is unrelated to a person's
16 ability to acquire or rent and maintain particular real
17 property or housing accommodation; or

18 (4) submit a deed or other instrument of
19 writing to the office of the county clerk for recording with an
20 attached restrictive covenant, the intent or effect of which is
21 to restrict ownership, residency or use of real property
22 because of race, religion, color, national origin, ancestry,
23 sex, sexual orientation, gender identity, pregnancy, childbirth
24 or condition related to pregnancy or childbirth, spousal
25 affiliation, physical or mental disability or military status;

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1 H. any person to whom application is made either
2 for financial assistance for the acquisition, construction,
3 rehabilitation, repair or maintenance of any housing
4 accommodation or real property or for any type of consumer
5 credit, including financial assistance for the acquisition of
6 any consumer good as defined by Section 55-9-102 NMSA 1978, to:

7 (1) consider the race, religion, color,
8 national origin, ancestry, sex, sexual orientation, gender,
9 gender identity, pregnancy, childbirth or condition related to
10 pregnancy or childbirth, spousal affiliation or physical or
11 mental disability of any individual in the granting,
12 withholding, extending, modifying or renewing or in the fixing
13 of the rates, terms, conditions or provisions of any financial
14 assistance or in the extension of services in connection with
15 the request for financial assistance; or

16 (2) use any form of application for financial
17 assistance or to make any record or inquiry in connection with
18 applications for financial assistance that expresses, directly
19 or indirectly, any limitation, specification or discrimination
20 as to race, religion, color, national origin, ancestry, sex,
21 sexual orientation, gender, gender identity, pregnancy,
22 childbirth or condition related to pregnancy or childbirth,
23 spousal affiliation or physical or mental disability;

24 I. any person or employer to:

25 (1) aid, abet, incite, compel or coerce the

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1 doing of any unlawful discriminatory practice or to attempt to
2 do so;

3 (2) engage in any form of threats, reprisal or
4 discrimination against any person who has opposed any unlawful
5 discriminatory practice or has filed a complaint, testified or
6 participated in any proceeding under the Human Rights Act; or

7 (3) willfully obstruct or prevent any person
8 from complying with the provisions of the Human Rights Act or
9 to resist, prevent, impede or interfere with the commission or
10 any of its members, staff or representatives in the performance
11 of their duties under the Human Rights Act;

12 J. any employer to refuse or fail to accommodate a
13 person's physical or mental disability or serious medical
14 condition, unless such accommodation is unreasonable or an
15 undue hardship;

16 K. any employer to refuse or fail to make
17 reasonable accommodation for an employee or job applicant with
18 a need arising from pregnancy, childbirth or condition related
19 to pregnancy or childbirth;

20 L. any employer to require an employee with a need
21 arising from pregnancy, childbirth or condition related to
22 pregnancy or childbirth to take paid or unpaid leave if another
23 reasonable accommodation can be provided unless the employee
24 voluntarily requests to be placed on leave or the employee is
25 placed on leave pursuant to federal law; or

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1 M. a governmental entity or a public contractor to
2 refuse or otherwise limit or put conditions on services to a
3 person because of race, age, religion, color, national origin,
4 ancestry, sex, sexual orientation, gender, gender identity,
5 pregnancy, childbirth or condition related to pregnancy or
6 childbirth, physical or mental disability, serious medical
7 condition or spousal affiliation; provided that nothing in this
8 subsection shall be construed to require a governmental entity
9 or a public contractor to provide services or programs beyond
10 services or programs to the specific populations that the
11 governmental entity or public contractor is tasked with
12 serving."

13 SECTION 2. A new section of Chapter 47, Article 1 NMSA
14 1978 is enacted to read:

15 "[NEW MATERIAL] UNLAWFUL RESTRICTIVE COVENANTS--
16 RECORDING.--

17 A. Any covenant attached to real property that
18 contains language with the intent or effect to restrict
19 ownership, residency or use of real property because of a
20 person's race, religion, national origin or any other class
21 that is protected by the Human Rights Act is void as against
22 public policy.

23 B. No deed or other instrument of writing relating
24 to real property shall use gender-specific language when
25 referring to grantors or grantees.

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1 C. No deed or other instrument of writing shall be
2 submitted to be recorded in the property records of the county
3 clerk that contains a covenant or language that meets the
4 description in Subsection A or B of this section. A county
5 clerk may reject an instrument of writing submitted to be
6 recorded if it contains a covenant or language that meets the
7 description in Subsection A or B of this section.

8 D. When preparing a deed or other instrument of
9 writing to be recorded in the office of the county clerk, a
10 title company, an attorney or any other person shall remove a
11 covenant or language that meets the description in Subsection A
12 or B of this section from the description of real property. A
13 deed or other instrument of writing may contain the following
14 disclaimer to comply with this section:

15 "It is the policy of the state of New Mexico that there be
16 no discrimination in the ownership, residency or use of real
17 property. Any covenants that would restrict such ownership in
18 violation of state or federal law is hereby void as against
19 public policy."

20 E. Any person with an ownership or financial
21 interest in real property may, at any time, re-record the deed
22 to such property so that the deed conforms with the
23 requirements of this section."