

**SECOND ENGROSSMENT
with Conference Committee Amendments**

Fifty-sixth
Legislative Assembly
of North Dakota

REENGROSSED HOUSE BILL NO. 1043

Introduced by

Legislative Council

(Judiciary Committee)

1 A BILL for an Act to create and enact a new section to chapter 14-02.4 and chapter 14-02.5 of
2 the North Dakota Century Code, relating to discriminatory housing practices; to amend and
3 reenact section 14-02.4-19 of the North Dakota Century Code, relating to actions for
4 discrimination; to repeal sections 14-02.4-12 and 14-02.4-13, relating to unfair housing; to
5 provide a penalty; to provide an appropriation; to provide a continuing appropriation; and to
6 provide an effective date.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1.** A new section to chapter 14-02.4 of the North Dakota Century Code is
9 created and enacted as follows:

10 **Discriminatory housing practices.**

- 11 1. It is a discriminatory practice for an owner of rights to housing or real property or
12 the owner's agent or a person acting under court order, deed or trust, or will to:
- 13 a. Refuse to transfer an interest in real property or housing accommodation to a
14 person because of the person's status with respect to public assistance;
- 15 b. Discriminate against a person in the terms, conditions, or privileges of the
16 transfer of an interest in real property or housing accommodation because of
17 the person's status with respect to public assistance; or
- 18 c. Indicate or publicize that the transfer of an interest in real property or housing
19 accommodation by persons is unwelcome, objectionable, not acceptable, or
20 not solicited because of the person's status with respect to public assistance.
- 21 2. It is a discriminatory practice for a person, or agent or employee of the person,
22 who lends or provides other financial assistance for the purchase, lease,
23 acquisition, construction, rehabilitation, repair, or maintenance of real property to
24 discriminate in lending or financial assistance decisions, or in the extension of

1 services in connection with those decisions, based on the status with respect to
2 public assistance of the person seeking the loan or financial assistance.
3 3. Any person claiming to be aggrieved by a discriminatory practice in violation of this
4 section may bring an action in district court under the procedure provided in
5 section 14-02.4-19.

6 **SECTION 2. AMENDMENT.** Section 14-02.4-19 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **14-02.4-19. Actions - Limitations.** Any person claiming to be aggrieved by a
9 discriminatory practice in violation of this chapter may bring an action in the district court in any
10 district in the state in which the unlawful practice is alleged to have been committed, in the
11 district in which the records relevant to such practice are maintained and administered, or in the
12 judicial district in which the person would have worked or obtained credit were it not for the
13 alleged discriminatory act within three years of the alleged act of wrongdoing. Any person
14 claiming to be aggrieved by a discriminatory practice in violation of this chapter with regard to
15 an employer's discriminatory practice may bring a complaint of discriminating employment
16 practices under this chapter to the department of labor within three hundred days of the alleged
17 act of wrongdoing. Any person claiming to be aggrieved by a discriminatory practice in
18 violation of this chapter with regard to ~~housing or~~ public accommodations or services may bring
19 an action in the district court in any district in the state in which the unlawful practice is alleged
20 to have been committed, or in the judicial district in which the person would have obtained
21 ~~housing or~~ public accommodations or services were it not for the alleged discriminatory act
22 within one hundred eighty days of the alleged act of wrongdoing.

23 **SECTION 3.** Chapter 14-02.5 of the North Dakota Century Code is created and
24 enacted as follows:

25 **14-02.5-01. Definitions.** The definitions in section 14-02.4-02 may be used to
26 supplement the definitions in this chapter. In this chapter, unless the context otherwise
27 requires:

28 1. "Aggrieved individual" includes any individual who claims to have been injured by a
29 discriminatory housing practice or believes that the individual will be injured by a
30 discriminatory housing practice that is about to occur.

- 1 2. "Complainant" means a person, including the department, that files a complaint
2 under section 14-02.5-18.
- 3 3. "Conciliation" means the informal negotiations among an aggrieved individual, the
4 respondent, and the department to resolve issues raised by a complaint or by the
5 investigation of the complaint.
- 6 4. "Conciliation agreement" means a written agreement resolving the issues in
7 conciliation.
- 8 5. "Department" means the department of labor.
- 9 6. "Disability" means a mental or physical impairment that substantially limits at least
10 one major life activity, a record of this impairment, or being regarded as having this
11 impairment. The term does not include current illegal use or addiction to any drug
12 or illegal or federally controlled substance and does not apply to an individual
13 because of an individual's sexual orientation or because that individual is a
14 transvestite.
- 15 7. "Discriminatory housing practice" means an act prohibited by sections 14-02.5-02
16 through 14-02.5-08 or conduct that is an offense under section 14-02.5-45.
- 17 8. "Dwelling" means any structure or part of a structure that is occupied as, or
18 designed or intended for occupancy as, a residence by one or more families or
19 vacant land that is offered for sale or lease for the construction or location of a
20 structure or part of a structure as previously described.
- 21 9. "Familial status" means one or more minors being domiciled with a parent or
22 another person having legal custody of the minor or minors; or the designee of the
23 parent or other person having such custody with the written permission of the
24 parent or other person. The protections afforded against discrimination on the
25 basis of familial status apply to any person who is pregnant or is in the process of
26 securing legal custody of any minor.
- 27 10. "Family" includes a single individual.
- 28 11. "Respondent" means a person accused of a violation of this chapter in a complaint
29 of discriminatory housing practice or a person identified as an additional or
30 substitute respondent under section 14-02.5-21 or an agent of an additional or
31 substitute respondent.

1 12. "To rent" includes to lease, sublease, or let, or to grant in any other manner, for a
2 consideration, the right to occupy premises not owned by the occupant.

3 **14-02.5-02. Sale or rental.**

4 1. A person may not refuse to sell or rent, after the making of a bona fide offer, refuse
5 to negotiate for the sale or rental of, or in any other manner make unavailable or
6 deny a dwelling to an individual because of race, color, religion, sex, disability,
7 age, familial status, national origin, or status with respect to marriage.

8 2. A person may not discriminate against an individual in the terms, conditions, or
9 privileges of sale or rental of a dwelling or in providing services or facilities in
10 connection with a sale or rental of a dwelling because of race, color, religion, sex,
11 disability, age, familial status, national origin, or status with respect to marriage.

12 3. This section does not prohibit discrimination against an individual because the
13 individual has been convicted under federal law or the law of any state of the illegal
14 manufacture or distribution of a controlled substance.

15 **14-02.5-03. Publication.** A person may not make, print, or publish or effect the
16 making, printing, or publishing of a notice, statement, or advertisement that is about the sale or
17 rental of a dwelling and that indicates any preference, limitation, or discrimination or the
18 intention to make a preference, limitation, or discrimination because of race, color, religion, sex,
19 disability, age, familial status, national origin, or status with respect to marriage.

20 **14-02.5-04. Inspection.** A person may not represent to an individual because of race,
21 color, religion, sex, disability, age, familial status, national origin, or status with respect to
22 marriage that a dwelling is not available for inspection for sale or rental when the dwelling is
23 available for inspection.

24 **14-02.5-05. Entry into neighborhood.** A person may not, for profit, induce or attempt
25 to induce another to sell or rent a dwelling by representations regarding the entry or prospective
26 entry into a neighborhood of an individual of a particular race, color, religion, sex, disability,
27 age, familial status, national origin, or status with respect to marriage.

28 **14-02.5-06. Disability.**

29 1. A person may not discriminate in the sale or rental of, or make unavailable or
30 deny, a dwelling to any buyer or renter because of a disability of the buyer or
31 renter; of an individual residing in or intending to reside in that dwelling after it is

- 1 sold, rented, or made available; or of any individual associated with the buyer or
2 renter.
- 3 2. A person may not discriminate against an individual in the terms, conditions, or
4 privileges of sale or rental of a dwelling or in the provision of services or facilities in
5 connection with the dwelling because of a disability of that individual; of an
6 individual residing in or intending to reside in that dwelling after it is sold, rented, or
7 made available; or of any individual associated with that individual.
- 8 3. In this section, discrimination includes:
- 9 a. A refusal to permit, at the expense of the individual having a disability, a
10 reasonable modification of existing premises occupied or to be occupied by
11 the individual if the modification may be necessary to afford the individual full
12 enjoyment of the premises, except that, in the case of a rental, the landlord
13 may condition, when it is reasonable to do so, permission for a modification
14 on the renter agreeing to restore the interior of the premises to the condition
15 that existed before the modification, reasonable wear and tear excepted;
- 16 b. A refusal to make a reasonable accommodation in rules, policies, practices,
17 or services if the accommodation may be necessary to afford the individual
18 equal opportunity to use and enjoy a dwelling; or
- 19 c. The failure to design and construct a covered multifamily dwelling in a manner
20 that allows the public use and common use portions of the dwellings to be
21 readily accessible to and usable by individuals having a disability; that allows
22 all doors designed to allow passage into and within all premises within the
23 dwellings to be sufficiently wide to allow passage by an individual who has a
24 disability and who is in a wheelchair; and that provides all premises within the
25 dwellings contain the following features of adaptive design:
- 26 (1) An accessible route into and throughout the dwelling;
27 (2) Light switches, electrical outlets, thermostats, and other environmental
28 controls in accessible locations;
- 29 (3) Reinforcements in bathroom walls to allow later installation of grab
30 bars; and

- 1 (4) Kitchens and bathrooms that are usable and have sufficient space in
2 which an individual in a wheelchair can maneuver.
- 3 4. Compliance with the appropriate requirements of the American national standard
4 for buildings and facilities providing accessibility and usability for individuals having
5 physical disabilities, commonly cited as "ANSI A 117.1 (1986)", satisfies the
6 requirements of adaptive design in subdivision c of subsection 3.
- 7 5. The adaptive design requirements of subdivision c of subsection 3 do not apply to
8 a building the first occupancy of which occurred on or before March 13, 1991.
- 9 6. This section does not require a dwelling to be made available to an individual
10 whose tenancy would constitute a direct threat to the health or safety of other
11 individuals whose tenancy would result in substantial physical damage to the
12 property of others.
- 13 7. Covered multifamily dwellings are buildings consisting of four or more units if the
14 buildings have one or more elevators and ground floor units in other buildings
15 consisting of four or more units.

16 **14-02.5-07. Residential real estate-related transaction.** A person whose business
17 includes engaging in residential real estate-related transactions may not discriminate against
18 an individual in making a real estate-related transaction available or in the terms or conditions
19 of a real estate-related transaction because of race, color, religion, sex, disability, age, familial
20 status, national origin, or status with respect to marriage. A residential real estate-related
21 transaction is the selling, brokering, or appraising of residential real property or the making or
22 purchasing of loans or the provision of other financial assistance to purchase, construct,
23 improve, repair, maintain a dwelling, or to secure residential real estate. For the purposes of
24 this section, a person is in the business of selling residential real property if within the
25 preceding twelve months, the person has participated as principal in three or more transactions
26 involving the sale of any dwelling or any interest in a dwelling or has participated as agent,
27 other than in the sale of the person's own personal residence, in providing sales facilities or
28 sales services in two or more transactions involving the sale of any dwelling or any interest in a
29 dwelling.

30 **14-02.5-08. Brokerage services.** A person may not deny an individual access to, or
31 membership or participation in, a multiple-listing service, real estate brokers' organization, or

1 other service, organization, or facility relating to the business of selling or renting dwellings, or
2 discriminate against an individual in the terms or conditions of access, membership, or
3 participation in the organization, service, or facility because of race, color, religion, sex,
4 disability, age, familial status, national origin, or status with respect to marriage.

5 **14-02.5-09. Sales and rentals exempted.**

6 1. Sections 14-02.5-02 through 14-02.5-08 do not apply to the sale or rental of a
7 single-family house sold or rented by the owner if the owner does not own more
8 than three single-family houses at any one time or own any interest in, nor is there
9 owned or reserved on the person's behalf, under any express or voluntary
10 agreement, title to or any right to any part of the proceeds from the sale or rental of
11 more than three single-family houses at any one time. In addition, the house must
12 be sold or rented without the use of the sales or rental facilities or services of a
13 licensed real estate broker, agent, or realtor, or of an employee or agent of a
14 licensed broker, agent, or realtor, or the facilities or services of the owner of a
15 dwelling designed or intended for occupancy by five or more families; or the
16 publication, posting, or mailing of a notice, statement, or advertisement prohibited
17 by section 14-02.5-03.

18 2. Sections 14-02.5-02 through 14-02.5-08 do not apply to the sale or rental of the
19 rooms or units in a dwelling containing living quarters occupied by or intended to
20 be occupied by not more than four families living independently of each other, if
21 the owner maintains and occupies one of the living quarters as the owner's
22 residence.

23 3. The exemption in subsection 1 applies only to one sale or rental in a
24 twenty-four-month period, if the owner was not the most recent resident of the
25 house at the time of the sale or rental.

26 **14-02.5-10. Religious organization, private club, and appraisal exemption.**

27 1. This chapter does not prohibit a religious organization, association, or society or a
28 nonprofit institution or organization operated, supervised, or controlled by or in
29 conjunction with a religious organization, association, or society from limiting the
30 sale, rental, or occupancy of dwellings that it owns or operates for other than a
31 commercial purpose to individuals of the same religion or giving preference to

- 1 persons of the same religion, unless membership in the religion is restricted
2 because of race, color, or national origin.
- 3 2. This chapter does not prohibit a private club that is not in fact open to the public
4 and that, as an incident to its primary purpose, provides lodging that it owns or
5 operates for other than a commercial purpose from limiting the rental or occupancy
6 of the lodging to its members or from giving preference to its members, unless
7 membership in the club is restricted because of race, color, or national origin.
- 8 3. This chapter does not prohibit a person engaged in the business of furnishing
9 appraisals of real property from considering in those appraisals factors other than
10 race, color, religion, sex, disability, age, familial status, national origin, or status
11 with respect to marriage.

12 **14-02.5-11. Housing for elderly exempted.**

- 13 1. The provisions of this chapter relating to familial status and age do not apply to
14 housing that the department determines is specifically designed and operated to
15 assist elderly individuals under a federal or state program; intended for, and solely
16 occupied by, individuals sixty-two years of age or older; or intended and operated
17 for occupancy by at least one individual fifty-five years of age or older for each unit
18 as determined by department rules. In determining whether housing qualifies as
19 housing for elderly under this section, the department shall adopt rules that require
20 at least the following factors:
- 21 a. The existence of significant facilities and services specifically designed to
22 meet the physical or social needs of older individuals or, if the provision of the
23 facilities and services is not practicable, that the housing is necessary to
24 provide important housing opportunities for older individuals;
- 25 b. That at least eighty percent of the units are occupied by at least one individual
26 fifty-five years of age or older per unit; and
- 27 c. The publication of, and adherence to, policies and procedures which
28 demonstrate an intent by the owner or manager to provide housing for
29 individuals fifty-five years of age or older.
- 30 2. Housing may not be considered to be in violation of the requirements for housing
31 for elderly under this section by reason of:

- 1 a. Individuals residing in the housing as of the effective date of this Act who do
2 not meet the age requirements of this section, provided that new occupants of
3 the housing meet the age requirements; or
4 b. Unoccupied units, provided that the units are reserved for occupancy by
5 individuals who meet the age requirements of this section.

6 **14-02.5-12. Effect on other law.**

- 7 1. This chapter does not affect a reasonable local or state restriction on the maximum
8 number of occupants permitted to occupy a dwelling or a restriction relating to
9 health or safety standards.
10 2. This chapter does not affect a requirement of nondiscrimination in any other state
11 or federal law.

12 **14-02.5-13. Duties and powers of department.** The department shall administer this
13 chapter. The department may adopt rules necessary to implement this chapter, but substantive
14 rules adopted by the department must impose obligations, rights, and remedies that are the
15 same as are provided in federal fair housing regulations. Within the limits of legislative
16 appropriations the department shall foster prevention of discrimination under this chapter
17 through education for the public, landlords, publishers, realtors, brokers, lenders, and sellers on
18 the rights and responsibilities provided under this chapter and ways to respect those protected
19 rights. The department shall emphasize conciliation to resolve complaints.

20 **14-02.5-14. Complaints.** As provided by sections 14-02.5-18 through 14-02.5-35, the
21 department shall receive, investigate, seek to conciliate, and act on complaints alleging
22 violations of this chapter.

23 **14-02.5-15. Reports and studies.** The department shall publish in even-numbered
24 years a written report recommending legislative or other action to carry out the purposes of this
25 chapter. The department shall make studies relating to the nature and extent of discriminatory
26 housing practices in this state.

27 **14-02.5-16. Cooperation with other entities.** The department shall cooperate with
28 and may provide technical and other assistance to federal, state, local, and other public or
29 private entities that are designing or operating programs to prevent or eliminate discriminatory
30 housing practices.

1 **14-02.5-17. Gifts and grants - Fair housing fund - Continuing appropriation.** The
2 department may accept grants from the federal government for administering this chapter.
3 Grants received must be deposited to the credit of the fair housing fund in the state treasury.
4 Moneys deposited to the credit of the fund are appropriated to the department on a continuing
5 basis for the purposes of administering this chapter.

6 **14-02.5-18. Complaint.**

- 7 1. The department shall investigate complaints of alleged discriminatory housing
8 practices. An aggrieved individual may file a complaint with the department
9 alleging the discriminatory housing practice. The department may file a complaint.
10 A complaint must be in writing, under oath, and in the form prescribed by the
11 department. A complaint must be filed on or before the first anniversary of the
12 date the alleged discriminatory housing practice occurs or terminates, whichever is
13 later. A complaint may be amended at any time.
- 14 2. On the filing of a complaint, the department shall give the aggrieved individual
15 notice that the complaint has been received, advise the aggrieved individual of the
16 time limits and choice of forums under this chapter, and not later than the tenth day
17 after the date of the filing of the complaint or the identification of an additional or
18 substitute respondent under section 14-02.5-22, serve on each respondent a
19 notice identifying the alleged discriminatory housing practice and advising the
20 respondent of the procedural rights and obligations of a respondent under this
21 chapter and a copy of the original complaint.

22 **14-02.5-19. Answer.**

- 23 1. Not later than the tenth day after the date of receipt of the notice and copy of the
24 complaint under subsection 2 of section 14-02.5-18, a respondent may file an
25 answer to the complaint. An answer must be in writing, under oath, and in the
26 form prescribed by the department.
- 27 2. An answer may be amended at any time. An answer does not inhibit the
28 investigation of a complaint.

29 **14-02.5-20. Investigation.**

- 1 1. If the federal government has referred a complaint to the department or has
2 deferred jurisdiction over the subject matter of the complaint to the department, the
3 department shall investigate the allegations set forth in the complaint.
- 4 2. The department shall investigate all complaints and, except as provided by
5 subsection 3, shall complete an investigation not later than the hundredth day after
6 the date the complaint is filed or, if it is impracticable to complete the investigation
7 within the hundred-day period, shall dispose of all administrative proceedings
8 related to the investigation not later than the first anniversary after the date the
9 complaint is filed.
- 10 3. If the department is unable to complete an investigation within the time periods
11 prescribed by subsection 2, the department shall notify the complainant and the
12 respondent in writing of the reasons for the delay.

13 **14-02.5-21. Additional or substitute respondent.** The department may join a person
14 not named in the complaint as an additional or substitute respondent if during the investigation
15 the department determines that the person is alleged to be engaged or to have engaged in the
16 discriminatory housing practice upon which the complaint is based. In addition to the
17 information required in the notice under subsection 2 of section 14-02.5-18, the department
18 shall include in a notice to a respondent joined under this section the reasons for the
19 determination that the person is properly joined as a respondent.

20 **14-02.5-22. Conciliation.**

- 21 1. The department shall, during the period beginning with the filing of a complaint and
22 ending with the filing of a charge or a dismissal by the department, to the extent
23 feasible, engage in conciliation with respect to the complaint. A conciliation
24 agreement between a respondent and the complainant is subject to departmental
25 approval. A conciliation agreement may provide for binding arbitration or another
26 method of dispute resolution. Dispute resolution that results from a conciliation
27 agreement may authorize appropriate relief, including monetary relief.
- 28 2. A conciliation agreement is public information unless the complainant and
29 respondent agree that it is not and the department determines that disclosure is
30 not necessary to further the purposes of this chapter. Statements made or actions
31 taken in the conciliation may not be made public or used as evidence in a

1 subsequent proceeding under this chapter without the written consent of
2 concerned persons. After completion of the department's investigation, the
3 department shall make available to the aggrieved individual and the respondent, at
4 any time, information derived from the investigation and the final investigative
5 report relating to that investigation.

6 **14-02.5-23. Temporary or preliminary relief.** The department may authorize a claim
7 for relief for temporary or preliminary relief pending the final disposition of a complaint, if the
8 department concludes after the filing of the complaint that prompt judicial action is necessary to
9 carry out the purposes of this chapter. On receipt of the department's authorization, the
10 attorney general shall promptly file the claim. A temporary restraining order or other order
11 granting preliminary or temporary relief under this section is governed by the applicable
12 statutes and the North Dakota Rules of Civil Procedure. The filing of a claim for relief under
13 this section does not affect the initiation or continuation of administrative proceedings under
14 section 14-02.5-31.

15 **14-02.5-24. Investigative report.** The department shall prepare a final investigative
16 report, including the names of and dates of contacts with witnesses, a summary of
17 correspondence and other contacts with the aggrieved individual and the respondent showing
18 the dates of the correspondence and contacts, a summary description of other pertinent
19 records, a summary of witness statements, and answers to interrogatories. A final report under
20 this section may be amended if additional evidence is discovered.

21 **14-02.5-25. Reasonable cause determination.**

22 1. The department shall determine from the facts whether reasonable cause exists to
23 believe that a discriminatory housing practice has occurred or is about to occur.

24 The department shall make this determination not later than the hundredth day
25 after the date a complaint is filed unless making the determination is impracticable,
26 or the department approves a conciliation agreement relating to the complaint.

27 2. If making the determination within the period is impracticable, the department shall
28 give in writing to the complainant and the respondent the reasons for the delay. If
29 the department determines that reasonable cause exists to believe that a
30 discriminatory housing practice has occurred or is about to occur, the department

1 shall, except as provided by section 14-02.5-27, immediately issue a charge on
2 behalf of the aggrieved individual.

3 **14-02.5-26. Charge.**

4 1. A charge issued under section 14-02.5-25 must consist of a short and plain
5 statement of the facts on which the department finds reasonable cause to believe
6 that a discriminatory housing practice has occurred or is about to occur, must be
7 based on the final investigative report, and is not limited to the facts or grounds
8 alleged in the complaint.

9 2. Upon issuing a charge, the department shall send a copy of the charge with
10 information about the election under section 14-02.5-30 to each respondent and
11 each aggrieved individual on whose behalf the complaint was filed.

12 3. The department shall include with a charge sent to a respondent a notice of the
13 opportunity for a hearing under section 14-02.5-31.

14 **14-02.5-27. Land use law.** If the department determines that the matter involves the
15 legality of a state or local zoning or other land use law or ordinance, the department may not
16 issue a charge and shall immediately refer the matter to the attorney general for appropriate
17 action.

18 **14-02.5-28. Dismissal.** If the department determines that no reasonable cause exists
19 to believe that a discriminatory housing practice that is the subject of a complaint has occurred
20 or is about to occur, the department shall promptly dismiss the complaint. The department
21 shall make public disclosure of each dismissal.

22 **14-02.5-29. Pending civil trial.** The department may not issue a charge alleging a
23 discriminatory housing practice after the beginning of the trial of a civil action commenced by
24 the aggrieved party under federal or state law seeking relief with respect to that discriminatory
25 housing practice.

26 **14-02.5-30. Election of judicial determination.** A complainant, a respondent, or an
27 aggrieved person on whose behalf a complaint was filed may elect to have the claims asserted
28 in the charge decided in a civil action as provided by section 14-02.5-36. The election must be
29 made not later than the twentieth day after the date the person having the election receives
30 service under subsection 2 of section 14-02.5-26 or, in the case of the department, not later
31 than the twentieth day after the date the charge is issued. The person making the election shall

1 give notice to the department and to all other complainants and respondents to whom the
2 charge relates.

3 **14-02.5-31. Administrative hearing.** If a timely election is not made under section
4 14-02.5-30, the department shall provide for a hearing on the charge. Except as provided in
5 this section, chapter 28-32 governs a hearing and an appeal of a hearing. A hearing under this
6 section on an alleged discriminatory housing practice may not continue after the beginning of
7 the trial of a claim for relief commenced by the aggrieved person under federal or state law
8 seeking relief with respect to the discriminatory housing practice.

9 **14-02.5-32. Administrative penalties.**

- 10 1. If the department determines at a hearing under section 14-02.5-31 that a
11 respondent has engaged in or is about to engage in a discriminatory housing
12 practice, the department may order the appropriate relief, including actual
13 damages, reasonable attorneys' fees, court costs, and other injunctive or equitable
14 relief.
- 15 2. To vindicate the public's interest, the department may assess a civil penalty
16 against the respondent in an amount that does not exceed:
 - 17 a. Eleven thousand dollars if the respondent has been found by order of the
18 department or a court to have committed a prior discriminatory housing
19 practice; or
 - 20 b. Except as provided by subsection 3, twenty-seven thousand dollars if the
21 respondent has been found by order of the department or a court to have
22 committed one other discriminatory housing practice during the five-year
23 period ending on the date of the filing of the charges and fifty-five thousand
24 dollars if the respondent has been found by the department or a court to have
25 committed two or more discriminatory housing practices during the
26 seven-year period ending on the date of filing of the charge.
- 27 3. If the acts constituting the discriminatory housing practice that is the object of the
28 charge are committed by the same individual who has previously been found to
29 have committed acts constituting a discriminatory housing practice, the civil
30 penalties in subdivision b of subsection 2 may be imposed without regard to the
31 period of time within which any other discriminatory housing practice occurred.

1 4. At the request of the department, the attorney general shall sue to recover a civil
2 penalty due under this section. Funds collected under this section must be paid to
3 the state treasurer for deposit in the general fund.

4 **14-02.5-33. Effect of departmental order.** A departmental order under section
5 14-02.5-32 does not affect a contract, sale, encumbrance, or lease that is consummated before
6 the department issues the order and involves a bona fide purchaser, encumbrancer, or tenant
7 who did not have actual notice of the charge filed under this chapter.

8 **14-02.5-34. Licensed or regulated business.** If the department issues an order with
9 respect to a discriminatory housing practice that occurs in the course of a business subject to a
10 licensing or regulation by a governmental agency, the department, not later than the thirtieth
11 day after the date the order is issued, shall send copies of the findings and the order to the
12 governmental agency and recommend to the governmental agency appropriate disciplinary
13 action.

14 **14-02.5-35. Order in preceding five years.** If the department issues an order against
15 a respondent against whom another order was issued within the preceding five years under
16 section 14-02.5-33, the department shall send a copy of each order to the attorney general.

17 **14-02.5-36. Attorney general action for enforcement.** If a timely election is made
18 under section 14-02.5-30, the department shall authorize and the attorney general shall file not
19 later than the thirtieth day after the date of the election a claim for relief seeking relief on behalf
20 of the aggrieved person in a district court. Venue for an action is in the county in which the
21 alleged discriminatory housing practice occurred or is about to occur. An aggrieved individual
22 may intervene in the action. If the court finds that a discriminatory housing practice has
23 occurred or is about to occur, the court may grant as relief any relief that a court may grant in a
24 civil action under sections 14-02.5-39 through 14-02.5-44. If monetary relief is sought for the
25 benefit of an aggrieved individual who does not intervene in the civil action, the court may not
26 award the monetary relief if that aggrieved individual has not complied with discovery orders
27 entered by the court.

28 **14-02.5-37. Pattern or practice case - Penalties.**

29 1. On the request of the department, the attorney general may file a claim for relief in
30 district court for appropriate relief if the department has reasonable cause to
31 believe that a person is engaged in a pattern or practice of resistance to the full

1 enjoyment of a right granted under this chapter or a person has been denied a
2 right granted by this chapter and that denial raises an issue of general public
3 importance.

4 2. In an action under this section, the court may award preventive relief, including a
5 permanent or temporary injunction, restraining order, or other order against the
6 person responsible for a violation of this chapter as necessary to assure the full
7 enjoyment of the rights granted by this chapter; award other appropriate relief,
8 including monetary damages, reasonable attorneys' fees, and court costs; and to
9 vindicate the public interest, assess a civil penalty against the respondent in an
10 amount that does not exceed fifty thousand dollars for a first violation and one
11 hundred thousand dollars for a second or subsequent violation.

12 3. A person may intervene in an action under this section if the person is a person
13 aggrieved by the discriminatory housing practice or a party to a conciliation
14 agreement concerning the discriminatory housing practice.

15 **14-02.5-38. Subpoena enforcement.** The attorney general, on behalf of the
16 department or another party at whose request a subpoena is issued under this chapter, may
17 enforce the subpoena in appropriate proceedings in district court.

18 **14-02.5-39. Civil action.**

19 1. An aggrieved person may file a civil action in district court not later than the second
20 year after the date of the occurrence or the termination of an alleged discriminatory
21 housing practice or the breach of a conciliation agreement entered under this
22 chapter, whichever occurs last, to obtain appropriate relief with respect to the
23 discriminatory housing practice or breach.

24 2. The two-year period does not include any time during which an administrative
25 hearing under this chapter is pending with respect to a complaint or charge under
26 this chapter based on the discriminatory housing practice. This subsection does
27 not apply to actions arising from the breach of a conciliation agreement.

28 3. An aggrieved individual may file a claim for relief whether a complaint has been
29 filed under section 14-02.5-18 and without regard to the status of any complaint
30 filed under that section.

1 4. If the department has obtained a conciliation agreement with the consent of an
2 aggrieved person, the aggrieved person may not file a claim for relief with respect
3 to the alleged discriminatory housing practice that forms the basis of the complaint
4 except to enforce the terms of the agreement.

5 5. An aggrieved individual may not file a claim for relief with respect to an alleged
6 discriminatory housing practice that forms the basis of a charge issued by the
7 department if the department has begun a hearing on the record under this chapter
8 with respect to the charge.

9 **14-02.5-40. Court-appointed attorney.** On application by a person alleging a
10 discriminatory housing practice or by a person against whom a discriminatory housing practice
11 is alleged, the court may appoint an attorney for the person.

12 **14-02.5-41. Relief granted.** If the court finds that a discriminatory housing practice
13 has occurred or is about to occur, the court may award to the plaintiff actual and punitive
14 damages, reasonable attorneys' fees, court costs, and subject to section 14-02.5-42, a
15 permanent or temporary injunction, temporary restraining order, or other order, including an
16 order enjoining the defendant from engaging in the practice or ordering appropriate affirmative
17 action.

18 **14-02.5-42. Effect of relief granted.** Relief granted under sections 14-02.5-39
19 through 14-02.5-44 does not affect a contract, sale, encumbrance, or lease that is
20 consummated before the granting of the relief and involves a bona fide purchaser,
21 encumbrancer, or tenant who did not have actual notice of the filing of a complaint or civil
22 action under this chapter.

23 **14-02.5-43. Intervention by attorney general.** On request of the department, the
24 attorney general may intervene in an action under sections 14-02.5-39 through 14-02.5-44 if
25 the department certifies that the case is of general public importance. The attorney general
26 may obtain the same relief as is available to the attorney general under subsection 2 of section
27 14-02.5-37.

28 **14-02.5-44. Prevailing party.** A court in an action brought under this chapter or the
29 department in an administrative hearing under section 14-02.5-31 may award reasonable
30 attorneys' fees to the prevailing party and assess court costs against the nonprevailing party.

31 **14-02.5-45. Intimidation or interference - Penalty.**

1 1. A person commits an offense if the person, without regard to whether the person is
2 acting under color of law, by force or threat of force, intentionally intimidates or
3 interferes with an individual:

4 a. Because of the individual's race, color, religion, sex, disability, age, familial
5 status, national origin, or status with respect to marriage and because the
6 individual is or has been selling, purchasing, renting, financing, occupying, or
7 contracting or negotiating for the sale, purchase, rental, financing, or
8 occupation of any dwelling or applying for or participating in a service,
9 organization, or facility relating to the business of selling or renting dwellings;
10 or

11 b. Because the individual is or has been or to intimidate the individual from
12 participating, without discrimination because of race, color, religion, sex,
13 disability, age, familial status, national origin, or status with respect to
14 marriage, in an activity, service, organization, or facility described by
15 subdivision a; affording another individual opportunity or protection to so
16 participate; or lawfully aiding or encouraging other individuals to participate,
17 without discrimination because of race, color, religion, sex, disability, age,
18 familial status, national origin, or status with respect to marriage, in an
19 activity, service, organization, or facility described in subdivision a.

20 2. An offense under this section is a class A misdemeanor.

21 **SECTION 4. REPEAL.** Sections 14-02.4-12 and 14-02.4-13 of the North Dakota
22 Century Code are repealed.

23 **SECTION 5. APPROPRIATION.** There is hereby appropriated out of any moneys in
24 the general fund in the state treasury, not otherwise appropriated, the sum of \$39,000, or so
25 much of the sum as may be necessary, and federal funds of \$159,000 to the labor
26 commissioner for the purpose of providing services to prevent discrimination in North Dakota,
27 including employment discrimination and unfair housing practices, for the biennium beginning
28 July 1, 1999, and ending June 30, 2001.

29 **SECTION 6. EFFECTIVE DATE.** This Act becomes effective on October 1, 1999.