

Chapter 8: HOUSING REGULATIONS OF THE MAINE HUMAN RIGHTS COMMISSION

8.01 GENERALLY**A. Purpose**

Pursuant to Title 5 M.R.S. § 4566(7), the Maine Human Rights Commission (the “Commission”) has adopted the following regulations which are designed to inform owners, lessees, sublessees, managing agents, courts, and other interested parties of the Commission’s interpretation of the Maine Human Rights Act, Title 5 M.R.S. § 4551, *et seq.* (the “Act” or “MHRA”).

B. Effect

The regulations shall be accorded the full force and effect of interpretative administrative regulations.

C. Construction

- (1) Consistent with the public policy underlying the Act (as expressed in § 4552), and with firmly established principles for the interpretation of such humanitarian legislation, the remedial provisions of the Act shall be given broad construction and its exceptions shall be construed narrowly.
- (2) The provisions of these regulations are severable. If any provision or the application of any provision of these regulations to any person or circumstances is invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application.

8.02 EXEMPTIONS**A. This part does not:**

- (1) Prohibit a bona fide religious organization, corporation, association, or society which does not receive public funds. or any non-profit institution or organization operated, supervised or controlled by or in conjunction with such a religious organization, corporation, 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 because of race, color, or national origin.
- (2) Prohibit a private club, not in fact open to the public, which incident to its primary purpose or purposes, provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members.
 - (3) Limit the applicability of any reasonable local, State or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling; or
 - (4) Prohibit 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 State or Federal Controlled Substance Acts.
- B. Nothing in this part regarding discrimination based on familial status applies with respect to housing for older persons as defined in Section 8.07 of this Rule.
- C. Nothing in this part, other than §§ 8.04(A)(4) (statements or advertisements), 8.04(A)(7) (brokerage services), 8.04(E) (advertisement, statements and notices), 8.04(H) (brokerage services), and 8.05 (residential real estate-related transactions), applies to:
- (1) The rental of a one-family unit of a 2-family dwelling, one unit of which is occupied by the owner.
 - (2) The rental as residences of not more than 4 rooms of a one-family dwelling which is occupied by the owner. This section does not apply to temporary rentals, such as bed-and-breakfasts or vacation rentals not being used as residences, which are considered places of public accommodation.
- D. Nothing in the Act or these regulations regarding discrimination based on sexual orientation or gender identity applies to the rental of any dwelling owned, controlled, or operated for other than a commercial purpose to its membership by a bona fide religious organization, corporation, association, or society ~~religious corporation~~ that does not receive public funds. Any for-profit organization owned, controlled, or operated by a religious association or corporation and subject to the provisions of the Internal Revenue Code, 26 United States Code, Section 511(a), is not covered by the exemptions set forth in this paragraph.

8.03 DEFINITIONS

Accessible, when used with respect to the public and common use areas of a building containing covered multifamily dwellings, means that the public or common use areas of the building can be approached, entered, and used by individuals with physical or mental disabilities. The phrase *readily accessible to and usable by* is synonymous with accessible. A public or common use area that complies with the appropriate standards of construction is *accessible* within the meaning of this paragraph.

Accessible route means a continuous unobstructed path connecting accessible elements and spaces in a building or within a site that can be negotiated by a person with a severe disability using a wheelchair and that is also safe for and usable by people with other physical or mental disabilities. Interior accessible routes may include corridors, floors, ramps, elevators and lifts. Exterior accessible routes may include parking access aisles, curb ramps, walks, ramps and lifts. A route that complies with the appropriate standards of construction is an *accessible route*.

Alteration means a change to a facility that affects or could affect the usability of the facility or any part of the facility, including, but not limited to, reconstruction, remodeling, rehabilitation, historic restoration, changes or rearrangement in structural parts or elements and changes or rearrangement in the plan configuration of walls and full-height partitions. *Alteration* does not include normal maintenance, decoration and upgrades, including, but not limited to, reroofing, re-siding, painting or wallpapering, replacement of doors or windows, asbestos removal and changes to mechanical and electrical systems unless they affect the usability of the facility.

Assistance animal means:

- A. An animal that has been determined necessary for an individual with a physical or mental disability to mitigate the effects of a physical or mental disability by a physician, psychologist, physician assistant, nurse practitioner, ~~or~~ licensed social worker, licensed professional counselor, or other licensed health professional with knowledge of the disability-related need for an assistance animal; or
- B. An animal individually trained to do work or perform tasks for the benefit of an individual with a physical or mental disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals who are deaf or hard of hearing to intruders or sounds, providing reasonable protection or rescue work, pulling a wheelchair or retrieving dropped items.

Broker or *Agent* includes any person authorized to perform an action on behalf of another person regarding any matter related to the sale or rental of dwellings, including offers, solicitations or contracts and the administration of matters regarding such offers, solicitations or contracts or any residential real estate-related transactions. “Real estate broker”, “associate real estate broker”, and “real estate sales agent” have the same definitions as are given respectively in Title 32, sections 13198, 13199 and 13200; but include all persons meeting those definitions, whether or not they are licensed or required to be licensed.

Builder means the applicant for a building permit in a municipality that requires these permits or the owner of the property in a municipality that does not require building permits.

Building means a structure, facility or portion thereof that contains or serves one or more dwelling units.

Building entrance on an accessible route means an accessible entrance to a building that is connected by an accessible route to public transportation stops, to accessible parking and passenger loading zones, or to public streets or sidewalks, if available. A building entrance that complies with the appropriate standards of construction complies with this paragraph.

Common use areas means rooms, spaces or elements inside or outside of a building that are made available for the use of residents of a building or the guests thereof. These areas include hallways, lounges, lobbies, laundry rooms, refuse rooms, mail rooms, recreational areas and passageways among and between buildings.

Controlled substance means any drug or other substance, or immediate precursor as defined in State or Federal Controlled Substance Acts.

Covered multifamily dwellings means buildings consisting of 4 or more dwelling units if such buildings have one or more elevators; and ground floor dwelling units in other buildings consisting of 4 or more dwelling units.

Design professional means an architect or professional engineer registered to practice under Title 32.

Discriminatory housing practice means an act that is unlawful under Subchapter IV of the Maine Human Rights Act.

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 thereon of any such building, structure or portion thereof.

Dwelling unit means a single unit of residence for a family or one or more persons. Examples of dwelling units include: a single family home, an apartment unit within an apartment building; and in other types of dwellings in which sleeping accommodations are provided but toileting or cooking facilities are shared by occupants of one room or portion of the dwelling, rooms in which people sleep. Examples of the latter include dormitory rooms and sleeping accommodations in shelters intended for occupancy as a residence for homeless persons.

Entrance means any access point to a building or portion of a building used by residents for the purpose of entering.

Exterior means all areas of the premises outside of an individual dwelling unit.

Family includes, but is not limited to, a single individual.

Familial status means that a family unit may contain:

- A. One or more individuals who have not attained the age of 18 years and are living with a parent or another person having legal custody of the individual or individuals; or the designee of the parent or other person having custody, with the written permission of the parent or other person; or
- B. One or more individuals 18 years of age or older who lack the ability to meet essential requirements for physical health, safety or self-care because the individual or individuals are unable to receive and evaluate information or make or communicate decisions.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual meeting the above definitions.

First occupancy means a building that has never before been used for any purpose.

Gender identity means the gender-related identity, appearance, mannerisms, or other gender-related characteristics of an individual, regardless of the individual's assigned sex at birth.

Ground floor or ground level means a floor of a building with a building entrance on an accessible route. A building may have more than one ground floor or ground level. Where the first floor containing dwelling units in a building is above grade, all units on that floor must be served by a building entrance on an accessible route. This floor will be considered to be a ground floor or ground level. A multistory dwelling unit does not have a ground floor or ground level unless its floors are connected by an elevator.

Harassment includes verbal or physical conduct related to a protected class or directed at a person or persons because of protected class status when:

- A. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's access to housing or any of the terms, conditions, or privileges of housing;
- B. Submission to or rejection of such conduct by an individual is used as the basis for an individual's access to housing or any of the terms, conditions, or benefits of housing;
- C. Such conduct has the purpose or effect of unreasonably interfering with an individual's access to housing or any of the terms, conditions, or benefits of housing, or creating an

intimidating, hostile, or offensive environment in those settings; or

- D. Such conduct constitutes an assault, as defined by Title 17-A, section 207.

Housing accommodation includes any building or structure or portion thereof, or any parcel of land, developed or undeveloped, that is occupied, or is intended to be occupied or to be developed for occupancy, for residential purposes.

Interior means the spaces, parts, components or elements of an individual dwelling unit.

Modification means any change to the public or common use areas of a building or any change to a dwelling unit.

New construction includes, but is not limited to, the design and construction of facilities for first occupancy or an alteration if the cost of the alteration is 75% or more of the replacement cost of the completed facility.

Order of protection means an order of protection from abuse issued pursuant to 19-A M.R.S. § 4007.

Person includes one or more individuals, partnerships, associations, organizations, corporations, municipal corporations, legal representatives, trustees, trustees in bankruptcy, receivers and other legal representatives, labor organizations, mutual companies, joint-stock companies and unincorporated organizations and includes the State and all agencies thereof.

Person in the business of selling or renting dwellings means any person who:

- A. Within the preceding twelve months, has participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein;
- B. Within the preceding twelve months, has participated as agent, other than in the sale of his or her 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. Is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

Premises means the interior or exterior spaces, parts, components or elements of a building, including individual dwelling units and the public and common use areas of a building.

Protected class status means the classes listed in 5 M.R.S. § 4581. *Protected class* also includes being perceived as a member of a protected class, as well as having a known relationship or association with a member of a protected class. *Protected class* also includes traits associated with protected class status, such as natural hair textures, Afro

styles and protective hair styles (such as braids, twists, and locks) or protected-class related body modifications.

Public housing means any housing that is financed in whole or in part with public funds offering 20 or more dwelling units in a building or structure or on a parcel of land.

Public use areas means interior or exterior rooms or spaces of a building that are made available to the general public. Public use may be provided at a building that is privately or publicly owned.

Rent includes to lease, to sublease, to let or otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

Replacement cost of the completed facility means the current cost of construction and equipment for a newly constructed housing facility of the size and type being altered. Construction and equipment costs do not include the cost of land, demolition, site improvements, non-dwelling facilities and administrative costs for project development activities.

Residential real estate-related transactions means:

- 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; or
- B. The selling, brokering or appraising of residential real property.

Sexual orientation means a person's pattern of sexual, emotional, or romantic attraction to others, which may include, but is not limited to, actual or perceived heterosexuality, bisexuality, and homosexuality. Sexual orientation as a protected class also includes a person's gender identity ~~or~~ and gender expression.

Site means a parcel of land bounded by a property line or a designated portion of a public right of way.

Standards of construction means the American National Standards Institute ("ANSI") ICC A117.1-2009 standards. Departures from particular technical and scoping requirements of ANSI ICC A117.1-2009 by the use of other methods are permitted where substantially equivalent or greater access to and usability of the facility is provided.

8.04 DISCRIMINATORY HOUSING PRACTICES

It is unlawful to engage in discriminatory housing practices based on the protected class status or perceived protected class status of a buyer or renter or prospective buyer or renter of a covered dwelling/dwelling unit, a person residing in or intending to reside in said dwelling/dwelling unit, or any person associated with any of these persons.

A. Real estate practices prohibited

It shall be unlawful to:

- (1) Refuse to sell or rent a dwelling after a *bona fide* offer has been made, or to refuse to negotiate for the sale or rental of a dwelling because of protected class status.
- (2) Discriminate in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with sales or rentals, because of protected class status.
- (3) Engage in any conduct relating to the provision of housing which otherwise makes unavailable or denies dwellings to persons because of protected class status.
- (4) 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 because of protected class status.
- (5) Represent to any person because of protected class status that a dwelling is not available for sale or rental when such dwelling is in fact available.
- (6) Engage in blockbusting practices in connection with the sale or rental of dwellings because of protected class status.
- (7) Deny access to or membership or participation in, or to discriminate against any person in his or her access to or membership or participation in, any multiple-listing service, real estate brokers' association, or other service organization or facility relating to the business of selling or renting a dwelling or in the terms or conditions of membership or participation, because of protected class status.

B. Unlawful refusal to sell or rent or to negotiate for the sale or rental

- (1) It shall be unlawful for a person to refuse to sell or rent a dwelling to a person who has made a *bona fide* offer, because of protected class status ,

or to refuse to negotiate with a person for the sale or rental of a dwelling because of protected class status.

- (2) Prohibited actions under this section include, but are not limited to:
 - (a) Failing to accept or consider a *bona fide* offer because of protected class status.
 - (b) Refusing to sell or rent a dwelling to, or to negotiate for the sale or rental of a dwelling with, any person because of protected class status.
 - (c) Imposing different sale prices or rental charges for the sale or rental of a dwelling upon any person because of protected class status.
 - (d) Using different qualification criteria or applications, or sale or rental standards or procedures, such as income standards, application requirements, application fees, credit analysis or sale or rental approval procedures or other requirements, because protected class status.
 - (e) Evicting tenants because of their protected class status or because of the protected class status of a tenant's guest.

C. Discrimination in terms, conditions and privileges and in services and facilities

- (1) Using different provisions in leases or contracts of sale, such as those relating to rental charges, security deposits and the terms of a lease and those relating to down payment and closing requirements, because of protected class status.
- (2) Failing or delaying maintenance or repairs of sale or rental dwellings because of protected class status.
- (3) Failing to process an offer for the sale or rental of a dwelling or to communicate an offer accurately because of protected class status.
- (4) Limiting the use of privileges, services or facilities associated with a dwelling because of protected class status of an owner, tenant, or a person associated with them.
- (5) Denying or limiting services or facilities in connection with the sale or rental of a dwelling, because a person failed or refused to provide sexual favors.

D. Other prohibited sale and rental conduct

- (1) It shall be unlawful, because of protected class status, to restrict or attempt to restrict the choices of a person by word or conduct in connection with seeking, negotiating for, buying or renting a dwelling so as to perpetuate, or tend to perpetuate, segregated housing patterns, or to discourage or obstruct choices in a community, neighborhood or development.
- (2) It shall be unlawful, because of protected class status, to engage in any conduct relating to the provision of housing or of services and facilities in connection therewith that otherwise makes unavailable or denies dwellings to any persons.
- (3) Prohibited practices under this section generally refer to unlawful steering practices that include, but are not limited to:
 - (a) Discouraging any person from inspecting, purchasing, or renting a dwelling because of protected class status of persons in a community, neighborhood or development.
 - (b) Discouraging the purchase or rental of a dwelling because of protected class status by exaggerating drawbacks or failing to inform any person of desirable features of a dwelling or of a community, neighborhood, or development.
 - (c) Communicating to any prospective purchaser that he or she would not be comfortable or compatible with existing residents of a community, neighborhood or development because of protected class status.
 - (d) Assigning any person to a particular section of a community, neighborhood or development or to a particular floor of a building because protected class status.
- (4) It shall be unlawful, because of protected class status, to engage in any conduct relating to the provision of housing or services and facilities in connection therewith that otherwise makes unavailable or denies dwellings to persons. Prohibited sales and rental practices under this section include, but are not limited to:
 - (a) Discharging or taking other adverse action against an employee, broker, or agent because he or she refused to participate in a discriminatory housing practice;

- (b) Employing codes or other devices to segregate or reject applicants, purchasers or renters, refusing to take or to show listings of dwellings in certain areas because of protected class status, or refusing to deal with certain brokers or agents because they or one or more of their clients are of a particular protected class status;
- (c) Denying or delaying the processing of an application made by a purchaser or renter or refusing to approve such a person for occupancy in a cooperative or condominium dwelling because of protected class status;
- (d) Refusing to provide municipal services or property or hazard insurance for a dwelling or providing such services differently because protected class status.

E. Discriminatory advertisements, statements and notices

- (1) It shall be unlawful 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 which indicates any preference, limitation or discrimination because of protected class status, or an intention to make any such preference, limitation or discrimination.
- (2) The prohibitions in this section shall apply to all written or oral notices or statements by a person engaged in the sale or rental of a dwelling. Written notices and statements include any applications, flyers, brochures, deeds, signs, banners, posters, billboards or any documents used with respect to the sale or rental of a dwelling.
- (3) Discriminatory notices, statements and advertisements include, but are not limited to:
 - (a) Using words, phrases, photographs, illustrations, symbols or forms which convey that dwellings are available or not available to a particular group of persons because of protected class status.
 - (b) Expressing to agents, brokers, employees, prospective sellers or renters or any other persons a preference for or limitation on any purchaser or renter because of protected class status.
 - (c) Selecting media or locations for advertising the sale or rental of dwellings which deny particular segments of the housing market information about housing opportunities because of protected class status.

- (d) Refusing to publish advertising for the sale or rental of dwellings or requiring different charges or terms for such advertising because of protected class status.

F. Discriminatory representations on the availability of dwellings

- (1) It shall be unlawful because of protected class status, to provide inaccurate or untrue information about the availability of dwellings for sale or rental.
- (2) Prohibited actions under this section include, but are not limited to:
 - (a) Indicating through words or conduct that a dwelling which is available for inspection, sale, or rental has been sold or rented because of protected class status.
 - (b) Representing that covenants or other deed, trust or lease provisions which purport to restrict the sale or rental of dwellings because of protected class status, preclude the sale or rental of a dwelling to a person.
 - (c) Enforcing covenants or other deed, trust, or lease provisions which preclude the sale or rental of a dwelling to any person because of protected class status.
 - (d) Limiting information, by word or conduct, regarding suitably priced dwellings available for inspection, sale or rental, because of protected class status.
 - (e) Providing false or inaccurate information regarding the availability of a dwelling for sale or rental to any person, including testers, regardless of whether such person is actually seeking housing, because of protected class status.

G. Unlawful inquiries:

- (1) It shall be unlawful to make an inquiry to determine whether an applicant for a dwelling, a person intending to reside in that dwelling after it is sold, rented or made available, or any person associated with that person, is a member of a protected class or, with regard to an individual with a physical or mental disability, to make inquiry as to the nature or severity of a disability of such a person. However, this paragraph does not prohibit the following inquiries, provided these inquiries are made of all applicants, without regard to their protected class status:
 - (a) Inquiry into an applicant's ability to meet the requirements of ownership or tenancy.

- (b) Inquiry to determine whether an applicant is qualified for a dwelling available only to persons who are members of a protected class, including, without limitation, dwellings available to persons with physical or mental disabilities or to persons with a particular type of physical or mental disability.
- (c) Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons who are members of a protected class, including, without limitation, dwellings available to persons with physical or mental disabilities or to persons with a particular type of physical or mental disability;
- (d) Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance;
- (e) Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance.

H. **Blockbusting**

- (1) It shall be unlawful, for profit, to induce or attempt to induce a person to sell or rent a dwelling by representation regarding the entry or prospective entry into the neighborhood of a person or persons of a particular protected class status.
- (2) In establishing a discriminatory housing practice under this section it is not necessary that there was in fact profit as long as profit was a factor for engaging in the blockbusting activity.
- (3) Prohibited actions under this section include, but are not limited to:
 - (a) Engaging, for profit, in conduct (including uninvited solicitations for listings) which conveys to a person that a neighborhood is undergoing or is about to undergo a change in the protected class status of persons residing in it, in order to encourage the person to offer a dwelling for sale or rental.
 - (b) Encouraging, for profit, any person to sell or rent a dwelling through assertions that the entry or prospective entry of persons of a particular protected class status, can or will result in undesirable consequences for the project, neighborhood or community, such as lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools or other services or facilities.

I. Discrimination in the provision of brokerage services

- (1) It shall be 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 any person in the terms or conditions of such access, membership or participation, because of protected class status.
- (2) Prohibited actions under this section include, but are not limited to:
 - (a) Setting different fees for access to or membership in a multiple listing service because of protected class status.
 - (b) Denying or limiting benefits accruing to members in a real estate brokers' organization because of protected class status.
 - (c) Imposing different standards or criteria for membership in a real estate sales or rental organization because of protected class status.
 - (d) Establishing geographic boundaries or office location or residence requirements for 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, because of protected class status.

8.05 DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS**A. Discriminatory practices in residential real estate-related transactions**

It shall be 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 transaction, or in the terms or conditions of such a transaction, because of protected class.

B. Discrimination in the making of loans and in the provision of other financial assistance

- (1) It shall be unlawful for any person or entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available loans or other financial assistance for a dwelling, or which is or is to be secured by a dwelling, because of protected class status.

- (2) Prohibited practices under this section include, but are not limited to, failing or refusing to provide to any person, in connection with a residential real estate-related transaction, information regarding the availability of loans or other financial assistance, application requirements, procedures or standards for the review and approval of loans or financial assistance, or providing information which is inaccurate or different from that provided others, because of protected class status.

C. Discrimination in the purchasing of loans

- (1) It shall be unlawful for any person or entity engaging in the purchasing of loans or other debts or securities which support the purchase, construction, improvement, repair or maintenance of a dwelling, or which are secured by residential real estate, to refuse to purchase such loans, debts, or securities, or to impose different terms or conditions for such purchases, because of protected class status.
- (2) Unlawful conduct under this section includes, but is not limited to:
 - (a) Purchasing loans or other debts or securities which relate to, or which are secured by dwellings in certain communities or neighborhoods but not in others because of protected class status of persons in such neighborhoods or communities.
 - (b) Pooling or packaging loans or other debts or securities which relate to, or which are secured by, dwellings differently because of protected class status.
 - (c) Imposing or using different terms or conditions on the marketing or sale of securities issued on the basis of loans or other debts or securities which relate to, or which are secured by, dwellings because of protected class status.
- (3) This section does not prevent consideration, in the purchasing of loans, of factors justified by business necessity, including requirements of State or Federal law, relating to a transaction's financial security or to protection against default or reduction of the value of the security. Thus, this provision would not preclude considerations employed in normal and prudent transactions, provided that no such factor may in any way relate to protected class status.

D. Discrimination in the terms and conditions for making available loans or other financial assistance

- (1) It shall be unlawful for any person or entity engaged in the making of loans or in the provision of other financial assistance relating to the

purchase, construction, improvement, repair or maintenance of dwellings or which are secured by residential real estate to impose different terms or conditions for the availability of such loans or other financial assistance because of protected class status.

- (2) Unlawful conduct under this section includes, but is not limited to:
 - (a) Using different policies, practices or procedures in evaluating or in determining creditworthiness of any person in connection with the provision of any loan or other financial assistance for a dwelling or for any loan or other financial assistance which is secured by residential real estate because of protected class status.
 - (b) Determining the type of loan or other financial assistance to be provided with respect to a dwelling, or fixing the amount, interest rate, duration or other terms for a loan or other financial assistance for a dwelling or which is secured by residential real estate, because of protected class status.

E. Unlawful practices in the selling, brokering, or appraising of residential real property

- (1) It shall be unlawful for any person or other entity whose business includes engaging in the selling, brokering, or appraising of residential real property to discriminate against any person in making available such services, or in the performance of such services, because of protected class status.
- (2) For the purposes of this section, the term appraisal means an estimate or opinion of the value of a specified residential real property made in a business context in connection with the sale, rental, financing or refinancing of a dwelling or in connection with any activity that otherwise affects the availability of a residential real estate-related transaction, whether the appraisal is oral or written, or transmitted formally or informally. The appraisal includes all written comments and other documents submitted as support for the estimate or opinion of value.
- (3) Nothing in this section prohibits a person engaged in the business of making or furnishing appraisals of residential real property from taking into consideration factors other than protected class status.
- (4) Practices which are unlawful under this section include, but are not limited to, using an appraisal of residential real property in connection with the sale, rental, or financing of any dwelling where the person knows or reasonably should know that the appraisal improperly takes into consideration protected class status.

8.06 PROHIBITION AGAINST DISCRIMINATION BECAUSE OF PHYSICAL OR MENTAL DISABILITY

A. Reasonable modifications of existing premises

- (1) It shall be unlawful for any person to refuse to permit, at the expense of a person with a physical or mental disability, reasonable modifications of existing premises, occupied or to be occupied by a person with such a disability, if the proposed modifications may be necessary to afford the person with such a disability full enjoyment of the premises of a dwelling. 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. The landlord may not increase for persons with physical or mental disabilities any customarily required security deposit. However, where it is necessary in order to ensure with reasonable certainty that funds will be available to pay for the restorations at the end of the tenancy, the landlord may negotiate as part of such a restoration agreement a provision requiring that the tenant pay into an interest bearing escrow account, over a reasonable period, a reasonable amount of money not to exceed the cost of the restorations. The interest in any such account shall accrue to the benefit of the tenant.
- (2) A landlord may condition permission for a modification on the renter providing a reasonable description of the proposed modifications as well as reasonable assurances that the work will be done in a workmanlike manner and that any required building permits will be obtained.

B. Reasonable accommodations

It shall be unlawful for any person to refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a person with a physical or mental disability equal opportunity to use and enjoy a dwelling unit, including public and common use areas.

C. Design and construction requirements for multifamily dwellings and public housing

- (1) **Application.** The Act's design and construction requirements for multifamily dwellings and public housing apply to new construction of covered multifamily dwellings and new construction and alterations of public housing if the date when the last application for a building permit or permit extension is certified to be complete by a state, county or local government or, in those jurisdictions where the government does not

certify completion of applications, if the date when the last application for a building permit or permit extension received by the state, county or local government is on or after September 1, 2012 or, if no permit is required, if the start of physical construction or alterations occurs on or after September 1, 2012. For new construction and alterations prior to that, please contact the Maine Human Rights Commission to receive a copy of the applicable design and construction requirements.

(2) Accessible covered multifamily dwellings

- (a) Covered multifamily dwellings shall be designed and constructed to have at least one building entrance on an accessible route unless it is impractical to do so because of the terrain or unusual characteristics of the site. The burden of establishing impracticality because of terrain or unusual circumstances is on the person or persons who designed or constructed the housing facility.
- (b) All covered multifamily dwellings with a building entrance on an accessible route shall be designed and constructed in such a manner that –
 - (i) The public and common use areas are readily accessible to and usable by persons with physical or mental disabilities;
 - (ii) All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by persons with disabilities in wheelchairs; and
 - (iii) All premises within covered multifamily dwelling units contain the following features of adaptable design:
 - (I) An accessible route into and through the covered dwelling unit;
 - (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 around the toilet, tub, shower stall and shower seat, where such facilities are provided; and
 - (IV) Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(3) **Accessible public housing**

- (a) For new construction of public housing, in addition to any applicable requirements for covered multifamily dwellings, public housing shall be designed and constructed in such a manner that no less than 10% of the ground level units and no less than 10% of the upper story units connected by an elevator are accessible to and usable by persons with physical disabilities, and no less than 2% of the units, no fewer than one unit, have accessible communication features. Newly constructed public housing shall have at least one ground level.
- (b) For alterations to public housing units, the altered units shall meet the parts of the standards of construction concerning accessible routes, accessible doors and adaptable bathrooms until at least 10% of the total ground level units and a minimum of 10% of the total upper story units connected by an elevator meet those standards. Altered public housing shall have at least one ground level.

- (4) **Compliance with standards.** Compliance with the appropriate standards of construction suffices to satisfy the design and construction requirements of this subsection. For example, the requirements for covered multifamily dwellings in paragraphs (D)(2)(b)(ii) and (D)(2)(b)(iii) above may be met by complying with the applicable specifications in ANSI ICC A117.1-2009 §1004, Type B Units; the requirement in paragraph (D)(3)(a) that 10% of newly constructed public housing units be accessible to and usable by persons with physical disabilities may be met by complying with ICC A117.1-2009 §1002, Accessible Units, or §1003, Type A Units; the requirement in paragraph (D)(3)(a) that 2% of the units, no fewer than one unit, have accessible communication features may be met by complying with ICC A117.1-2009 §1006, Units with Accessible Communication Features; and the requirement in paragraph (D)(3)(b) that 10% of altered public housing units meet the parts of the standards of construction concerning accessible routes, accessible doors and adaptable bathrooms may be met by complying with ICC A117.1-2009 §§ 1002.2 and 1002.3 (Accessible Units, Primary Entrance and Accessible Route) or §§ 1003.2 and 1003.3 (Type A Units, Primary Entrance and Accessible Route), § 1002.5 (Accessible Units, Doors and Doorways) or §1003.5 (Type A Units, Doors and Doorways), and §1002.11 (Accessible Units, Toilet and Bathing Facilities) or §1003.11 (Type A Units, Toilet and Bathing Facilities). Compliance with the requirements for multifamily dwellings in paragraph (D)(2) may also be achieved by compliance with the federal Fair Housing Act design and construction requirements adopted by the United States Department of Housing and Urban Development, 24 Code

of Federal Regulations, Section 100.205, except that the definition of “new construction” in the Act and this chapter controls.

(5) **Statement; inspection.** For new construction of covered multifamily dwellings and public housing:

(a) The builder of a facility to which this subsection applies shall obtain a statement from a design professional that, based on professional judgment, the plans of the facility at the time of the statement meet the standards of construction required by this subsection. Prior to commencing construction of the facility, the builder shall submit the statement to:

- (i) The municipal authority that reviews plans in the municipality where the facility is to be constructed; or
- (ii) If the municipality where the facility is to be constructed has no authority who reviews plans, the municipal officers of the municipality.

(b) If municipal officials of the municipality where the facility is to be constructed inspect buildings for compliance with construction standards, that inspection shall include an inspection for compliance with the standards required by this subsection. The municipal officials shall require the facility inspected to meet the construction standards of this subsection before the municipal officials permit the facility to be occupied. A municipal official may satisfy the requirements in this paragraph by inspecting a building for compliance with the plans accompanying the statement required by paragraph (D)(5)(a) above.

D. Assistance Animals

It shall be unlawful for any owner, lessor, sublessor, managing agent or other person having the right to sell, rent, lease or manage a housing accommodation or any of their agents to refuse to permit the use of an assistance animal or otherwise discriminate against an individual with a physical or mental disability who uses a ~~service~~ assistance animal at the housing accommodation unless it is shown by defense that the ~~service~~ assistance animal poses a direct threat to the health or safety of others or the use of the assistance animal would result in substantial physical damage to the property of others or would substantially interfere with the reasonable enjoyment of the housing accommodation by others. The use of an assistance animal may not be conditioned on the payment of a fee or security deposit, although the individual with a physical or mental disability is liable for any damage done to the premises or facilities by such a ~~service~~ assistance animal

to the same extent that all individuals are liable for damages done to the premises or facilities.

8.07 HOUSING FOR OLDER PERSONS

A. Exemption

- (1) The provisions regarding familial status in this part do not apply to housing which satisfies the requirements of §8.07 (B) (C) or (D).
- (2) Nothing in this part limits the applicability of any reasonable, local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

B. State and Federal elderly housing programs

The provisions regarding familial status in this part shall not apply to housing provided under any Federal or State program that the United States Secretary of Housing and Urban Development determines is specifically designed and operated to assist elderly persons, as defined in the State or Federal program.

C. 62 or over housing

The provision regarding familial status in this part shall not apply to housing intended for, and solely occupied by, persons 62 years of age or older. Housing satisfies the requirements of this section even though:

- (1) There are persons in such housing on June 6, 1989 who are under 62 years of age, provided that all new occupants are persons 62 years of age or older;
- (2) There are unoccupied units, provided that such units are reserved for occupancy by 62 years of age or over;
- (3) There are units occupied by employees of the housing (and family members residing in the same unit) who are under 62 years of age provided they perform substantial duties directly related to the management or maintenance of the housing.

D. 55 or over housing

- (1) The provisions regarding familial status shall not apply to housing intended and operated for occupancy by at least one person 55 years of age or older, per unit, pursuant to this section.

- (2) In order to qualify as housing for older persons under this section, the housing facility must show:
 - (a) That at least 80% of the dwellings are occupied by at least one person 55 years of age or older per unit, and
 - (b) That the housing facility publishes, and adheres to, policies and procedures that demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.
- (3) Housing satisfies the requirements of this section even though:
 - (a) On September 13, 1988, under 80 percent of the occupied units in the housing facility are occupied by at least one person 55 years of age or older per unit, provided that at least 80 percent of the units that are occupied after September 13, 1988, are occupied by at least one person 55 years of age or older.
 - (b) There are unoccupied units, provided that at least 80 percent of the occupied units are occupied by at least one person 55 years of age or older.
 - (c) There are units occupied by employees of the housing provider (and family members residing in the same unit) who are under 55 years of age, provided the employees perform substantial duties directly related to the management or maintenance of the housing.

8.08 SOURCE OF INCOME DISCRIMINATION -- reserved

8.09 INTERFERENCE, COERCION OR INTIMIDATION

- A. It shall be unlawful for any person to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this part.
- B. Conduct made unlawful under this section includes, but is not limited to, the following:
 - (1) Coercing a person, either orally, in writing, or by other means, to deny or limit the benefits provided that person in connection with the sale or rental of a dwelling or in connection with a residential real estate-related transaction because of protected class status.

- (2) Threatening, intimidating or interfering with persons in their enjoyment of a dwelling because of the protected class status of such persons, or of visitors or associates of such persons.
 - (3) Threatening an employee or agent with dismissal or an adverse employment action, or taking such adverse employment action, for any effort to assist a person seeking access to the sale or rental of a dwelling or seeking access to any residential real estate-related transaction, because of the protected class status of that person or of any person associated with that person.
 - (4) Intimidating or threatening any person because that person is engaging in activities designed to make other persons aware of, or encouraging such other persons to exercise, rights granted or protected by the Maine Human Rights Act.
 - (5) Retaliating against any person because that person has made a complaint, testified, assisted, or participated in any manner in a proceeding under the Maine Human Rights Act.
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STATUTORY AUTHORITY: This regulation is adopted pursuant to 5 M.R.S. §4566(7).

EFFECTIVE DATE:

July 17, 1999

AMENDED:

July 20, 2005 – filing 2005-296 adding 8.03.(f) under Disability

March 21, 2007 – filing 2007-107, “physical or mental disability” redefined in 8.03, Definitions; added the phrase “physical or mental” before many occurrences of the words “disability” and “disabilities”

September 15, 2007 – filing 2007-386

April 14, 2008 - filing 2008-164, 8.03 Definitions, “Physical or Mental Disability”

November 19, 2008 - filing 2008-537, 8.03 Definitions, “Service Animal,” and 8.06(F)

August 7, 2013 - filing 2013-196

December 10, 2022 – filing 2022-238