



2009 SENATE BILL 204

1 **AN ACT** *to renumber and amend* 66.0125 (1); *to amend* 66.0125 (3) (a), 66.0125
2 (3) (c) 1. b., 66.0125 (9), 66.1011 (1), 66.1201 (2m), 66.1213 (3), 66.1301 (2m),
3 66.1331 (2m), 66.1333 (3) (e) 2., 106.50 (1), 106.50 (1m) (h), 106.50 (1m) (nm),
4 106.50 (5m) (d), 106.50 (5m) (f) 1., 224.77 (1) (o), 234.29 and 452.14 (3) (n); **to**
5 **repeal and recreate** 224.77 (1) (o); and **to create** 66.0125 (1) (a), 106.50 (1m)
6 (u) and 106.50 (5m) (dm) of the statutes; **relating to:** prohibiting
7 discrimination in housing because of domestic abuse victim status and
8 providing a penalty.

Analysis by the Legislative Reference Bureau

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

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

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1 66.0125 (1) ~~DEFINITION.~~ DEFINITIONS. (intro.) In this section, ~~“local;~~

2 (b) “Local governmental unit” means a city, village, town, school district, or
3 county.

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

5 66.0125 (1) (a) “Status as a victim of domestic abuse, sexual assault, or
6 stalking,” for purposes of discrimination in housing, has the meaning given in s.
7 106.50 (1m) (u).

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

9 66.0125 (3) (a) The purpose of the commission is to study, analyze, and
10 recommend solutions for the major social, economic, and cultural problems ~~which~~
11 that affect people residing or working within the local governmental unit, including,
12 ~~without restriction because of enumeration,~~ problems of the family, youth,
13 education, the aging, juvenile delinquency, health and zoning standards, and
14 discrimination in ~~housing,~~ employment and public accommodations and facilities on
15 the basis of sex, class, race, religion, sexual orientation, or ethnic or minority status
16 and discrimination in housing on the basis of sex, class, race, religion, sexual
17 orientation, ethnic or minority status, or status as a victim of domestic abuse, sexual
18 assault, or stalking.

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

20 66.0125 (3) (c) 1. b. To ensure to all residents of a local governmental unit,
21 regardless of sex, race, sexual orientation, or color, the ~~rights to possess equal~~
22 ~~housing accommodations and~~ right to enjoy equal employment opportunities and to
23 ensure to those residents, regardless of sex, race, sexual orientation, color, or status
24 as a victim of domestic abuse, sexual assault, or stalking, the right to possess equal
25 housing opportunities.

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

2 66.0125 **(9)** INTENT. It is the intent of this section to promote fair and friendly
3 relations among all the people in this state, and to that end race, creed, sexual
4 orientation, or color ought not to be made tests in the matter of the right of any person
5 to sell, lease, occupy or use real estate or to earn a livelihood or to enjoy the equal use
6 of public accommodations and facilities and race, creed, sexual orientation, color, or
7 status as a victim of domestic abuse, sexual assault, or stalking ought not to be made
8 tests in the matter of the right of any person to sell, lease, occupy, or use real estate.

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

10 66.1011 **(1)** DECLARATION OF POLICY. The right of all persons to have equal
11 opportunities for housing regardless of their sex, race, color, ~~physical condition,~~
12 disability, as defined in s. 106.50 (1m) (g), sexual orientation, as defined in s. 111.32
13 (13m), religion, national origin, marital status, family status, as defined in s. 106.50
14 (1m) (k), status as a victim of domestic abuse, sexual assault, or stalking, as defined
15 in s. 106.50 (1m) (u), lawful source of income, age, or ancestry is a matter both of
16 statewide concern under ss. 101.132 and 106.50 and also of local interest under this
17 section and s. 66.0125. The enactment of ss. 101.132 and 106.50 by the legislature
18 does not preempt the subject matter of equal opportunities in housing from
19 consideration by political subdivisions, and does not exempt political subdivisions
20 from their duty, nor deprive them of their right, to enact ordinances ~~which that~~
21 prohibit discrimination in any type of housing solely on the basis of an individual
22 being a member of a protected class.

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

24 66.1201 **(2m)** DISCRIMINATION. Persons otherwise entitled to any right, benefit,
25 facility, or privilege under ss. 66.1201 to 66.1211 ~~shall~~ may not be denied ~~them~~ the

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1 right, benefit, facility, or privilege in any manner for any purpose nor be
2 discriminated against because of sex, race, color, creed, sexual orientation, status as
3 a victim of domestic abuse, sexual assault, or stalking, as defined in s. 106.50 (1m)
4 (u), or national origin.

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

6 66.1213 **(3)** DISCRIMINATION. Persons otherwise entitled to any right, benefit,
7 facility, or privilege under this section shall may not be denied ~~them~~ the right,
8 benefit, facility, or privilege in any manner for any purpose nor be discriminated
9 against because of sex, race, color, creed, sexual orientation, status as a victim of
10 domestic abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u), or
11 national origin.

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

13 66.1301 **(2m)** DISCRIMINATION. Persons entitled to any right, benefit, facility,
14 or privilege under ss. 66.1301 to 66.1329 shall may not be denied ~~them~~ the right,
15 benefit, facility, or privilege in any manner for any purpose nor be discriminated
16 against because of sex, race, color, creed, sexual orientation, status as a victim of
17 domestic abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u), or
18 national origin.

19 **SECTION 10.** 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 shall may not be denied ~~them~~ the right,
22 benefit, facility, or privilege in any manner for any purpose nor be discriminated
23 against because of sex, race, color, creed, sexual orientation, status as a victim of
24 domestic abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u), or
25 national origin.

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

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

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

8 106.50 **(1)** INTENT. It is the intent of this section to render unlawful
9 discrimination in housing. It is the declared policy of this state that all persons shall
10 have an equal opportunity for housing regardless of sex, race, color, sexual
11 orientation, disability, religion, national origin, marital status, family status, status
12 as a victim of domestic abuse, sexual assault, or stalking, lawful source of income,
13 age, or ancestry and it is the duty of the political subdivisions to assist in the orderly
14 prevention or removal of all discrimination in housing through the powers granted
15 under ss. 66.0125 and 66.1011. The legislature hereby extends the state law
16 governing equal housing opportunities to cover single-family residences ~~which~~ that
17 are owner-occupied. The legislature finds that the sale and rental of single-family
18 residences constitute a significant portion of the housing business in this state and
19 should be regulated. This section shall be ~~deemed~~ considered an exercise of the police
20 powers of the state for the protection of the welfare, health, peace, dignity, and
21 human rights of the people of this state.

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

23 106.50 **(1m)** (h) “Discriminate” means to segregate, separate, exclude, or treat
24 a person or class of persons unequally in a manner described in sub. (2), (2m), or (2r)
25 because of sex, race, color, sexual orientation, disability, religion, national origin,

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1 marital status, family status, status as a victim of domestic abuse, sexual assault,
2 or stalking, lawful source of income, age, or ancestry.

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

4 106.50 **(1m)** (nm) “Member of a protected class” means a group of natural
5 persons, or a natural person, who may be categorized ~~based on one or more of the~~
6 ~~following characteristics:~~ because of sex, race, color, disability, sexual orientation as
7 ~~defined in s. 111.32 (13m)~~, religion, national origin, marital status, family status,
8 status as a victim of domestic abuse, sexual abuse, or stalking, lawful source of
9 income, age, or ancestry.

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

11 106.50 **(1m)** (u) “Status as a victim of domestic abuse, sexual assault, or
12 stalking” means the status of a person who is seeking to rent or purchase housing
13 or of a member or prospective member of the person’s household having been, or
14 being believed by the lessor or seller of housing to be, a victim of domestic abuse, as
15 defined in s. 813.12 (1) (am), sexual assault under s. 940.225, 948.02, or 948.025, or
16 stalking under s. 940.32.

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

18 106.50 **(5m)** (d) Nothing in this section requires that housing be made available
19 to an individual whose tenancy would constitute a direct threat to the safety of other
20 tenants or persons employed on the property or whose tenancy would result in
21 substantial physical damage to the property of others, if the risk of direct threat or
22 damage cannot be eliminated or sufficiently reduced through reasonable
23 accommodations. A claim that an individual’s tenancy poses a direct threat or a
24 substantial risk of harm or damage must be evidenced by behavior by the individual
25 that caused harm or damage, that directly threatened harm or damage, or that

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1 caused a reasonable fear of harm or damage to other tenants, persons employed on
2 the property, or the property. No claim that an individual's tenancy would constitute
3 a direct threat to the safety of other persons or would result in substantial damage
4 to property may be based on the ~~fact that a tenant has been or may be the victim of~~
5 ~~domestic abuse, as defined in s. 813.12 (1) (am)~~ tenant's status as a victim of domestic
6 abuse, sexual assault, or stalking.

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

8 106.50 **(5m)** (dm) It is not discrimination based on status as a victim of
9 domestic abuse, sexual abuse, or stalking for a landlord to bring an action for eviction
10 of a tenant based on a violation of the rental agreement or of a statute that entitles
11 the landlord to possession of the premises, unless subd. 1. or 2. applies. A tenant has
12 a defense to an action for eviction brought by a landlord if the tenant proves by a
13 preponderance of the evidence that the landlord knew or should have known any of
14 the following:

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

19 2. That the tenant is a victim of domestic abuse, sexual abuse, or stalking, that
20 the basis for the action for eviction is conduct that related to the commission of
21 domestic abuse, sexual abuse, or stalking by a person who was the invited guest of
22 the tenant, and that the tenant has done one of the following:

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

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

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

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

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

12 224.77 **(1)** (o) In the course of practice as a mortgage banker, loan originator,
13 or mortgage broker, except in relation to housing designed to meet the needs of
14 elderly individuals, treated a person unequally solely because of sex, race, color,
15 handicap, sexual orientation, as defined in s. 111.32 (13m), religion, national origin,
16 age, or ancestry, the person's lawful source of income, or the sex ~~or~~, marital status,
17 or status as a victim of domestic abuse, sexual assault, or stalking, as defined in s.
18 106.50 (1) (u), of the person maintaining a household.

19 **SECTION 19.** 224.77 (1) (o) of the statutes, as affected by 2009 Wisconsin Acts
20 2 and (this act), is repealed and recreated to read:

21 224.77 **(1)** (o) In the course of practice as a mortgage banker, mortgage loan
22 originator, or mortgage broker, except in relation to housing designed to meet the
23 needs of elderly individuals, treat a person unequally solely because of sex, race,
24 color, handicap, sexual orientation, as defined in s. 111.32 (13m), religion, national
25 origin, age, or ancestry, the person's lawful source of income, or the sex, marital

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1 status, or status as a victim of domestic abuse, sexual assault, or stalking, as defined
2 in s. 106.50 (1) (u), of the person maintaining a household.

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

4 **234.29 Equality of occupancy and employment.** The authority shall
5 require that occupancy of housing projects assisted under this chapter be open to all
6 regardless of sex, race, religion, sexual orientation, status as a victim of domestic
7 abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u), or creed, and that
8 contractors and subcontractors engaged in the construction of economic
9 development or housing projects, shall provide an equal opportunity for
10 employment, without discrimination as to sex, race, religion, sexual orientation, or
11 creed.

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

13 452.14 (3) (n) Treated any person unequally solely because of sex, race, color,
14 handicap, national origin, ancestry, marital status or, lawful source of income, or
15 status as a victim of domestic abuse, sexual assault, or stalking, as defined in s.
16 106.50 (1m) (u).

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

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

23 (END)