

AN ACT

RELATING TO HUMAN RIGHTS; CLARIFYING PROVISIONS REGARDING
UNLAWFUL DISCRIMINATION BASED UPON SEXUAL ORIENTATION OR
GENDER IDENTITY; AMENDING SECTIONS OF THE HUMAN RIGHTS ACT.

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:

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

A. an employer, unless based on a bona fide occupational
qualification or other statutory prohibition, to refuse to hire, to discharge, to promote
or demote or to discriminate in matters of compensation, terms, conditions or
privileges of employment against any person otherwise qualified because of race,
age, religion, color, national origin, ancestry, sex, physical or mental handicap or
serious medical condition, or, if the employer has fifty or more employees, spousal
affiliation; provided, however, that 29 U.S.C. Section 631(c)(1) and (2) shall apply to
discrimination based on age; or, if the employer has fifteen or more employees, to
discriminate against an employee based upon the employee's sexual orientation or
gender identity;

B. a labor organization to exclude a person or to expel or otherwise
discriminate against any of its members or against any employer or employee
because of race, religion, color, national origin, ancestry, sex, sexual orientation,
gender identity, spousal affiliation, physical or mental handicap or serious medical

condition;

C. any employer, labor organization or joint apprenticeship committee to refuse to admit or employ any person in any program established to provide an apprenticeship or other training or retraining because of race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, physical or mental handicap or serious medical condition, or, if the employer has fifty or more employees, spousal affiliation;

D. any person, employer, employment agency or labor organization to print or circulate or cause to be printed or circulated any statement, advertisement or publication, to use any form of application for employment or membership or to make any inquiry regarding prospective membership or employment that expresses, directly or indirectly, any limitation, specification or discrimination as to race, color, religion, national origin, ancestry, sex, sexual orientation, gender identity, physical or mental handicap or serious medical condition, or, if the employer has fifty or more employees, spousal affiliation, unless based on a bona fide occupational qualification;

E. an employment agency to refuse to list and properly classify for employment or refer a person for employment in a known available job, for which the person is otherwise qualified, because of race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, spousal affiliation, physical or mental handicap or serious medical condition, unless based on a bona fide occupational qualification, or to comply with a request from an employer for referral of applicants for employment if the request indicates either directly or indirectly that the employer discriminates in employment on the basis of race, religion, color,

national origin, ancestry, sex, sexual orientation, gender identity, spousal affiliation, physical or mental handicap or serious medical condition, unless based on a bona fide occupational qualification;

F. any person in any public accommodation to make a distinction, directly or indirectly, in offering or refusing to offer its services, facilities, accommodations or goods to any person because of race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, spousal affiliation or physical or mental handicap, provided that the physical or mental handicap is unrelated to a person's ability to acquire or rent and maintain particular real property or housing accommodation;

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 identity, spousal affiliation or physical or mental handicap, provided that the physical or mental handicap 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 identity, spousal affiliation or physical or mental

handicap, provided that the physical or mental handicap is unrelated to a person's ability to acquire or rent and maintain particular real property or housing accommodation; or

(3) print, circulate, display or mail or cause to be printed, circulated, displayed or mailed any statement, advertisement, publication or sign or use any form of application for the purchase, rental, lease, assignment or sublease of any housing accommodation or real property or to make any record or inquiry regarding the prospective purchase, rental, lease, assignment or sublease of any housing accommodation or real property that expresses any preference, limitation or discrimination as to race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, spousal affiliation or physical or mental handicap, provided that the physical or mental handicap is unrelated to a person's ability to acquire or rent and maintain particular real property or housing accommodation;

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

(1) consider the race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, spousal affiliation or physical or mental handicap of any individual in the granting, withholding, extending, modifying or renewing or in the fixing of the rates, terms, conditions or provisions of any financial assistance or in the extension of services in connection with the request for financial assistance; or

(2) use any form of application for financial assistance or to make any record or inquiry in connection with applications for financial assistance that expresses, directly or indirectly, any limitation, specification or discrimination as to race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, spousal affiliation or physical or mental handicap;

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I. any person or employer to:

(1) aid, abet, incite, compel or coerce the doing of any unlawful discriminatory practice or to attempt to do so;

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

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

J. any employer to refuse or fail to accommodate a person's physical or mental handicap or serious medical condition, unless such accommodation is unreasonable or an undue hardship."

Section 2. Section 28-1-9 NMSA 1978 (being Laws 1969, Chapter 196, Section 8, as amended) is amended to read:

"28-1-9. EXEMPTIONS.--Nothing contained in the Human Rights Act shall:

A. apply to any single-family dwelling sold, leased, subleased or rented by an owner without the making of any notice, statement or advertisement

with respect to the sale, lease, sublease or rental of a dwelling unit that indicates any preference, limitation or discrimination based on race, color, religion, national origin, ancestry, sex, sexual orientation or gender identity. This exemption is subject to these further reservations:

(1) to qualify for the exemption, the seller must not be an owner of or own or have reserved any interest in more than three single-family dwellings; and

(2) if the seller does not currently live in the dwelling or he was not the most recent occupant, the exemption granted in this section shall only apply to one sale in twenty-four months;

B. bar any religious or denominational institution or organization that is operated, supervised or controlled by or that is operated in connection with a religious or denominational organization from limiting admission to or giving preference to persons of the same religion or denomination or from making selections of buyers, lessees or tenants as are calculated by the organization or denomination to promote the religious or denominational principles for which it is established or maintained, unless membership in the religious or denominational organization is restricted on account of race, color, national origin or ancestry;

C. bar any religious or denominational institution or organization that is operated, supervised or controlled by or that is operated in connection with a religious or denominational organization from imposing discriminatory employment or renting practices that are based upon sexual orientation or gender identity; provided, that the provisions of the Human Rights Act with respect to sexual orientation and gender identity shall apply to any other:

(1) for-profit activities of a religious or denominational institution or religious organization subject to the provisions of Section 511(a) of the Internal Revenue Code of 1986, as amended; or

(2) nonprofit activities of a religious or denominational institution or religious organization subject to the provisions of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended;

D. apply to rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of the living quarters as his residence;

E. apply to public restrooms, public showers, public dressing facilities or sleeping quarters in public institutions, where the preference or limitation is based on sex; and

F. prevent the mandatory retirement of an employee upon reaching the age of sixty-five years or older, if the employer is operating under a retirement plan that meets the requirements of Public Law 93-406, the Employee Retirement Income Security Act of 1974."

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2017.

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