

HOUSE BILL NO. 336

INTRODUCED BY DRISCOLL

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

IN THE HOUSE

JANUARY 21, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
JANUARY 23, 1989	FIRST READING.
FEBRUARY 11, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 13, 1989	PRINTING REPORT.
FEBRUARY 14, 1989	SECOND READING, DO PASS.
FEBRUARY 15, 1989	ENGROSSING REPORT.
FEBRUARY 16, 1989	THIRD READING, PASSED. AYES, 69; NOES, 29.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 17, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
	FIRST READING.
MARCH 17, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 20, 1989	SECOND READING, CONCURRED IN AS AMENDED.
MARCH 22, 1989	THIRD READING, CONCURRED IN. AYES, 33; NOES, 16.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 30, 1989

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

MARCH 31, 1989

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 336
2 INTRODUCED BY Spizell
3 BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT
6 DISCRIMINATION IN HOUSING AGAINST PERSONS OR FAMILIES WITH
7 CHILDREN; AND AMENDING SECTION 49-2-305, MCA."
8
9 WHEREAS, Article II, section 4, of the Montana
10 Constitution prohibits discrimination by the state or any
11 person, firm, corporation, or institution against any person
12 on account of social condition; and
13 WHEREAS, Article II, section 15, of the Montana
14 Constitution confers upon children the same rights as those
15 conferred upon adults, with the exception of rights
16 precluded by laws that enhance the protection of persons
17 under 18 years of age; and
18 WHEREAS, persons or families with children have been
19 denied housing opportunities for reasons unrelated to public
20 safety, public health, or the protection of children.
21 THEREFORE, it is appropriate that the Legislature enact
22 a law to enhance the protection of children by prohibiting
23 the denial of housing to persons or families with children.
24
25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

1 **Section 1.** Section 49-2-305, MCA, is amended to read:
2 **"49-2-305. Discrimination in housing.** (1) Except when
3 the distinction is based on reasonable grounds, it is an
4 unlawful discriminatory practice for the owner, lessee,
5 manager, or other person having the right to sell, lease, or
6 rent a housing accommodation or improved or unimproved
7 property:
8 (a) to refuse to sell, lease, or rent the housing
9 accommodation or property to a person because of sex, race,
10 creed, religion, color, age, physical or mental handicap, or
11 national origin;
12 (b) to discriminate against a person because of sex,
13 race, creed, religion, age, physical or mental handicap,
14 color, or national origin in a term, condition, or privilege
15 relating to the use, sale, lease, or rental of the housing
16 accommodation or property;
17 (c) to make a written or oral inquiry or record of the
18 sex, race, creed, religion, age, physical or mental
19 handicap, color, or national origin of a person seeking to
20 buy, lease, or rent the housing accommodation or property;
21 or
22 (d) to refuse to negotiate for a sale or to make a
23 housing accommodation or property unavailable because of
24 sex, race, creed, religion, age, physical or mental
25 handicap, color, or national origin.

(2) A private residence designed for single-family occupancy in which sleeping space is rented to guests and in which the landlord also resides is excluded from the provisions of subsection (1).

(3) It is also an unlawful discriminatory practice to make, print, or publish or cause to be made, printed, or published any notice, statement, or advertisement that indicates any preference, limitation, or discrimination that is prohibited by subsection (1) or any intention to make or have such a preference, limitation, or discrimination.

(4) The prohibitions of this section against discrimination because of age extend to persons or families with a child or children except with respect to housing provided under any state or federal program specifically designed and operated to assist elderly persons, as defined in the state or federal program, or to housing for older persons. "Housing for older persons" means housing communities consisting of housing units intended for and occupied by:

(a) at least one person 55 years of age or older in 90% of the units, and providing significant facilities and services specifically designed to meet the physical or social needs of older persons; or

(b) persons 62 years of age or older only."

NEW SECTION. Section 2. Extension of authority. Any

existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 336

INTRODUCED BY DRISCOLL

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT
DISCRIMINATION IN HOUSING AGAINST PERSONS OR FAMILIES WITH
CHILDREN; AND AMENDING SECTION 49-2-305, MCA."

WHEREAS, Article II, section 4, of the Montana
Constitution prohibits discrimination by the state or any
person, firm, corporation, or institution against any person
on account of social condition; and

WHEREAS, Article II, section 15, of the Montana
Constitution confers upon children the same rights as those
conferred upon adults, with the exception of rights
precluded by laws that enhance the protection of persons
under 18 years of age; and

WHEREAS, persons or families with children have been
denied housing opportunities for reasons unrelated to public
safety, public health, or the protection of children.

THEREFORE, it is appropriate that the Legislature enact
a law to enhance the protection of children by prohibiting
the denial of housing to persons or families with children.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 49-2-305, MCA, is amended to read:

"49-2-305. Discrimination in housing. (1) Except when
the distinction is based on reasonable grounds, it is an
unlawful discriminatory practice for the owner, lessee,
manager, or other person having the right to sell, lease, or
rent a housing accommodation or improved or unimproved
property:

(a) to refuse to sell, lease, or rent the housing
accommodation or property to a person because of sex, race,
creed, religion, color, age, FAMILIAL STATUS, physical or
mental handicap, or national origin;

(b) to discriminate against a person because of sex,
race, creed, religion, age, FAMILIAL STATUS, physical or
mental handicap, color, or national origin in a term,
condition, or privilege relating to the use, sale, lease, or
rental of the housing accommodation or property;

(c) to make a written or oral inquiry or record of the
sex, race, creed, religion, age, physical or mental
handicap, color, or national origin of a person seeking to
buy, lease, or rent the housing accommodation or property;
or

(d) to refuse to negotiate for a sale or to make a
housing accommodation or property unavailable because of
sex, race, creed, religion, age, FAMILIAL STATUS, physical
or mental handicap, color, or national origin.

(2) A private residence designed for single-family occupancy in which sleeping space is rented to guests and in which the landlord also resides is excluded from the provisions of subsection (1).

(3) It is also an unlawful discriminatory practice to make, print, or publish or cause to be made, printed, or published any notice, statement, or advertisement that indicates any preference, limitation, or discrimination that is prohibited by subsection (1) or any intention to make or have such a preference, limitation, or discrimination.

~~(4) The prohibitions of this section against discrimination because of age extend to persons or families with a child or children except with respect to housing provided under any state or federal program specifically designed and operated to assist elderly persons, as defined in the state or federal program, or to housing for older persons. "Housing for older persons" means housing communities consisting of housing units intended for and occupied by:~~

~~(a) at least one person 55 years of age or older in 90% of the units, and providing significant facilities and services specifically designed to meet the physical or social needs of older persons; or~~

~~(b) persons 62 years of age or older only.~~

(4) THE PROHIBITIONS OF THIS SECTION AGAINST

DISCRIMINATION BECAUSE OF FAMILIAL STATUS DO NOT EXTEND TO HOUSING FOR OLDER PERSONS. "HOUSING FOR OLDER PERSONS" MEANS HOUSING:

(A) PROVIDED UNDER ANY STATE OR FEDERAL PROGRAM SPECIFICALLY DESIGNED AND OPERATED TO ASSIST ELDERLY PERSONS;

(B) INTENDED FOR, AND SOLELY OCCUPIED BY, PERSONS 62 YEARS OF AGE OR OLDER; OR

(C) INTENDED AND OPERATED FOR OCCUPANCY BY AT LEAST ONE PERSON 55 YEARS OF AGE OR OLDER PER UNIT IN ACCORDANCE WITH THE PROVISIONS OF 42 U.S.C. 3605(B)(2)(C) AND (3) AND 24 C.F.R. 100.304, AS THOSE SECTIONS READ ON [THE EFFECTIVE DATE OF THIS ACT].

(5) FOR PURPOSES OF THIS SECTION, "FAMILIAL STATUS" MEANS HAVING A CHILD OR CHILDREN WHO LIVE OR WILL LIVE WITH A PERSON. A DISTINCTION BASED ON FAMILIAL STATUS INCLUDES ONE THAT IS BASED ON THE AGE OF A CHILD OR CHILDREN WHO LIVE OR WILL LIVE WITH A PERSON."

NEW SECTION. Section 2. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

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A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT DISCRIMINATION IN HOUSING AGAINST PERSONS OR FAMILIES WITH CHILDREN; AND AMENDING SECTION 49-2-305, MCA."

WHEREAS, Article II, section 4, of the Montana Constitution prohibits discrimination by the state or any person, firm, corporation, or institution against any person on account of social condition; and

WHEREAS, Article II, section 15, of the Montana Constitution confers upon children the same rights as those conferred upon adults, with the exception of rights precluded by laws that enhance the protection of persons under 18 years of age; and

WHEREAS, persons or families with children have been denied housing opportunities for reasons unrelated to public safety, public health, or the protection of children.

THEREFORE, it is appropriate that the Legislature enact a law to enhance the protection of children by prohibiting the denial of housing to persons or families with children.

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(a) to refuse to sell, lease, or rent the housing accommodation or property to a person because of sex, race, creed, religion, color, age, FAMILIAL STATUS, physical or mental handicap, or national origin;

(b) to discriminate against a person because of sex, race, creed, religion, age, FAMILIAL STATUS, physical or mental handicap, color, or national origin in a term, condition, or privilege relating to the use, sale, lease, or rental of the housing accommodation or property;

(c) to make a written or oral inquiry or record of the sex, race, creed, religion, age, physical or mental handicap, color, or national origin of a person seeking to buy, lease, or rent the housing accommodation or property; or

(d) to refuse to negotiate for a sale or to make a housing accommodation or property unavailable because of sex, race, creed, religion, age, FAMILIAL STATUS, physical or mental handicap, color, or national origin.

(2) A private residence designed for single-family occupancy in which sleeping space is rented to guests and in which the landlord also resides is excluded from the provisions of subsection (1).

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~~(4) The prohibitions of this section against discrimination because of age extend to persons or families with a child or children except with respect to housing provided under any state or federal program specifically designed and operated to assist elderly persons, as defined in the state or federal program, or to housing for older persons. "Housing for older persons" means housing communities consisting of housing units intended for and occupied by:~~

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(C) INTENDED AND OPERATED FOR OCCUPANCY BY AT LEAST ONE PERSON 55 YEARS OF AGE OR OLDER PER UNIT IN ACCORDANCE WITH THE PROVISIONS OF 42 U.S.C. 3605(B)(2)(C) AND (3) AND 24 C.F.R. 100.304, AS THOSE SECTIONS READ ON [THE EFFECTIVE DATE OF THIS ACT].

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NEW SECTION. Section 2. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

-End-

SENATE STANDING COMMITTEE REPORT

page 1 of 2
March 17, 1989

SENATE COMMITTEE ON STATE ADMINISTRATION, HB 336
page 2 of 2

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration HB 336 (third reading copy -- blue), respectfully report that HB 336 be amended and as so amended be concurred in:

Sponsor: Driscoll (Lynch)

1. Page 4, line 1.
Following: "BECAUSE OF"
Insert: "age and"

2. Page 4, line 14.
Following: line 13
Insert: "(5) The prohibitions of this section against discrimination because of age and familial status do not extend to any single-family house sold or rented by a private individual owner unless:
(a) the private individual owner owns more than three single-family houses at any one time;
(b) in the case of the sale of a single-family house by a private individual owner not residing in the house at the time of sale or who was not the most recent resident of the house prior to sale, the owner has sold one or more other single-family houses in the previous 24-month period;
(c) the owner is not a bona fide private individual owner;
(d) the owner owns an interest in or title or any right to all or a portion of the proceeds from the sale or rental of more than three single-family houses at any one time, including any interest that has been made or reserved on his behalf under any express or voluntary agreement;
(e) the owner sells or rents the house with the use in any manner of:
(i) the sales or rental facilities or services of any real estate broker, agent, or salesperson;
(ii) the facilities or services of any person in the business of selling or renting dwellings; or
(iii) any employee or agent of the broker, agent, salesperson, or person; or
(f) the owner sells or rents the house with the publication, posting, or mailing of an advertisement or written notice.

(6) Nothing in subsection (5) prohibits the use of attorneys, escrow agents, abstractors, title companies, or other professional assistance necessary to perfect or transfer title.

(7) The prohibitions of this section against discrimination because of age and familial status do not extend 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."

Renumber: subsequent subsection.

AND AS AMENDED BE CONCURRED IN

Signed: Farrell
William E. Farrell, Chairman

SENATE COMMITTEE OF THE WHOLE AMENDMENT

March 20, 1989 3:00 pm

Mr. Chairman: I move to amend HB 336 (third reading copy -- blue) as follows:

1. Amend the Senate Committee on State Administration amendments to HB 336 (third reading copy -- blue) dated March 17, 1989, as follows:

Strike: Amendment No. 2.

Insert: "2. Page 4.

Following: line 13

Insert: "(5) The prohibitions of this section against discrimination because of age and familial status does not extend to rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than two families living independently of each other, if the owner actually maintains and occupies one of the living quarters as his residence."

Renumber: subsequent subsection"

ADOPT

REJECT

Signed: 

Senator Walker

SENATE
HB 336

HOUSE BILL NO. 336

INTRODUCED BY DRISCOLL

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

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WHEREAS, Article II, section 15, of the Montana Constitution confers upon children the same rights as those conferred upon adults, with the exception of rights precluded by laws that enhance the protection of persons under 18 years of age; and

WHEREAS, persons or families with children have been denied housing opportunities for reasons unrelated to public safety, public health, or the protection of children.

THEREFORE, it is appropriate that the Legislature enact a law to enhance the protection of children by prohibiting the denial of housing to persons or families with children.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 49-2-305, MCA, is amended to read:

"49-2-305. Discrimination in housing. (1) Except when the distinction is based on reasonable grounds, it is an unlawful discriminatory practice for the owner, lessee, manager, or other person having the right to sell, lease, or rent a housing accommodation or improved or unimproved property:

(a) to refuse to sell, lease, or rent the housing accommodation or property to a person because of sex, race, creed, religion, color, age, FAMILIAL STATUS, physical or mental handicap, or national origin;

(b) to discriminate against a person because of sex, race, creed, religion, age, FAMILIAL STATUS, physical or mental handicap, color, or national origin in a term, condition, or privilege relating to the use, sale, lease, or rental of the housing accommodation or property;

(c) to make a written or oral inquiry or record of the sex, race, creed, religion, age, physical or mental handicap, color, or national origin of a person seeking to buy, lease, or rent the housing accommodation or property; or

(d) to refuse to negotiate for a sale or to make a housing accommodation or property unavailable because of sex, race, creed, religion, age, FAMILIAL STATUS, physical or mental handicap, color, or national origin.

(2) A private residence designed for single-family occupancy in which sleeping space is rented to guests and in which the landlord also resides is excluded from the provisions of subsection (1).

(3) It is also an unlawful discriminatory practice to make, print, or publish or cause to be made, printed, or published any notice, statement, or advertisement that indicates any preference, limitation, or discrimination that is prohibited by subsection (1) or any intention to make or have such a preference, limitation, or discrimination.

~~(4) The prohibitions of this section against discrimination because of age extend to persons or families with a child or children except with respect to housing provided under any state or federal program specifically designed and operated to assist elderly persons, as defined in the state or federal program, or to housing for older persons. "Housing for older persons" means housing communities consisting of housing units intended for and occupied by:~~

~~(a) at least one person 55 years of age or older in 98% of the units, and providing significant facilities and services specifically designed to meet the physical or social needs of older persons; or~~

~~(b) persons 62 years of age or older only;~~

(4) THE PROHIBITIONS OF THIS SECTION AGAINST

DISCRIMINATION BECAUSE OF AGE AND FAMILIAL STATUS DO NOT EXTEND TO HOUSING FOR OLDER PERSONS. "HOUSING FOR OLDER PERSONS" MEANS HOUSING:

(A) PROVIDED UNDER ANY STATE OR FEDERAL PROGRAM SPECIFICALLY DESIGNED AND OPERATED TO ASSIST ELDERLY PERSONS;

(B) INTENDED FOR, AND SOLELY OCCUPIED BY, PERSONS 62 YEARS OF AGE OR OLDER; OR

(C) INTENDED AND OPERATED FOR OCCUPANCY BY AT LEAST ONE PERSON 55 YEARS OF AGE OR OLDER PER UNIT IN ACCORDANCE WITH THE PROVISIONS OF 42 U.S.C. 3605(B)(2)(C) AND (3) AND 24 C.F.R. 100.304, AS THOSE SECTIONS READ ON [THE EFFECTIVE DATE OF THIS ACT].

(5) THE PROHIBITIONS OF THIS SECTION AGAINST DISCRIMINATION BECAUSE OF AGE AND FAMILIAL STATUS DO NOT EXTEND TO ROOMS OR UNITS IN DWELLINGS CONTAINING LIVING QUARTERS OCCUPIED OR INTENDED TO BE OCCUPIED BY NO MORE THAN TWO FAMILIES LIVING INDEPENDENTLY OF EACH OTHER, IF THE OWNER ACTUALLY MAINTAINS AND OCCUPIES ONE OF THE LIVING QUARTERS AS HIS RESIDENCE.

~~(5) THE PROHIBITIONS OF THIS SECTION AGAINST DISCRIMINATION BECAUSE OF AGE AND FAMILIAL STATUS DO NOT EXTEND TO ANY SINGLE FAMILY HOUSE SOLD OR RENTED BY A PRIVATE INDIVIDUAL OWNER UNLESS:~~

~~(A) THE PRIVATE INDIVIDUAL OWNER OWNS MORE THAN THREE~~

1 SINGLE-FAMILY-HOUSES-AT-ANY-ONE-TIME;
 2 {B}--IN-THE-CASE-OF-THE-SALE-OF-A-SINGLE-FAMILY-HOUSE
 3 BY-A-PRIVATE-INDIVIDUAL-OWNER-NOT-RESIDING-IN-THE-HOUSE-AT
 4 THE-TIME-OF-SALE-OR-WHO-WAS-NOT-THE-MOST-RECENT-RESIDENT-OF
 5 THE-HOUSE-PRIOR-TO-SALE,--THE-OWNER-HAS-SOLD-ONE-OR-MORE
 6 OTHER-SINGLE-FAMILY-HOUSES-IN-THE-PREVIOUS-24-MONTH-PERIOD;
 7 {C}--THE-OWNER-IS-NOT-A-BONA-FIDE-PRIVATE-INDIVIDUAL
 8 OWNER;
 9 {D}--THE-OWNER-OWNS-AN-INTEREST-IN-OR-TITLE-OR-ANY
 10 RIGHT-TO-ALL-OR-A-PORTION-OF-THE-PROCEEDS-FROM-THE-SALE-OR
 11 RENTAL-OF-MORE-THAN-THREE-SINGLE-FAMILY-HOUSES-AT-ANY-ONE
 12 TIME,--INCLUDING-ANY-INTEREST-THAT-HAS-BEEN-MADE-OR-RESERVED
 13 ON-HIS-BEHALF-UNDER-ANY-EXPRESS-OR-VOLUNTARY-AGREEMENT;
 14 {E}--THE-OWNER-SELLS-OR-RENTS-THE-HOUSE-WITH-THE-USE-IN
 15 ANY-MANNER-OF;
 16 {i}--THE-SALES-OR-RENTAL-FACILITIES-OR-SERVICES-OF-ANY
 17 REAL-ESTATE-BROKER, AGENT, OR SALESPERSON;
 18 {ii}--THE-FACILITIES-OR-SERVICES-OF-ANY-PERSON-IN-THE
 19 BUSINESS-OF-SELLING-OR-RENTING-DWELLINGS, OR
 20 {iii}--ANY-EMPLOYEE-OR-AGENT-OF-THE-BROKER, AGENT,
 21 SALSPERSON, OR PERSON, OR
 22 {F}--THE-OWNER-SELLS-OR-RENTS-THE-HOUSE-WITH-THE
 23 PUBLICATION, POSTING, OR MAILING-OF-AN-ADVERTISEMENT-OR
 24 WRITTEN-NOTICE;
 25 {6}--NOTHING-IN-SUBSECTION-(5)-PROHIBITS-THE-USE-OF

1 ATTORNEYS, ESCROW-AGENTS, ABSTRACTORS, TITLE-COMPANIES, OR
 2 OTHER-PROFESSIONAL-ASSISTANCE-NECESSARY-TO-PERFECT-OR
 3 TRANSFER-TITLE;
 4 {7}--THE-PROHIBITIONS-OF-THIS-SECTION-AGAINST
 5 DISCRIMINATION-BECAUSE-OF-AGE-AND-FAMILIAL-STATUS-DO-NOT
 6 EXTEND-TO-ROOMS-OR-UNITS-IN-DWELLINGS-CONTAINING-LIVING
 7 QUARTERS-OCCUPIED-OR-INTENDED-TO-BE-OCCUPIED-BY-NO-MORE-THAN
 8 FOUR-FAMILIES-LIVING-INDEPENDENTLY-OF-EACH-OTHER-IF-THE
 9 OWNER-ACTUALLY-MAINTAINS-AND-OCCUPIES-ONE-OF-THE-LIVING
 10 QUARTERS-AS-HIS-RESIDENCE;
 11 {5}{6}{5}(6) FOR PURPOSES OF THIS SECTION, "FAMILIAL
 12 STATUS" MEANS HAVING A CHILD OR CHILDREN WHO LIVE OR WILL
 13 LIVE WITH A PERSON. A DISTINCTION BASED ON FAMILIAL STATUS
 14 INCLUDES ONE THAT IS BASED ON THE AGE OF A CHILD OR CHILDREN
 15 WHO LIVE OR WILL LIVE WITH A PERSON."
 16 NEW SECTION. Section 2. Extension of authority. Any
 17 existing authority to make rules on the subject of the
 18 provisions of [this act] is extended to the provisions of
 19 [this act].

-End-