



## 2019 ASSEMBLY BILL 915

February 14, 2020 - Introduced by Representatives HEBL, NEUBAUER, ANDERSON, CABRERA, CROWLEY, EMERSON, OHNSTAD, SARGENT, STUBBS, C. TAYLOR and GRUSZYNSKI, cosponsored by Senators JOHNSON and LARSON. Referred to Committee on Housing and Real Estate.

1     **AN ACT** *to amend* 66.1011 (1), 66.1201 (2m), 66.1213 (3), 66.1301 (2m), 66.1331  
2           (2m), 66.1333 (3) (e) 2., 106.50 (1), 106.50 (6) (a) 1., 106.50 (6) (b), 106.50 (6) (d),  
3           106.50 (6) (e) 1., 106.50 (6) (f) 5., 106.50 (6) (h), 106.50 (6) (i), 106.50 (6m) (a),  
4           106.50 (6m) (d) and 106.50 (8) (a); and *to create* 106.50 (3) of the statutes;  
5           **relating to:** discrimination in housing based on prior evictions and providing  
6           a penalty.

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### *Analysis by the Legislative Reference Bureau*

This bill provides that it is discrimination under the state open housing law to do any of the following:

1. Inquire, whether orally or in writing, of a prospective tenant or any other individual about any eviction of a prospective tenant that occurred more than five years prior. The bill prohibits a prospective tenant from being asked about prior evictions unless the prospective tenant is informed that evictions more than five years old need not be disclosed.

2. Refuse to rent housing to an individual, or otherwise treat an individual unequally in the terms, conditions, or privileges of rental of housing, because of an eviction of the individual that occurred more than five years prior to the date of a rental application.

The open housing law is administered by the Department of Workforce Development, which receives, investigates, and evaluates complaints of violations

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and may order relief in appropriate cases. Persons who allege a violation of the open housing law may also bring a civil action.

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.** 66.1011 (1) of the statutes is amended to read:

2           66.1011 (1) DECLARATION OF POLICY. The right of all persons to have equal  
3 opportunities for housing regardless of their sex, race, color, disability, as defined in  
4 s. 106.50 (1m) (g), sexual orientation, as defined in s. 111.32 (13m), religion, national  
5 origin, marital status, family status, as defined in s. 106.50 (1m) (k), status as a  
6 victim of domestic abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u),  
7 lawful source of income, age, ~~or~~ ancestry, or having a record of evictions that occurred  
8 more than 5 years prior is a matter both of statewide concern under ss. 101.132 and  
9 106.50 and also of local interest under this section and s. 66.0125. The enactment  
10 of ss. 101.132 and 106.50 by the legislature does not preempt the subject matter of  
11 equal opportunities in housing from consideration by political subdivisions, and does  
12 not exempt political subdivisions from their duty, nor deprive them of their right, to  
13 enact ordinances that prohibit discrimination in any type of housing solely on the  
14 basis of an individual being a member of a protected class.

15           **SECTION 2.** 66.1201 (2m) of the statutes is amended to read:

16           66.1201 (2m) DISCRIMINATION. Persons otherwise entitled to any right, benefit,  
17 facility, or privilege under ss. 66.1201 to 66.1211 may not be denied the right, benefit,  
18 facility, or privilege in any manner for any purpose ~~nor~~; may not be discriminated  
19 against because of sex, race, color, creed, sexual orientation, status as a victim of  
20 domestic abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u), or

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1      national origin; and may not be questioned about, or denied housing due to, evictions  
2      that occurred more than 5 years prior.

3           **SECTION 3.** 66.1213 (3) of the statutes is amended to read:

4           66.1213 (3) DISCRIMINATION. Persons otherwise entitled to any right, benefit,  
5      facility, or privilege under this section may not be denied the right, benefit, facility,  
6      or privilege in any manner for any purpose ~~nor~~; may not be discriminated against  
7      because of sex, race, color, creed, sexual orientation, status as a victim of domestic  
8      abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u), or national origin;  
9      and may not be questioned about, or denied housing due to, evictions that occurred  
10     more than 5 years prior.

11          **SECTION 4.** 66.1301 (2m) of the statutes is amended to read:

12          66.1301 (2m) DISCRIMINATION. Persons entitled to any right, benefit, facility,  
13      or privilege under ss. 66.1301 to 66.1329 may not be denied the right, benefit, facility,  
14      or privilege in any manner for any purpose ~~nor~~; may not be discriminated against  
15      because of sex, race, color, creed, sexual orientation, status as a victim of domestic  
16      abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u), or national origin;  
17      and may not be questioned about, or denied housing due to, evictions that occurred  
18      more than 5 years prior.

19          **SECTION 5.** 66.1331 (2m) of the statutes is amended to read:

20          66.1331 (2m) DISCRIMINATION. Persons otherwise entitled to any right, benefit,  
21      facility, or privilege under this section may not be denied the right, benefit, facility,  
22      or privilege in any manner for any purpose ~~nor~~; may not be discriminated against  
23      because of sex, race, color, creed, sexual orientation, status as a victim of domestic  
24      abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u), or national origin;

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1 and may not be questioned about, or denied housing due to, evictions that occurred  
2 more than 5 years prior.

3 **SECTION 6.** 66.1333 (3) (e) 2. of the statutes is amended to read:

4 66.1333 (3) (e) 2. Persons otherwise entitled to any right, benefit, facility, or  
5 privilege under this section may not be denied the right, benefit, facility, or privilege  
6 in any manner for any purpose ~~nor~~; may not be discriminated against because of sex,  
7 race, color, creed, sexual orientation, status as a victim of domestic abuse, sexual  
8 assault, or stalking, as defined in s. 106.50 (1m) (u), or national origin; and may not  
9 be questioned about, or denied housing due to, evictions that occurred more than 5  
10 years prior.

11 **SECTION 7.** 106.50 (1) of the statutes is amended to read:

12 106.50 (1) INTENT. It is the intent of this section to render unlawful  
13 discrimination in housing. It is the declared policy of this state that all persons shall  
14 have an equal opportunity for housing regardless of sex, race, color, sexual  
15 orientation, disability, religion, national origin, marital status, family status, status  
16 as a victim of domestic abuse, sexual assault, or stalking, lawful source of income,  
17 age, or ancestry ~~and it~~. It is also the declared policy of this state that individuals  
18 should not be denied rental housing based upon evictions that occurred more than  
19 5 years prior. It is the duty of the political subdivisions to assist in the orderly  
20 prevention or removal of all discrimination in housing through the powers granted  
21 under ss. 66.0125 and 66.1011. The legislature hereby extends the state law  
22 governing equal housing opportunities to cover single-family residences that are  
23 owner-occupied. The legislature finds that the sale and rental of single-family  
24 residences constitute a significant portion of the housing business in this state and  
25 should be regulated. This section shall be considered an exercise of the police powers

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1 of the state for the protection of the welfare, health, peace, dignity, and human rights  
2 of the people of this state.

3 **SECTION 8.** 106.50 (3) of the statutes is created to read:

4 106.50 (3) DENIAL OF RENTAL HOUSING BASED ON EVICTION RECORD. It is unlawful  
5 for any person to do any of the following:

6 (a) Inquire, whether orally or in writing, of a prospective tenant or any other  
7 individual about any eviction of the prospective tenant that occurred more than 5  
8 years prior. If an owner, lessor, owner's agent, or lessor's agent inquires of a  
9 prospective tenant or any other individual about evictions of the prospective tenant,  
10 it is unlawful for the owner, lessor, owner's agent, or lessor's agent to fail to inform  
11 the prospective tenant or other individual that the prospective tenant or other  
12 individual is not required to disclose an eviction that occurred more than 5 years  
13 prior.

14 (b) Refuse to rent housing to an individual, or otherwise treat an individual  
15 unequally in the terms, conditions, or privileges of rental of housing, because of an  
16 eviction of the individual that occurred more than 5 years prior to the date of a rental  
17 application.

18 **SECTION 9.** 106.50 (6) (a) 1. of the statutes is amended to read:

19 106.50 (6) (a) 1. The department may receive and investigate a complaint  
20 charging a violation of sub. (2), (2m) ~~or~~, (2r), or (3) if the complaint is filed with the  
21 department not later than one year after the alleged discrimination occurred or  
22 terminated.

23 **SECTION 10.** 106.50 (6) (b) of the statutes is amended to read:

24 106.50 (6) (b) *Powers and duties of department.* The department of workforce  
25 development and its duly authorized agents may hold hearings, subpoena witnesses,

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1 take testimony and make investigations as provided in this subsection. The  
2 department of workforce development may test and investigate for the purpose of  
3 establishing violations of sub. (2), (2m) ~~or~~ (2r), or (3) and may make, sign and file  
4 complaints alleging violations of sub. (2), (2m) ~~or~~ (2r), or (3). In addition, the  
5 department of safety and professional services may make, sign and file complaints  
6 alleging violations of sub. (2r) (c). The department of workforce development shall  
7 employ examiners to hear and decide complaints of discrimination under this  
8 section, and to assist in the administration of this section. The examiners may make  
9 findings and issue orders under this subsection. The department of workforce  
10 development shall develop and implement an investigation manual for use in  
11 conducting investigations under par. (c).

12 **SECTION 11.** 106.50 (6) (d) of the statutes is amended to read:

13 106.50 (6) (d) *Temporary judicial relief.* At any time after a complaint is filed  
14 alleging discrimination in violation of sub. (2), (2m), ~~or~~ (2r), or (3), the department  
15 may request the attorney general to file a petition in the circuit court for the county  
16 in which the act of discrimination allegedly occurred or for the county in which a  
17 respondent resides or transacts business, seeking a temporary injunction or  
18 restraining order against the respondent to prevent the respondent from performing  
19 an act that would tend to render ineffectual an order that the department may enter  
20 with respect to the complaint, pending final determination of proceedings under this  
21 section. On receipt of the department's request, the attorney general shall promptly  
22 file the petition.

23 **SECTION 12.** 106.50 (6) (e) 1. of the statutes is amended to read:

24 106.50 (6) (e) 1. Upon the filing of a complaint alleging discrimination in  
25 violation of sub. (2), (2m) ~~or~~ (2r), or (3), the department may endeavor to eliminate

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1 the discrimination by conference, conciliation and persuasion. The department shall  
2 notify the parties that conciliation services are available.

3 **SECTION 13.** 106.50 (6) (f) 5. of the statutes is amended to read:

4 106.50 **(6)** (f) 5. If after the hearing the examiner finds by a fair preponderance  
5 of the evidence that the respondent has violated sub. (2), (2m) ~~or~~, (2r), or (3), the  
6 examiner shall make written findings and order the respondent to take actions that  
7 will effectuate the purpose of sub. (2), (2m) ~~or~~, (2r), or (3), and may order other  
8 penalties, damages and costs as provided in pars. (h) and (i). The department shall  
9 serve a certified copy of the final findings and order on the aggrieved party, the  
10 complainant and the respondent. The order shall have the same force as other orders  
11 of the department and be enforced as provided in this subsection except that the  
12 enforcement of the order is automatically stayed upon the filing of a petition for  
13 review under par. (j).

14 **SECTION 14.** 106.50 (6) (h) of the statutes is amended to read:

15 106.50 **(6)** (h) *Damages and penalties.* 1. If the hearing examiner finds that  
16 a respondent has engaged in or is about to engage in a discriminatory act prohibited  
17 under sub. (2), (2m) ~~or~~, (2r), or (3), the hearing examiner shall promptly issue an  
18 order for such relief as may be appropriate, which may include economic and  
19 noneconomic damages suffered by the aggrieved person, regardless of whether he or  
20 she intervened in the action, and injunctive or other equitable relief. The hearing  
21 examiner may not order punitive damages.

22 2. In addition to any damages ordered under subd. 1., the hearing examiner  
23 may assess a forfeiture against a respondent who is not a natural person in an  
24 amount not exceeding \$10,000, unless the respondent who is not a natural person  
25 has been adjudged to have committed any prior discriminatory act under sub. (2),

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1 (2m) ~~or~~, (2r), or (3). If a respondent who is not a natural person has been adjudged  
2 to have committed one other discriminatory act under sub. (2), (2m) ~~or~~, (2r), or (3)  
3 during the preceding 5-year period, based on the offense date of the prior  
4 discriminatory act, the hearing examiner may assess a forfeiture in an amount not  
5 exceeding \$25,000. If a respondent who is not a natural person has been adjudged  
6 to have committed 2 or more prior discriminatory acts under sub. (2), (2m) ~~or~~, (2r),  
7 or (3) during the preceding 7-year period, based on the offense date of the prior  
8 discriminatory act, the hearing examiner may assess a forfeiture in an amount not  
9 exceeding \$50,000.

10 3. In addition to any damages ordered under subd. 1., the administrative law  
11 judge may assess a forfeiture against a respondent who is a natural person in an  
12 amount not exceeding \$10,000, unless the respondent who is a natural person has  
13 been adjudged to have committed any prior discriminatory act under sub. (2), (2m)  
14 ~~or~~, (2r), or (3). If a respondent who is a natural person has been adjudged to have  
15 committed one other prior discriminatory act under sub. (2), (2m) ~~or~~, (2r), or (3) based  
16 on an offense date that is before September 1, 1992, the administrative law judge  
17 may assess a forfeiture in an amount not exceeding \$25,000. If a respondent who is  
18 a natural person has been adjudged to have committed 2 or more prior  
19 discriminatory acts under sub. (2), (2m) ~~or~~, (2r), or (3) based on an offense date that  
20 is before September 1, 1992, the administrative law judge may assess a forfeiture in  
21 an amount not exceeding \$50,000.

22 **SECTION 15.** 106.50 (6) (i) of the statutes is amended to read:

23 106.50 (6) (i) *Attorney fees and costs.* The hearing examiner may allow a  
24 prevailing complainant, including the state, reasonable attorney fees and costs. The  
25 state shall be liable for those fees and costs if the state is a respondent and is



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1 determined to have committed a discriminatory act under sub. (2), (2m) ~~or~~, or  
2 (3).

3 **SECTION 16.** 106.50 (6m) (a) of the statutes is amended to read:

4 106.50 **(6m)** (a) Any person alleging a violation of sub. (2), (2m), ~~or~~ or (3),  
5 including the attorney general on behalf of an aggrieved person, may bring a civil  
6 action for injunctive relief, for damages, including punitive damages, and, in the case  
7 of a prevailing plaintiff, for court costs and reasonable attorney fees.

8 **SECTION 17.** 106.50 (6m) (d) of the statutes is amended to read:

9 106.50 **(6m)** (d) If the attorney general has reasonable cause to believe that any  
10 person is engaged in a pattern or practice of discrimination in violation of sub. (2),  
11 (2m) ~~or~~, or (3) or that any person has been denied any of the rights granted under  
12 sub. (2), (2m) ~~or~~, or (3), and such denial raises an issue of general public  
13 importance, the department of justice may commence a civil action.

14 **SECTION 18.** 106.50 (8) (a) of the statutes is amended to read:

15 106.50 **(8)** (a) If the department finds reasonable cause to believe that an act  
16 of discrimination has been or is being committed in violation of this section by a  
17 person taking an action prohibited under sub. (2), (2m) ~~or~~, or (3) and that the  
18 person is licensed or chartered under state law, the department shall notify the  
19 licensing or chartering agency of its findings and may file a complaint with such  
20 agency together with a request that the agency initiate proceedings to suspend or  
21 revoke the license or charter of such person or take other less restrictive disciplinary  
22 action.

23 (END)