



## 1997 ASSEMBLY BILL 46

February 3, 1997 - Introduced by Representatives M. LEHMAN, GOETSCH, TURNER, MUSSER, POWERS, FREESE, LADWIG, URBAN, OLSEN, ALBERS, BRANDEMUEHL, OTT, HAHN, GROTHMAN, SERATTI and KREIBICH, cosponsored by Senators HUELSMAN and FARROW. Referred to Committee on Housing.

1     **AN ACT to repeal** 106.04 (1m) (u) and 106.04 (5m) (a) 1e. a.; and **to create** 106.04  
2           (5m) (a) 1e. d. and 106.04 (5m) (g) of the statutes; **relating to:** the exemption  
3           for housing for older persons from the law prohibiting discrimination in  
4           housing based on age or family status and granting rule-making authority.

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### *Analysis by the Legislative Reference Bureau*

Under current law, it is unlawful to discriminate in housing based on various characteristics of a person, including age or family status. Current law, however, provides an exemption for housing for older persons, that is, persons 55 years of age or older. Specifically, the owner of housing for older persons may discriminate based on age or family status if the owner provides the department of industry, labor and job development (DILJD) with written certification that all of the following factors apply to the housing:

1. There exists significant facilities and services specifically designed to meet the physical or social needs of older persons. Current law defines those facilities and services to include such facilities and services as social and recreational programs, continuing education, information and counseling, homemaker services, emergency and preventive health care programs, congregate dining facilities and transportation to facilitate access to social services.

2. At least 80% of the dwelling units are occupied by at least one person 55 years of age or older.

3. Policies are published and procedures are adhered to that demonstrate an intent by the owner to provide housing for older persons.

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Recently, the U.S. Congress enacted the Housing for Older Persons Act of 1995, which eliminates from the federal fair housing law the requirement that housing for older persons provide significant facilities and services specifically designed to meet the physical or social needs of older persons, but which adds to that law a requirement that the housing comply with rules issued by the federal secretary of housing and urban development for verification of occupancy. The act also provides that a person is not liable for monetary damages for a violation of the federal fair housing law if the person reasonably relied, in good faith, on the application of the exemption to that law for housing for older persons. Under the act, a person may show good faith reliance on the application of the exemption by showing that he or she has no actual knowledge that the housing is not, or will not be, eligible for the exemption and that the owner of the housing has stated formally, in writing, that the housing complies with the requirements for the exemption.

This bill conforms the Wisconsin open housing law to the federal fair housing law by eliminating the requirement that housing for older persons provide significant facilities and services specifically designed to meet the physical or social needs of older persons, by adding the requirement that housing for older persons comply with rules promulgated by DILJD to verify occupancy and by providing that a person is not liable for monetary damages under the Wisconsin open housing law if the person reasonably relied, in good faith, on the application of the exemption for housing for older persons.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 106.04 (1m) (u) of the statutes is repealed.

2           **SECTION 2.** 106.04 (5m) (a) 1e. a. of the statutes is repealed.

3           **SECTION 3.** 106.04 (5m) (a) 1e. d. of the statutes is created to read:

4           106.04 (**5m**) (a) 1e. d. The housing complies with rules promulgated by the  
5 department for verification of occupancy. In promulgating those rules, the  
6 department shall provide for verification by reliable surveys and affidavits and shall  
7 include examples of the types of policies and procedures that are relevant to a  
8 determination of compliance with the requirements of subd. 1e. c. Those surveys and  
9 affidavits shall be admissible in administrative and judicial proceedings for the  
10 purposes of that verification.

