

# House Bill 2583

Sponsored by Representative FAHEY (Pre-session filed.)

## SUMMARY

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

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

## A BILL FOR AN ACT

1  
2 Relating to maximum occupancy of residential dwelling units.

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

4 **SECTION 1. A maximum occupancy limit may not be established or enforced for any**  
5 **residential dwelling unit, as defined in ORS 90.100, by any public body, as defined by ORS**  
6 **174.109, including the State Fire Marshal, the Department of Consumer and Business Ser-**  
7 **vices, or any local government or district.**

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

9 659A.421. (1) As used in this section:

10 (a) "Dwelling" means:

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

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

16 (b) "Purchaser" includes an occupant, prospective occupant, renter, prospective renter, lessee,  
17 prospective lessee, buyer or prospective buyer.

18 (c) "Real property" includes a dwelling.

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

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

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

25 (a) Refuse to sell, lease or rent any real property to a purchaser. This paragraph does not pre-  
26 vent a person from refusing to lease or rent real property to a prospective renter or prospective  
27 lessee:

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

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

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

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

4 (b) Expel a purchaser from any real property.

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

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

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

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

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

19 (h) Deny access to, or membership or participation in, any multiple listing service, real estate  
 20 brokers' organization or other service, organization or facility relating to the business of selling or  
 21 renting dwellings, or discriminate against any person in the terms or conditions of the access,  
 22 membership or participation.

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

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

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

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

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

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

34 (ii) Secured by residential real estate; or

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

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

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

44 (6) This section does not apply with respect to sex distinction, discrimination or restriction if  
 45 the real property involved is such that the application of this section would necessarily result in

1 common use of bath or bedroom facilities by unrelated persons of opposite sex.

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

4 (b) As used in this subsection, "housing for older persons" means housing:

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

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

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

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

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

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

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

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

20 (d) Nothing in this section limits the applicability of any [*reasonable local, state or*] federal re-  
21 strictions regarding the maximum number of occupants permitted to occupy a dwelling.

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

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

27