

Amendment to SB 126-FN

1 Amend the bill by replacing Parts I , II and III with the following:

3 PART I

4 Relative to a notice to quit for residential tenants.

5 1 Actions Against Tenants; Payment After Notice. RSA 540:9 is repealed and reenacted to read  
6 as follows:

7 540:9 Payment After Notice.

8 I. Any possessory action based solely on nonpayment of rent shall be dismissed if both of the  
9 following occur:

10 (a) The tenant, at any time prior to the hearing on the merits, pays to the landlord, in  
11 cash, certified check, prepaid money order, electronic transfer, or other guaranteed or immediately  
12 drawable funds, including any form of payment specified in 540:9-a, I, all rent due and owing  
13 through the time of such payment plus other lawful charges contained in the lease, \$15 liquidated  
14 damages, and any filing fee and service charges incurred by the landlord in connection with the  
15 possessory action; and

16 (b) The landlord also submits prior to the hearing date a receipt of such payment to  
17 court and states in writing that a copy of same receipt has also been forwarded to the tenant prior to  
18 the time and date of the hearing on the merits. If the landlord fails to file such receipt the hearing  
19 on the merits shall proceed, and if the tenant proves that payment has been made in accordance  
20 with subparagraph (a), the case shall be dismissed.

21 II. Notwithstanding the provisions of paragraph I, a tenant may not defeat an eviction for  
22 nonpayment of rent by use of this section more than 3 times within a 12-month period.

23 2 Rent; Payment by Voucher. Amend RSA 540:9-a, I to read as follows:

24 I. Any rental payment or partial rental payment tendered by the tenant in the form of a  
25 written promise to pay on behalf of the tenant by the state, a county or a municipality of this state,  
26 or a payment by any organization which disburses federal or state funds, and any application by a  
27 municipality of amounts owed to it by a landlord pursuant to RSA 165:4-a, shall constitute payment  
28 by the tenant of the amount represented in the voucher, and of any amount applied by a  
29 municipality to delinquent balances of the landlord; provided, that this section shall not be construed  
30 to obligate a landlord to accept partial rental payments [~~or payments tendered after the expiration of~~  
31 ~~the eviction notice~~].

32 3 Effective Date. Part I of this act shall take effect upon its passage.

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PART II

Relative to prohibiting certain denials of rental assistance.

1 New Section; Aid to Assisted Persons. Amend RSA 165 by inserting after section 4-b the following new section:

165:4-c Eviction Notice Not Required. The governing body and overseers of public welfare shall not require the issuance of an eviction notice before providing rental assistance. An eviction notice may be required to assist the applicant in documenting emergency needs for emergency assistance, timely application and decision making, and referrals to other agencies with eviction notice requirements for consideration of additional rent arrearage assistance.

2 Effective Date. Part II of this act shall take effect upon its passage.

PART III

Relative to civil rights violations and discriminatory actions related to real estate transactions.

1 Law Against Discrimination; Fair Housing; Real Estate Transactions. RSA 354-A:8 through 354-A:15 are repealed and reenacted to read as follows:

354-A:8 Equal Housing Opportunity Without Discrimination a Civil Right. The opportunity to obtain housing without discrimination because of age, sex, gender identity, race, creed, color, marital status, familial status, physical or mental disability or national origin is hereby recognized and declared a civil right. In addition, no person shall be denied the benefit of the rights afforded by this section on account of that person's sexual orientation.

354-A:9 Definitions. In this subdivision:

I. "Aggrieved person" includes any person who:

(a) Claims to have been injured by a discriminatory housing practice; or

(b) Believes that such person will be injured by a discriminatory housing practice that is about to occur.

II. "Discriminatory housing practice" means an act that is unlawful under section 804, 805, 806, or 818 of the Fair Housing Act, 42 U.S.C. section 3601, et seq.

III. "Family" includes a single individual.

IV. "Familial status" means one or more individuals who have not attained the age of 18 years and who are domiciled with:

(a) A parent or another person having legal custody of such individual or individuals; or

(b) The designee of such parent or other person having such custody, with the written permission of such parent or other person.

V. "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy cases under Title 11 of the United States Code, receivers, and fiduciaries.

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1 VI. "Real property" includes buildings, structures, real estate, lands, tenements, leaseholds,  
2 interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal,  
3 or any interest therein.

4 VII. "Real estate transaction" includes the sale, exchange, rental or lease of real property.  
5 "Real estate transaction" also includes the brokering or appraising of residential real property and  
6 the making or purchasing of loans or providing other financial assistance:

7 (a) For purchasing, constructing, improving, repairing or maintaining a dwelling; or

8 (b) Secured by residential real estate.

9 VIII. "Housing accommodation" includes any improved or unimproved real property, or part  
10 thereof, which is used or occupied, or is intended, arranged or designed to be used or occupied, as the  
11 home or residence of one or more individuals.

12 IX. "Real estate broker or salesman" means a person, whether licensed or not, who, for or  
13 with the expectation of receiving a consideration, lists, sells, purchases, exchanges, rents, or leases  
14 real property, or who negotiates or attempts to negotiate any of these activities, or who holds himself  
15 or herself out as engaged in these.

16 X. "Conciliation" means the attempted resolution of issues raised by a charge, or by the  
17 investigation of such charge, through informal negotiations involving the aggrieved party, the  
18 respondent, and the commission.

19 XI. "Conciliation agreement" means a written agreement setting forth the resolution of the  
20 issues in conciliation.

21 354-A:10 Civil Rights Violations; Real Estate Transactions. It shall be an unlawful  
22 discriminatory practice because of age, sex, gender identity, race, religion, color, marital status,  
23 familial status, physical or mental disability or national origin to:

24 I. Refuse to engage in a real estate transaction with a person or to discriminate in making  
25 available such a transaction.

26 II. Alter the terms, conditions or privileges of a real estate transaction or in the furnishing of  
27 facilities or services in connection therewith.

28 III. Refuse to receive or to fail to transmit a bona fide offer to engage in a real estate  
29 transaction from a person.

30 IV. Refuse to negotiate for a real estate transaction with a person.

31 V. Represent to a person that real property is not available for inspection, sale, rental, or  
32 lease when in fact it is so available, or to fail to bring a property listing to his or her attention, or to  
33 refuse to permit him or her to inspect real property.

34 VI. Make, print, or publish, or cause to be made, printed, or published, any notice,  
35 statement, advertisement, or sign, with respect to the sale or rental of a dwelling, or commercial  
36 structure, that indicates any preference, limitation, or discrimination based on race, color, religion,

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1 sex, marital status, familial status, physical or mental disability, sexual orientation, or national  
2 origin, or an intention to make any such preference, limitation, or discrimination.

3 VII. Offer, solicit, accept, use or retain a listing of real property with knowledge that  
4 unlawful discrimination or discrimination on the basis of familial status or an arrest record in a real  
5 estate transaction is intended.

6 354-A:11 Disability.

7 I. It is a civil rights violation to refuse to sell or rent or to otherwise make unavailable or  
8 deny a dwelling to any buyer or renter because of a disability of that buyer or renter, a disability of a  
9 person residing or intending to reside in that dwelling after it is sold, rented, or made available, or a  
10 disability of any person associated with the buyer or renter.

11 II. It is a civil rights violation to alter the terms, conditions, or privileges of sale or rental of  
12 a dwelling or the provision of services or facilities in connection with such dwelling because of a  
13 disability of a person with a disability or a disability of any person residing or intending to reside in  
14 that dwelling after it is sold, rented, or made available, or a disability of any person associated with  
15 that person.

16 III. It is a civil rights violation:

17 (a) To refuse to permit, at the expense of the person with a disability, reasonable  
18 modifications of existing premises occupied or to be occupied by such person if such modifications  
19 may be necessary to afford such person full enjoyment of the premises; except that, in the case of a  
20 rental, the landlord may, where it is reasonable to do so, condition permission for a modification on  
21 the renter agreeing to restore the interior of the premises to the condition that existed before  
22 modifications, reasonable wear and tear excepted. The landlord may not increase for persons with a  
23 disability any customarily required security deposit. However, where it is necessary in order to  
24 ensure with reasonable certainty that funds will be available to pay for the restorations at the end of  
25 the tenancy, the landlord may negotiate as part of such a restoration agreement a provision  
26 requiring that the tenant pay into an interest bearing escrow account, over a reasonable period, a  
27 reasonable amount of money not to exceed the cost of the restorations. The interest in any such  
28 account shall accrue to the benefit of the tenant. A landlord may condition permission for a  
29 modification on the renter providing a reasonable description of the proposed modifications as well  
30 as reasonable assurances that the work will be done in a workmanlike manner and that any  
31 required building permits will be obtained;

32 (b) To refuse to make reasonable accommodations in rules, policies, practices, or  
33 services, when such accommodations may be necessary to afford such person equal opportunity to  
34 use and enjoy a dwelling; or

35 (c) In connection with the design and construction of covered multifamily dwellings for  
36 first occupancy after March 13, 1991, to fail to design and construct those dwellings in such a  
37 manner that:

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1           (1) The public use and common use portions of such dwellings are readily accessible  
2 to and usable by persons with a disability;

3           (2) All the doors designed to allow passage into and within all premises within such  
4 dwellings are sufficiently wide to allow passage by persons with a disability in wheelchairs; and

5           (3) All premises within such dwellings contain the following features of adaptive  
6 design:

7                   (A) An accessible route into and through the dwelling;

8                   (B) Light switches, electrical outlets, thermostats, and other environmental  
9 controls in accessible locations;

10                  (C) Reinforcements in bathroom walls to allow later installation of grab bars;  
11 and

12                  (D) Usable kitchens and bathrooms such that an individual in a wheelchair can  
13 maneuver about the space.

14           IV. Compliance with the appropriate requirements of the American National Standard for  
15 buildings and facilities providing accessibility and usability for physically disabled people (commonly  
16 cited as "ANSI A117.1") suffices to satisfy the requirements of subparagraph III(c)(3).

17           V. If a unit of local government has incorporated into its building code the requirements set  
18 forth in subparagraph III(c), compliance with the local building code shall be deemed to satisfy the  
19 requirements of that subparagraph.

20           VI. A unit of local government may review and approve newly constructed covered  
21 multifamily dwellings for the purpose of making determinations as to whether the design and  
22 construction requirements of subparagraph III(c) are met.

23           VII. The commission shall encourage, but may not require, units of local government to  
24 include in their existing procedures for the review and approval of newly constructed covered  
25 multifamily dwellings, determinations as to whether the design and construction of such dwellings  
26 are consistent with subparagraph III(c), and shall provide technical assistance to units of local  
27 government and other persons to implement the requirements of subparagraph III(c).

28           VIII. Nothing in this subdivision shall be construed to require the commission to review or  
29 approve the plans, designs or construction of all covered multifamily dwellings to determine whether  
30 the design and construction of such dwellings are consistent with the requirements of subparagraph  
31 III(c).

32           IX. Nothing in paragraph IV, V, VI, or VII shall be construed to affect the authority and  
33 responsibility of the commission to receive and process complaints or otherwise engage in  
34 enforcement activities under state law.

35           X. Determinations by a unit of local government under paragraphs IV and V shall not be  
36 conclusive in enforcement proceedings under this chapter if those determinations are not in accord  
37 with the terms of this chapter.

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1           XI. Nothing in this section requires that a dwelling be made available to an individual  
2 whose tenancy would constitute a direct threat to the health or safety of others or would result in  
3 substantial physical damage to the property of others.

4           354-A:12 Blockbusting. It is a civil rights violation for any person to:

5           I. Solicit for sale, lease, listing or purchase any residential real estate within this state, on  
6 the grounds of loss of value due to the present or prospective entry into the vicinity of the property  
7 involved of any person or persons of any particular race, color, religion, national origin, ancestry,  
8 age, sex, sexual orientation, gender identity, marital status, familial status or disability.

9           II. Distribute or cause to be distributed, written material or statements designed to induce  
10 any owner of residential real estate in this state to sell or lease his or her property because of any  
11 present or prospective changes in the race, color, religion, national origin, ancestry, age, sex, sexual  
12 orientation, gender identity, marital status, familial status or disability of residents in the vicinity of  
13 the property involved.

14           III. Intentionally create alarm, among residents of any community, by transmitting  
15 communications in any manner, including a telephone call whether or not conversation thereby  
16 ensues, with a design to induce any owner of residential real estate in this state to sell or lease his or  
17 her property because of any present or prospective entry into the vicinity of the property involved of  
18 any person or persons of any particular race, color, religion, national origin, ancestry, age, sex,  
19 sexual orientation, gender identity, marital status, familial status or disability.

20           IV. Evict a tenant solely on the grounds that the person has acquired immune deficiency  
21 syndrome (AIDS) or is regarded to have acquired immune deficiency syndrome.

22           354-A:13 Restrictive Covenants.

23           I. Every provision in an oral agreement or a written instrument relating to real property  
24 which purports to forbid or restrict the conveyance, encumbrance, occupancy, or lease thereof on the  
25 basis of race, color, religion, or national origin is void.

26           II.(a) Every condition, restriction or prohibition, including a right of entry or possibility of  
27 reverter, which directly or indirectly limits the use or occupancy of real property on the basis of race,  
28 color, religion, or national origin is void.

29           (b) This section shall not apply to a limitation of use on the basis of religion of real  
30 property held by a religious institution or organization or by a religious or charitable organization  
31 operated, supervised, or controlled by a religious institution or organization, and used for religious or  
32 charitable purposes.

33           III. It is a civil rights violation to insert in a written instrument relating to real property a  
34 provision that is void under this section or to honor or attempt to honor such a provision in the chain  
35 of title.

36           354-A:14 Interference, Coercion, or Intimidation. It is a civil rights violation to coerce,  
37 intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of

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1 his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any  
2 other person in the exercise or enjoyment of, any right granted or protected by this subdivision.

3 354-A:15 Exemptions. Nothing contained in RSA 354-A:10 shall prohibit:

4 I. Private sales of single family homes.

5 (a) Any sale of a single family home by its owner so long as the following criteria are  
6 met:

7 (1) The owner does not own or have a beneficial interest in more than three single  
8 family homes at the time of the sale;

9 (2) The owner or a member of his or her family was the last current resident of the  
10 home;

11 (3) The home is sold without the use in any manner of the sales or rental facilities or  
12 services of any real estate broker or salesman, or of any employee or agent of any real estate broker  
13 or salesman;

14 (4) The home is sold without the publication, posting or mailing, after notice, of any  
15 advertisement or written notice in violation of RSA 354-A:10, VII.

16 (b) This exemption shall not apply to RSA 354-A:10, VII.

17 II. Rental of a housing accommodation in a building which contains housing  
18 accommodations for not more than 4 families living independently of each other, if the owner resides  
19 in one of the housing accommodations. This exemption does not apply to RSA 354-A:10, VII.

20 III. Rental of a room or rooms in a private home by an owner if he or she or a member of his  
21 or her family resides therein or, while absent for a period of not more than 12 months, if he or she or  
22 a member of his or her family intends to return to reside therein.

23 IV. Reasonable local, state, or federal restrictions regarding the maximum number of  
24 occupants permitted to occupy a dwelling.

25 V. A religious organization, association, or society, or any nonprofit institution or  
26 organization operated, supervised, or controlled by or in conjunction with a religious organization,  
27 association, or society, from limiting the sale, rental, or occupancy of a dwelling which it owns or  
28 operates for other than a commercial purpose to persons of the same religion, or from giving  
29 preference to such persons, unless membership in such religion is restricted on account of race, color,  
30 or national origin.

31 VI. Conduct against a person because such person has been convicted by any court of  
32 competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined  
33 in the federal Controlled Substances Act, 21 U.S.C. section 802(6).

34 VII. Persons engaged in the business of furnishing appraisals of real property from taking  
35 into consideration factors other than those based on unlawful discrimination or familial status in  
36 furnishing appraisals.

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VIII. No provision in this subdivision regarding familial status shall apply with respect to housing for older persons.

(a) As used in this paragraph, "housing for older persons" means housing:

(1) Provided under any state or federal program that the Secretary of the United States Department of Housing and Urban Development determines is specifically designed and operated to assist elderly persons, as defined in the state or federal program; or

(2) Intended for, and solely occupied by, persons 62 years of age or older; or

(3) Intended and operated for occupancy by persons 55 years of age or older and:

(A) At least 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older;

(B) The housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subparagraph; and

(C) The housing facility or community complies with rules adopted by the commission for verification of occupancy, which shall:

(i) Provide for verification by reliable surveys and affidavits; and

(ii) Include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of subparagraph X(a)(3)(B). These surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification.

(b) Housing shall not fail to meet the requirements for housing for older persons by reason of:

(1) Persons residing in such housing as of the effective date of this amendatory Act of 1988 who do not meet the age requirements of subparagraph X(a)(2) or X(a)(3); provided, that new occupants of such housing meet the age requirements of subparagraph X(a)(2) or X(a)(3); or

(2) Unoccupied units; provided, that such units are reserved for occupancy by persons who meet the age requirements of subparagraph X(a)(2) or X(a)(3).

(c)(1) A person shall not be held personally liable for monetary damages for a violation of this subdivision if the person reasonably relied, in good faith, on the application of the exemption under this paragraph relating to housing for older persons.

(2) For the purposes of this subparagraph, a person may show good faith reliance on the application of the exemption only by showing that:

(A) The person has no actual knowledge that the facility or community is not, or will not be, eligible for the exemption; and

(B) The facility or community has stated formally, in writing, that the facility or community complies with the requirements for the exemption.

IX. Inquiry into or the use of an arrest record if the inquiry or use is otherwise authorized by state or federal law.



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1           2 Effective Date. Part III of this act shall take effect January 1, 2022.