

State of Wisconsin



2009 Senate Bill 204

Date of enactment: **December 10, 2009**
Date of publication*: **December 28, 2009**

2009 WISCONSIN ACT 95

AN ACT *to renumber and amend* 66.0125 (1); *to amend* 66.0125 (3) (a), 66.0125 (3) (c) 1. b., 66.0125 (9), 66.1011 (1), 66.1201 (2m), 66.1213 (3), 66.1301 (2m), 66.1331 (2m), 66.1333 (3) (e) 2., 106.50 (1), 106.50 (1m) (h), 106.50 (1m) (nm), 106.50 (5m) (d), 106.50 (5m) (f) 1., 224.77 (1) (o), 234.29 and 452.14 (3) (n); *to repeal and recreate* 224.77 (1) (o); and *to create* 66.0125 (1) (a), 106.50 (1m) (u) and 106.50 (5m) (dm) of the statutes; **relating to:** prohibiting discrimination in housing because of domestic abuse victim status and providing a penalty.

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

SECTION 1. 66.0125 (1) of the statutes is renumbered 66.0125 (1) (intro.) and amended to read:

66.0125 (1) ~~DEFINITION.~~ DEFINITIONS. (intro.) In this section, "local":

(b) "Local governmental unit" means a city, village, town, school district, or county.

SECTION 2. 66.0125 (1) (a) of the statutes is created to read:

66.0125 (1) (a) "Status as a victim of domestic abuse, sexual assault, or stalking," for purposes of discrimination in housing, has the meaning given in s. 106.50 (1m) (u).

SECTION 3. 66.0125 (3) (a) of the statutes is amended to read:

66.0125 (3) (a) The purpose of the commission is to study, analyze, and recommend solutions for the major social, economic, and cultural problems ~~which that~~ affect people residing or working within the local governmental unit, including, ~~without restriction because of enumeration,~~ problems of the family, youth, education, the aging, juvenile delinquency, health and zoning standards, and discrimination in housing, employment and public

accommodations and facilities on the basis of sex, class, race, religion, sexual orientation, or ethnic or minority status and discrimination in housing on the basis of sex, class, race, religion, sexual orientation, ethnic or minority status, or status as a victim of domestic abuse, sexual assault, or stalking.

SECTION 4. 66.0125 (3) (c) 1. b. of the statutes is amended to read:

66.0125 (3) (c) 1. b. To ensure to all residents of a local governmental unit, regardless of sex, race, sexual orientation, or color, the ~~rights to possess equal housing accommodations and right~~ to enjoy equal employment opportunities and to ensure to those residents, regardless of sex, race, sexual orientation, color, or status as a victim of domestic abuse, sexual assault, or stalking, the right to possess equal housing opportunities.

SECTION 5. 66.0125 (9) of the statutes is amended to read:

66.0125 (9) **INTENT.** It is the intent of this section to promote fair and friendly relations among all the people in this state, and to that end race, creed, sexual orientation, or color ought not to be made tests in the matter of the right of any person ~~to sell, lease, occupy or use real estate or to earn a livelihood or to enjoy the equal use of public accommodations and facilities~~ and race, creed,

* Section 991.11, WISCONSIN STATUTES 2007-08 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

sexual orientation, color, or status as a victim of domestic abuse, sexual assault, or stalking ought not to be made tests in the matter of the right of any person to sell, lease, occupy, or use real estate.

SECTION 6. 66.1011 (1) of the statutes is amended to read:

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

SECTION 7. 66.1201 (2m) of the statutes is amended to read:

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

SECTION 8. 66.1213 (3) of the statutes is amended to read:

66.1213 (3) **DISCRIMINATION.** Persons otherwise entitled to any right, benefit, facility, or privilege under this section ~~shall may~~ not be denied ~~them the~~ right, benefit, facility, or privilege in any manner for any purpose nor be discriminated against because of sex, race, color, creed, sexual orientation, status as a victim of domestic abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u), or national origin.

SECTION 9. 66.1301 (2m) of the statutes is amended to read:

66.1301 (2m) **DISCRIMINATION.** Persons entitled to any right, benefit, facility, or privilege under ss. 66.1301 to 66.1329 ~~shall may~~ not be denied ~~them the~~ right, benefit, facility, or privilege in any manner for any purpose nor be discriminated against because of sex, race, color, creed, sexual orientation, status as a victim of domestic abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u), or national origin.

SECTION 10. 66.1331 (2m) of the statutes is amended to read:

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

SECTION 11. 66.1333 (3) (e) 2. of the statutes is amended to read:

66.1333 (3) (e) 2. Persons otherwise entitled to any right, benefit, facility, or privilege under this section may not be denied the right, benefit, facility, or privilege in any manner for any purpose nor be discriminated against because of sex, race, color, creed, sexual orientation, status as a victim of domestic abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u), or national origin.

SECTION 12. 106.50 (1) of the statutes is amended to read:

106.50 (1) **INTENT.** It is the intent of this section to render unlawful discrimination in housing. It is the declared policy of this state that all persons shall have an equal opportunity for housing regardless of sex, race, color, sexual orientation, disability, religion, national origin, marital status, family status, status as a victim of domestic abuse, sexual assault, or stalking, lawful source of income, age, or ancestry and it is the duty of the political subdivisions to assist in the orderly prevention or removal of all discrimination in housing through the powers granted under ss. 66.0125 and 66.1011. The legislature hereby extends the state law governing equal housing opportunities to cover single-family residences ~~which that~~ are owner-occupied. The legislature finds that the sale and rental of single-family residences constitute a significant portion of the housing business in this state and should be regulated. This section shall be ~~deemed~~ considered an exercise of the police powers of the state for the protection of the welfare, health, peace, dignity, and human rights of the people of this state.

SECTION 13. 106.50 (1m) (h) of the statutes is amended to read:

106.50 (1m) (h) “Discriminate” means to segregate, separate, exclude, or treat a person or class of persons unequally in a manner described in sub. (2), (2m), or (2r) because of sex, race, color, sexual orientation, disability, religion, national origin, marital status, family status, status as a victim of domestic abuse, sexual assault, or stalking, lawful source of income, age, or ancestry.

SECTION 14. 106.50 (1m) (nm) of the statutes is amended to read:

106.50 (1m) (nm) “Member of a protected class” means a group of natural persons, or a natural person, who may be categorized ~~based on one or more of the fol-~~

lowing characteristics: because of sex, race, color, disability, sexual orientation as defined in s. 111.32 (13m), religion, national origin, marital status, family status, status as a victim of domestic abuse, sexual abuse, or stalking, lawful source of income, age, or ancestry.

SECTION 15. 106.50 (1m) (u) of the statutes is created to read:

106.50 (1m) (u) "Status as a victim of domestic abuse, sexual assault, or stalking" means the status of a person who is seeking to rent or purchase housing or of a member or prospective member of the person's household having been, or being believed by the lessor or seller of housing to be, a victim of domestic abuse, as defined in s. 813.12 (1) (am), sexual assault under s. 940.225, 948.02, or 948.025, or stalking under s. 940.32.

SECTION 16. 106.50 (5m) (d) of the statutes is amended to read:

106.50 (5m) (d) Nothing in this section requires that housing be made available to an individual whose tenancy would constitute a direct threat to the safety of other tenants or persons employed on the property or whose tenancy would result in substantial physical damage to the property of others, if the risk of direct threat or damage cannot be eliminated or sufficiently reduced through reasonable accommodations. A claim that an individual's tenancy poses a direct threat or a substantial risk of harm or damage must be evidenced by behavior by the individual that caused harm or damage, that directly threatened harm or damage, or that caused a reasonable fear of harm or damage to other tenants, persons employed on the property, or the property. No claim that an individual's tenancy would constitute a direct threat to the safety of other persons or would result in substantial damage to property may be based on the ~~fact that a tenant has been or may be the victim of domestic abuse, as defined in s. 813.12 (1) (am) tenant's status as a victim of domestic abuse, sexual assault, or stalking.~~

SECTION 16g. 106.50 (5m) (dm) of the statutes is created to read:

106.50 (5m) (dm) It is not discrimination based on status as a victim of domestic abuse, sexual abuse, or stalking for a landlord to bring an action for eviction of a tenant based on a violation of the rental agreement or of a statute that entitles the landlord to possession of the premises, unless subd. 1. or 2. applies. A tenant has a defense to an action for eviction brought by a landlord if the tenant proves by a preponderance of the evidence that the landlord knew or should have known any of the following:

1. That the tenant is a victim of domestic abuse, sexual abuse, or stalking and that the basis for the action for eviction is conduct that related to the commission of domestic abuse, sexual abuse, or stalking by a person who was not the invited guest of the tenant.

2. That the tenant is a victim of domestic abuse, sexual abuse, or stalking, that the basis for the action for

eviction is conduct that related to the commission of domestic abuse, sexual abuse, or stalking by a person who was the invited guest of the tenant, and that the tenant has done one of the following:

a. Sought an injunction under s. 813.12, 813.122, 813.123, or 813.125 enjoining the person from appearing on the premises.

b. Upon receiving notice under s. 704.17, provided a written statement to the landlord indicating that the person will no longer be an invited guest of the tenant and has not subsequently invited the person to be a guest of the tenant.

SECTION 17. 106.50 (5m) (f) 1. of the statutes is amended to read:

106.50 (5m) (f) 1. Nothing in this section prohibits an owner or agent from requiring that a person who seeks to buy or rent housing supply information concerning family status, and marital, financial, and business status but not concerning race, color, ~~physical condition~~, disability, sexual orientation, ancestry, national origin, religion, creed, status as a victim of domestic abuse, sexual assault, or stalking, or, subject to subd. 2., age.

SECTION 18. 224.77 (1) (o) of the statutes is amended to read:

224.77 (1) (o) In the course of practice as a mortgage banker, loan originator, or mortgage broker, except in relation to housing designed to meet the needs of elderly individuals, treated a person unequally solely because of sex, race, color, handicap, sexual orientation, as defined in s. 111.32 (13m), religion, national origin, age, or ancestry, the person's lawful source of income, or the sex ~~or~~ marital status, or status as a victim of domestic abuse, sexual assault, or stalking, as defined in s. 106.50 (1) (u), of the person maintaining a household.

SECTION 19. 224.77 (1) (o) of the statutes, as affected by **2009 Wisconsin Acts 2** and (this act), is repealed and recreated to read:

224.77 (1) (o) In the course of practice as a mortgage banker, mortgage loan originator, or mortgage broker, except in relation to housing designed to meet the needs of elderly individuals, treat a person unequally solely because of sex, race, color, handicap, sexual orientation, as defined in s. 111.32 (13m), religion, national origin, age, or ancestry, the person's lawful source of income, or the sex, marital status, or status as a victim of domestic abuse, sexual assault, or stalking, as defined in s. 106.50 (1) (u), of the person maintaining a household.

SECTION 20. 234.29 of the statutes is amended to read:

234.29 Equality of occupancy and employment. The authority shall require that occupancy of housing projects assisted under this chapter be open to all regardless of sex, race, religion, sexual orientation, status as a victim of domestic abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u), or creed, and that contractors and subcontractors engaged in the construction of

economic development or housing projects, shall provide an equal opportunity for employment, without discrimination as to sex, race, religion, sexual orientation, or creed.

SECTION 21. 452.14 (3) (n) of the statutes is amended to read:

452.14 (3) (n) Treated any person unequally solely because of sex, race, color, handicap, national origin, ancestry, marital status or lawful source of income, or

status as a victim of domestic abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u).

SECTION 22. Effective dates. This act takes effect on the day after publication, except as follows:

(1) DISCRIMINATION BASED ON STATUS AS A VICTIM OF DOMESTIC ABUSE, SEXUAL ASSAULT, OR STALKING. The repeal and recreation of section 224.77 (1) (o) of the statutes takes effect on January 1, 2010, or on the day after publication, whichever is later.
