

case file where the Commission has issued a release to the complainant pursuant to this subsection.

2. An action authorized under this section is barred unless commenced within 90 days after issuance by the Commission of a release under paragraph C of subsection 1. If a complainant obtains a release from the Commission under said paragraph, the Commission shall be barred from further action on that complaint.
3. Venue for an action under this section shall be in the county in which the respondent resides or has its principal place of business, or in the county in which the alleged unfair or discriminatory practice occurred.
4. The District Court may grant any relief in an action under this section which is authorized by Section 31.14, subsection 2, to be issued by the Commission. The District Court may also award the respondent reasonable attorney's fees and court costs when the court finds that the complainant's action was frivolous.
5. It is the legislative intent of this chapter that every complaint be at least preliminarily screened during the first 60 days.

This section does not authorize administrative closure if an investigation is warranted. In addition, this section shall not be interpreted so as to require a complainant to file a complaint with the Commission before filing a civil action based on violations of the Fair Housing sections of this chapter.

* 31.18 FAIR HOUSING – GENERAL.[†]

1. Definitions. The definitions in 31.02 are incorporated herein by reference and, as used in the Fair Housing sections:
 - A. “Aggrieved person” includes any person who:
 - (1) Claims to have been injured by a discriminatory housing practice; or
 - (2) Believes that such person will be injured by a discriminatory housing practice that is about to occur.
 - B. “Complainant” means the person who filed a complaint under Section 31.22(1) of this chapter.
 - C. “Conciliation” means the attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent and the Commission.

[†] EDITOR'S NOTE: Sections 31.18 through 31.33 of this chapter are herein referred to collectively as “the Fair Housing sections of this chapter.”

- D. “Conciliation agreement” means a written agreement setting forth the resolution of the issues in conciliation.
- E. “Discriminatory housing practice” means an act that is unlawful under Sections 31.18(2), 31.19, 31.20, 31.09 and 31.10 of this chapter.
- F. “Dwelling” means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereof of any such building, structure or portion thereof.
- G. “Family” includes a single individual.
- H. “Prevailing party” has the same meaning as such term has in Section 722 of the Revised Statutes of the United States (42 U.S.C. 1988).
- I. “Respondent” means:
- (1) The person or other entity accused in a complaint of an unfair housing practice; and
 - (2) Any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified under Section 31.22 of this chapter.
- J. “Secretary” means the U.S. Secretary of Housing and Urban Development.
- K. “State” means the State of Iowa and any of its political subdivisions.
- L. “To rent” includes to lease, sublease, to let, and otherwise to grant for consideration the right to occupy premises not owned by the occupant.



2. Prohibitions/Unfair or Discriminatory Practices – Housing. It is an unfair or discriminatory practice for any person, owner of rights to housing or real property, or a person acting for an owner of rights to housing or real property, with or without compensation, including (but not limited to) persons licensed as real estate brokers or salespersons, attorneys, auctioneers, architects, builders, developers, agents, or representatives by power of attorney or appointment, or any person acting under court order, deed of trust, or will – collectively referred to in this chapter as a “housing provider”:

- A. To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of age, color, creed, disability, familial status, gender identity, lawful source of income, marital status, national origin, race, religion, sex, or sexual orientation.
- B. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provisions of services or

facilities in connection therewith, because of age, color, creed, disability, familial status, gender identity, lawful source of income, marital status, national origin, race, religion, sex, or sexual orientation.

C. To make, print, or publish, or cause to be made, printed or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on age, color, creed, disability, familial status, gender identity, lawful source of income, marital status, national origin, race, religion, sex, or sexual orientation or an intention to make any such preference, limitation or discrimination.

D. To represent to any person because of age, color, creed, disability, familial status, gender identity, lawful source of income, marital status, national origin, race, religion, sex, or sexual orientation that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

E. For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular age, color, creed, disability, familial status, gender identity, lawful source of income, marital status, national origin, race, religion, sex, or sexual orientation.

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F. To discriminate against an individual who is receiving or has a Federal, State or local housing subsidy, including rental assistance or Section 8 vouchers, because the individual is such a recipient or because of any requirement of such rental assistance or housing subsidy or voucher program, subject to the exemptions in Section 31.21 of this chapter; a housing provider:

(1) Shall consider, and may verify, any lawful source of income or occupation in determining qualifications for rental or sale of a dwelling.

(2) Shall not be required to rent or sell to any participant in a housing subsidy program merely because the individual has the subsidy. This subsection does not create a preference for persons with housing subsidies over those without subsidies.

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(3) Shall not refuse to accept or participate in a government housing subsidy program, except as provided elsewhere in this section, and must consider and evaluate individuals who participate in these programs along with other individuals and applicants.

(4) May refuse to consider income derived from any criminal activity.

- * (5) May determine the ability of any potential buyer or renter to pay a purchase price or pay rent by:
- a. Verifying, in a commercially reasonable manner, the source and amount of income of the potential buyer or renter, including any rental or purchase payments or portions of rental or purchase payments that will be made by other individuals, organizations or voucher and rental assistance payment programs on the same basis as payments to be made directly by the potential buyer or renter.
 - b. Evaluating, in a commercially reasonable manner, the prospective stability, security, and credit worthiness of the potential buyer or renter or any source of income of the potential buyer or renter, including any rental or purchase payments or portions of rental or purchase payments that will be made by other individuals, organizations or voucher and rental assistance payment programs.
- * (6) May refuse to lease or sell a dwelling to a potential or current renter or buyer who is relying on a Section 8 voucher or subsidy for payment of part or all of the rent or sale price for a dwelling if and when the Marion Housing Services Office or its designee determines that:
- a. The dwelling fails to meet Federal Housing Quality Standards in connection with the Section 8 or subsidy program; or
 - * b. The rent for the dwelling exceeds the Fair Market Rent authorized by the U.S. Department of Housing and Urban Development or the Marion Housing Services Office in connection with the Section 8 or subsidy program.
- * (7) Shall cooperate with the Marion Housing Services Office, HUD and the buyer or renter to execute all documents necessary to apply for participation in the housing subsidy or voucher program and to enable payment of housing subsidies or rental assistance payments.
- G. To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of: (i) that buyer or renter; or (ii) a person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or (iii) any person associated with that buyer or renter; or to discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provisions of services or facilities in connection with such dwelling, because

of a disability of: (x) that person; (y) a person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or (z) any person associated with that person. For purposes of this paragraph, discrimination includes any one of the following:

(1) A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, except that, in the case of a rental the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted; or

(2) A refusal to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling. A housing provider shall modify its policies, practices, or procedures to permit an individual with a disability to use, own, live with or be accompanied by an assistance animal when necessary to afford that individual equal opportunity to use and enjoy a dwelling; when considering a request from, or providing a reasonable accommodation to, an individual with a disability that involves an assistance animal, a housing provider shall not:

a. Ask or require an individual with a disability to post a deposit, pay a fee or surcharge, or comply with other requirements not generally applicable to other applicants, tenants or owners, even if people who live with or are accompanied by pets are required do so; or

b. Require documentation, such as proof that the animal has been certified or licensed as an assistance animal; or

c. Require that a support animal have any training; however, a housing provider may inquire whether an assistive animal is either: (i) individually trained to do work or perform or provide a service, function or a task for the benefit of an individual with a disability; or (ii) despite the lack of individual training, is able to work or perform or provide a service, function or a task for the benefit of an individual with a disability; or

d. Require the assistance animal to wear or carry any special harness, collar, vest, emblem or other means of identifying it as an assistive animal.

An individual with a disability may be charged for damages caused by his or her assistance animal if the housing provider normally charges pet owners or handlers for damage caused by their pets.

(3) In connection with the design and/or construction of covered multifamily dwellings for first occupancy on or after one year after the effective date of the ordinance codified in this section, a failure to design and/or construct those dwellings in such a manner that:

- a. The public use and common use portions of such dwellings are readily accessible to and usable by disabled persons;
- b. All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by disabled persons in wheelchairs; and
- c. All premises within such dwellings contain the following features of adaptive design: (i) an accessible route into and through the dwelling; (ii) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations; (iii) reinforcements in bathroom walls to allow later installation of grab bars; and (iv) usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

H. Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of paragraph G(3)(c) of this subsection.

I. As used in this section, the term "covered multifamily dwellings" means:

- (1) Buildings consisting of 4 or more units if such buildings have one or more elevators; and
- (2) Ground floor units in other buildings consisting of 4 or more units.

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

K. Any violation of paragraph G(3) of this subsection shall be deemed to be a continuing violation of this chapter from the date a certificate of

occupancy is issued for the covered multifamily dwelling until the date the violation is cured and the unfair or discriminatory practice is ceased.

- * 3. Exemptions. The provisions of paragraphs A, B, D, E, F, and G of subsection 2 of this section shall not apply to:
- A. Any single-family house sold or rented by an owner provided that:
- (1) The private individual owner does not own more than three such single-family houses at any one time; and
 - (2) In the sale of any single-family house, the private individual owner does not reside in, nor is the most recent resident of such house prior to such sale; the exemption granted by this subsection shall apply to only one such sale within a 24-month period; and
 - (3) The bona fide private individual owner does not own any interest in, nor is there owned or reserved on the owner's behalf, under express or voluntary agreement, title to, or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at one time; and
 - (4) There is no utilization in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, salesperson, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesperson or person; and
 - (5) There is no publication, posting or mailing, after notice, of any advertisement or written notice in violation of paragraph C of subsection 2 of this Section 31.18. Nothing in this subsection prohibits the utilization of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title.
- B. Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.
- C. The renting or leasing of a dwelling in a building which contains dwellings for not more than two families living independently of each other, if the owner resides in one of the dwellings.
- D. The rental or leasing of fewer than four rooms within a single dwelling by the occupant or owner of the dwelling, if the occupant or owner resides in the dwelling.

4. For purposes of the Fair Housing sections of this chapter, a person shall be deemed to be in the business of selling or renting dwellings if:

A. The person has, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein; or

B. The person has, within the preceding 12 months, participated as agent, other than in the sale of the person's own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or

C. The person is the owner of any dwelling designed or intended for occupancy by, or occupied by five or more families.

5. Nothing in this section shall prohibit a religious organization, association, or society or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of age, color, creed, disability, familial status, gender identity, lawful source of income, marital status, national origin, race, religion, sex, or sexual orientation. Nor shall anything in this section prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodging which it owns or operates for other occupancy of such lodging to its members or from giving preference to its members.

6. Nothing in the Fair Housing sections of this chapter limits the applicability of the City's Housing Ordinance regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this chapter regarding familial status or age apply with respect to housing for older persons.

A. As used in this subsection "housing for older persons" means housing:

(1) Provided under any State or Federal program that the Secretary of the 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 at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the Commission shall develop regulations which require at least the following factors:

- a. At least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; and
 - b. The publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.
- 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 date of enactment of this chapter who do not meet the age requirements of subparagraphs (2) and (3) of paragraph A of this subsection, provided that new occupants of such housing meet the age requirements of said subparagraphs.
 - (2) Unoccupied units, provided that such units are reserved for occupancy by persons who meet the age requirements of subparagraphs (2) and (3) of paragraph A of this subsection.
7. Nothing in this section prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802) or Chapter 124 of the Iowa Code.
8. Additional Housing Exception. Sections 31.18 (2) and (4) do not prohibit a person engaged in the business of furnishing appraisals of real estate from taking into consideration factors other than age, color, creed, disability, familial status, gender identity, lawful source of income, marital status, national origin, race, religion, sex, or sexual orientation in appraising real estate.

31.19 FAIR HOUSING – DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS.

1. In General. It is unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of age, color, creed, disability, familial status, gender identity, lawful source of income, marital status, national origin, race, religion, sex, or sexual orientation.
2. Definition. As used in this section, the term “residential real estate-related transaction” means any of the following:
 - A. The making or purchasing of loans or providing other financial assistance:

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


(2) Secured by residential real estate.

B. The selling, brokering or appraising of residential property.

3. Appraisal Exemption. Nothing in this section prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than age, color, creed, disability, familial status, gender identity, lawful source of income, marital status, national origin, race, religion, sex, or sexual orientation.

This section shall not be limited by Section 31.07(2).

31.20 FAIR HOUSING – DISCRIMINATION IN PROVISION OF BROKERAGE SERVICES. It is unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against such person in the terms or conditions of such access, membership or participation, on account of age, color, creed, disability, familial status, gender identity, lawful source of income, marital status, national origin, race, religion, sex, or sexual orientation.

 **31.21 FAIR HOUSING – EXCEPTIONS FOR LAWFUL SOURCE OF INCOME.** The protection against lawful source of income discrimination shall not prohibit a person from:

1. Refusing to consider income derived from any criminal activity; or
2. Determining the ability of any potential buyer or renter to pay a purchase price or pay rent by:

A. Verifying, in a commercially reasonable manner, the source and amount of income of the potential buyer or renter, including any rental or purchase payments or portions of rental or purchase payments that will be made by other individuals, organizations or voucher and rental assistance payment programs on the same basis as payments to be made directly by the potential buyer or renter

B. Evaluating, in a commercially reasonable manner, the prospective stability, security and credit worthiness of the potential buyer or renter or any source of income of the potential buyer or renter, including any rental or purchase payments or portions of rental or purchase payments that will be made by other individuals, organizations or voucher and rental assistance payment programs.