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JUDICIARY

HOUSE FILE 65

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FALLON, and MYERS

(COMPANION TO SF 6 BY
HAMMOND)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act prohibiting discrimination based upon a person's sexual
2 orientation under the Iowa civil rights Act.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 216.2, Code 2001, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 12A. "Sexual orientation" means actual or
4 perceived heterosexuality, homosexuality, bisexuality, or a
5 person's attributes in behavior, practice, or appearance as
6 they are understood to be masculine or feminine. "Sexual
7 orientation" does not include participation in acts which are
8 prohibited by law.

9 Sec. 2. Section 216.5, subsections 6 and 8, Code 2001, are
10 amended to read as follows:

11 6. To issue such publications and reports of
12 investigations and research as in the judgment of the
13 commission shall tend to promote good will among the various
14 racial, religious, and ethnic groups of the state and which
15 shall tend to minimize or eliminate discrimination in public
16 accommodations, employment, apprenticeship and on-the-job
17 training programs, vocational schools, or housing because of
18 race, creed, color, sex, sexual orientation, national origin,
19 religion, ancestry, or disability.

20 8. To make recommendations to the general assembly for
21 such further legislation concerning discrimination because of
22 race, creed, color, sex, sexual orientation, national origin,
23 religion, ancestry, or disability as it may deem necessary and
24 desirable.

25 Sec. 3. Section 216.6, subsection 1, paragraphs a, b, and
26 c, Code 2001, are amended to read as follows:

27 a. Person to refuse to hire, accept, register, classify,
28 or refer for employment, to discharge any employee, or to
29 otherwise discriminate in employment against any applicant for
30 employment or any employee because of the age, race, creed,
31 color, sex, sexual orientation, national origin, religion, or
32 disability of such applicant or employee, unless based upon
33 the nature of the occupation. If a person with a disability
34 is qualified to perform a particular occupation, by reason of
35 training or experience, the nature of that occupation shall

1 not be the basis for exception to the unfair or discriminating
2 practices prohibited by this subsection.

3 b. Labor organization or the employees, agents, or members
4 thereof to refuse to admit to membership any applicant, to
5 expel any member, or to otherwise discriminate against any
6 applicant for membership or any member in the privileges,
7 rights, or benefits of such membership because of the age,
8 race, creed, color, sex, sexual orientation, national origin,
9 religion, or disability of such applicant or member.

10 c. Employer, employment agency, labor organization, or the
11 employees, agents, or members thereof to directly or
12 indirectly advertise or in any other manner indicate or
13 publicize that individuals of any particular age, race, creed,
14 color, sex, sexual orientation, national origin, religion, or
15 disability are unwelcome, objectionable, not acceptable, or
16 not solicited for employment or membership unless based on the
17 nature of the occupation. If a person with a disability is
18 qualified to perform a particular occupation by reason of
19 training or experience, the nature of that occupation shall
20 not be the basis for exception to the unfair or discriminating
21 practices prohibited by this subsection.

22 An employer, employment agency, or their employees,
23 servants, or agents may offer employment or advertise for
24 employment to only persons with disabilities, when other
25 applicants have available to them other employment compatible
26 with their ability which would not be available to persons
27 with disabilities because of their disabilities. Any such
28 employment or offer of employment shall not discriminate among
29 persons with disabilities on the basis of race, color, creed,
30 sex, sexual orientation, or national origin.

31 Sec. 4. Section 216.6, subsection 6, paragraph d, Code
32 2001, is amended to read as follows:

33 d. Any bona fide religious institution or its educational
34 facility, association, corporation, or society with respect to
35 any qualifications for employment based on religion or sexual

1 orientation when such qualifications are related to a bona
2 fide religious purpose. A religious qualification for
3 instructional personnel or an administrative officer, serving
4 in a supervisory capacity of a bona fide religious educational
5 facility or religious institution, shall be presumed to be a
6 bona fide occupational qualification.

7 Sec. 5. Section 216.7, subsection 1, paragraphs a and b,
8 Code 2001, are amended to read as follows:

9 a. To refuse or deny to any person because of race, creed,
10 color, sex, sexual orientation, national origin, religion, or
11 disability the accommodations, advantages, facilities,
12 services, or privileges thereof, or otherwise to discriminate
13 against any person because of race, creed, color, sex, sexual
14 orientation, national origin, religion, or disability in the
15 furnishing of such accommodations, advantages, facilities,
16 services, or privileges.

17 b. To directly or indirectly advertise or in any other
18 manner indicate or publicize that the patronage of persons of
19 any particular race, creed, color, sex, sexual orientation,
20 national origin, religion, or disability is unwelcome,
21 objectionable, not acceptable, or not solicited.

22 Sec. 6. Section 216.7, subsection 2, paragraph a, Code
23 2001, is amended to read as follows:

24 a. Any bona fide religious institution with respect to any
25 qualifications the institution may impose based on religion or
26 sexual orientation when such qualifications are related to a
27 bona fide religious purpose.

28 Sec. 7. Section 216.8, subsections 1 through 4, Code 2001,
29 are amended to read as follows:

30 1. To refuse to sell, rent, lease, assign, sublease,
31 refuse to negotiate, or to otherwise make unavailable, or deny
32 any real property or housing accommodation or part, portion or
33 interest therein, to any person because of the race, color,
34 creed, sex, sexual orientation, religion, national origin,
35 disability, or familial status of such person.

1 2. To discriminate against any person because of the
2 person's race, color, creed, sex, sexual orientation,
3 religion, national origin, disability, or familial status, in
4 the terms, conditions or privileges of the sale, rental, lease
5 assignment or sublease of any real property or housing
6 accommodation or any part, portion or interest in the real
7 property or housing accommodation or in the provision of
8 services or facilities in connection with the real property or
9 housing accommodation.

10 For purposes of this section, "person" means one or more
11 individuals, corporations, partnerships, associations, labor
12 organizations, legal representatives, mutual companies, joint
13 stock companies, trusts, unincorporated organizations,
14 trustees, trustees in cases under Title 11 of the United
15 States Code, receivers, and fiduciaries.

16 3. To directly or indirectly advertise, or in any other
17 manner indicate or publicize that the purchase, rental, lease,
18 assignment, or sublease of any real property or housing
19 accommodation or any part, portion or interest therein, by
20 persons of any particular race, color, creed, sex, sexual
21 orientation, religion, national origin, disability, or
22 familial status is unwelcome, objectionable, not acceptable or
23 not solicited.

24 4. To discriminate against the lessee or purchaser of any
25 real property or housing accommodation or part, portion or
26 interest of the real property or housing accommodation, or
27 against any prospective lessee or purchaser of the property or
28 accommodation, because of the race, color, creed, religion,
29 sex, sexual orientation, disability, age, or national origin
30 of persons who may from time to time be present in or on the
31 lessee's or owner's premises for lawful purposes at the
32 invitation of the lessee or owner as friends, guests,
33 visitors, relatives or in any similar capacity.

34 Sec. 8. Section 216.8A, subsections 1 and 2, Code 2001,
35 are amended to read as follows:

1 1. A person shall not induce or attempt to induce another
2 person to sell or rent a dwelling by representations regarding
3 the entry or prospective entry into a neighborhood of a person
4 of a particular race, color, creed, sex, sexual orientation,
5 religion, national origin, disability, or familial status.

6 2. A person shall not represent to a person of a
7 particular race, color, creed, sex, sexual orientation,
8 religion, national origin, disability, or familial status that
9 a dwelling is not available for inspection, sale, or rental
10 when the dwelling is available for inspection, sale, or
11 rental.

12 Sec. 9. Section 216.8A, subsection 4, paragraph a, Code
13 2001, is amended to read as follows:

14 a. A person whose business includes engaging in resi-
15 dential real estate related transactions shall not
16 discriminate against a person in making a residential real
17 estate related transaction available or in terms or conditions
18 of a residential real estate related transaction because of
19 race, color, creed, sex, sexual orientation, religion,
20 national origin, disability, or familial status.

21 Sec. 10. Section 216.8A, subsection 5, Code 2001, is
22 amended to read as follows:

23 5. A person shall not deny another person access to, or
24 membership or participation in, a multiple-listing service,
25 real estate brokers' organization or other service,
26 organization, or facility relating to the business of selling
27 or renting dwellings, or discriminate against a person in
28 terms or conditions of access, membership, or participation in
29 such organization because of race, color, creed, sex, sexual
30 orientation, religion, national origin, disability, or
31 familial status.

32 Sec. 11. Section 216.9, unnumbered paragraph 1, Code 2001,
33 is amended to read as follows:

34 It is an unfair or discriminatory practice for any
35 educational institution to discriminate on the basis of race,

1 creed, color, sex, sexual orientation, national origin,
2 religion, or disability in any program or activity. Such
3 discriminatory practices shall include but not be limited to
4 the following practices:

5 Sec. 12. Section 216.9, unnumbered paragraph 2, Code 2001,
6 is amended to read as follows:

7 For the purpose of this section "educational institution"
8 includes any preschool, elementary, secondary, or community
9 college, area education agency, or postsecondary college or
10 university and their governing boards. This section does not
11 prohibit an educational institution from maintaining separate
12 toilet facilities, locker rooms or living facilities for the
13 different sexes so long as comparable facilities are provided.
14 Nothing in this section shall be construed as prohibiting any
15 bona fide religious institution from imposing qualifications
16 based on religion or sexual orientation when such
17 qualifications are related to a bona fide religious purpose or
18 any institution from admitting students of only one sex.

19 Sec. 13. Section 216.10, Code 2001, is amended to read as
20 follows:

21 216.10 UNFAIR CREDIT PRACTICES.

22 It shall be an unfair or discriminatory practice for any:

23 1. Creditor to refuse to enter into a consumer credit
24 transaction or impose finance charges or other terms or
25 conditions more onerous than those regularly extended by that
26 creditor to consumers of similar economic backgrounds because
27 of age, color, creed, national origin, race, religion, marital
28 status, sex, sexual orientation, physical disability, or
29 familial status.

30 2. Person authorized or licensed to do business in this
31 state pursuant to chapter 524, 533, 534, 536, or 536A to
32 refuse to loan or extend credit or to impose terms or
33 conditions more onerous than those regularly extended to
34 persons of similar economic backgrounds because of age, color,
35 creed, national origin, race, religion, marital status, sex,

1 sexual orientation, physical disability, or familial status.
2 3. Creditor to refuse to offer credit life or health and
3 accident insurance because of color, creed, national origin,
4 race, religion, marital status, age, physical disability, sex,
5 sexual orientation, or familial status. Refusal by a creditor
6 to offer credit life or health and accident insurance based
7 upon the age or physical disability of the consumer shall not
8 be an unfair or discriminatory practice if such denial is
9 based solely upon bona fide underwriting considerations not
10 prohibited by title XIII, subtitle 1.

11 The provisions of this section shall not be construed by
12 negative implication or otherwise to narrow or restrict any
13 other provisions of this chapter.

14 Sec. 14. Section 216.12, subsection 1, Code 2001, is
15 amended to read as follows:

16 1. Any bona fide religious institution with respect to any
17 qualifications it may impose based on religion or sexual
18 orientation, when the qualifications are related to a bona
19 fide religious purpose unless the religious institution owns
20 or operates property for a commercial purpose or membership in
21 the religion is restricted on account of race, color, or
22 national origin.

23 Sec. 15. Section 216.12A, Code 2001, is amended to read as
24 follows:

25 216.12A ADDITIONAL HOUSING EXCEPTION.

26 Sections 216.8 and 216.8A do not prohibit a person engaged
27 in the business of furnishing appraisals of real estate from
28 taking into consideration factors other than race, color,
29 creed, sex, sexual orientation, religion, national origin,
30 disability, or familial status in appraising real estate.

31 EXPLANATION

32 This bill defines sexual orientation and prohibits
33 discriminatory employment, public accommodation, housing,
34 education, and credit practices based upon a person's sexual
35 orientation. However, the bill does allow for the imposition

1 of qualifications by bona fide religious institutions based
2 upon sexual orientation if related to a bona fide religious
3 purpose.

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