

WEST TENNESSEE LEGAL SERVICES

THE FAIR HOUSING ACT:
RIGHTS AND REMEDIES

Disclaimer

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The Fair Housing Act

The Fair Housing Act

"It is the policy of the United States to provide, within Constitutional limitations, for fair housing throughout the United States."

- 42 U.S.C. §3601

The Fair Housing Act: Protected Classes

Race

Color

Religion

National Origin

Sex

Familial Status

Disability Status

Creed*

Sex: What Does It Mean?

Traditionally, sex discrimination has been viewed as only protecting people from differences in treatment based on biological sex, as evidenced by an individual's birth certificate.

However, new guidance from HUD released on February 11, 2021, states HUD will now investigate complaints on the basis of conduct directed towards an individual based upon that individual's Sexual Orientation and/or Gender Identity where applicable.

Familial Status: What Does It Mean?

1 or more persons under 18 living with ---

(a) a parent or other person with custody; or

(b) a person chosen by the parent or person with custody, with written permission

Includes a person ---

(a) who is pregnant

(b) in process of securing legal custody

(c) with written consent for minors to reside with that person

Disability Status: What Does It Mean?

- A physical or mental impairment which substantially limits 1 or more major life activities;
- A record of an impairment; or
- Being regarded as having such an impairment (whether a person has an impairment or not)

Exceptions:

(a) current, illegal use or addiction to a controlled substance as defined in section 102 of The Controlled Substances Act

(b) conduct toward a person solely because a person is a transvestite

The Fair Housing Act: Covered Markets

Rental

Sales

Lending

Insurance

Zoning

Advertisements

All other areas connected with residential housing

The Fair Housing Act: Covered Dwellings

Private and Subsidized Units

Single Family Homes

Multi-Family Units

Shelters

Group Homes

Assisted Living

College Dormitories

All Other Residential Housing: “Where I live”

The Fair Housing Act: Covered Entities

Owners

Managers/Management Companies

Homeowner's Associations/Condo Boards

Lenders

Real Estate Agents

Governments

Insurers

All persons/entities involved with residential housing

Protections for All Protected Classes

- Refusal to rent, sell, or negotiate for housing
- Setting different terms, conditions, or privileges for sale or rental of a dwelling (including different rental prices/charges)
- Falsely denying that housing is available for inspection, sale, or rental

Protections for All Protected Classes

- Making printing, or publishing any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination
- Threatening, coercing, intimidating, or interfering with anyone exercising a fair housing right or assisting others who exercise the right
- Retaliation for exercising a fair housing right or assisting others who exercise the right

Protections for the Disabled Only

- Reasonable Modifications
 - Changes to physical structures of the building
 - The tenant generally pays for the modification
UNLESS the property is subsidized
- Reasonable Accommodations
 - A change to a rule, policy, or procedure relating to the housing transactions
 - The landlord generally pays for accommodations in both private and subsidized properties

Statute of Limitations

Federal Act:

1 year from date of last act to file a HUD complaint

2 years from date of last act to file a lawsuit

The Tennessee Act:

180 days from date of last act to file a complaint with THRC

1 year from date of last act to file a lawsuit

Common Fair Housing Issues for Individuals Living with HIV/AIDS

Disability And Sexual Orientation Discrimination

- While individuals living with HIV/AIDS come from a wide variety of backgrounds and include members of all protected classes, traditionally discrimination based on their disability status and/or sexual orientation are the most common complaints.
- Sexual Orientation is relatively new to having Fair Housing protections but differences in treatment because of one's sexual orientation or perceived/assumed sexual orientation is now prohibited.
- Similarly, HIV/AIDS is a disability under the FHA and differences in treatment due to someone's status or perceived/assumed status is likewise prohibited.
- Additionally, the enhanced protections for the disabled of reasonable accommodation/modifications are also afforded to individuals with HIV/AIDS.

Who to Contact if You Believe You Have Been Discriminated Against

HUD:

1-800-440-8091

Hud.gov

Memphis Fair Housing Center

(901) 432-4663

www.malsi.org

Tennessee Human Rights

Commission:

1-865-594-6500

www.tn.gov/humanrights.html

Tennessee Fair Housing Council

1-615-874-2344

<https://tennfairhousing.org/>

West Tennessee Legal Services

1-731-423-0616 ext. 1250

www.wtls.org

