
Judiciary Committee

HB 2438

Title: An act relating to the definition of service animal.

Brief Description: Concerning the definition of "service animal."

Sponsors: Representatives Moeller and Cody.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Revises the definition of "service animal" under the Washington Law Against Discrimination as it applies to unfair practices in real estate transactions.• Replaces references to "person who is blind, deaf, or physically disabled" with "person who is disabled."

Hearing Date: 1/13/10

Staff: Edie Adams (786-7180).

Background:

Federal, state, and local laws prohibit discrimination against persons with disabilities, including in transactions involving housing. Under the Washington Law Against Discrimination (WLAD), it is an unfair practice to discriminate in real estate transactions based on the presence of any sensory, mental, or physical disability, or the use of a trained guide dog or service animal by a person with a disability.

Unfair practices in real estate transactions include discrimination in: the sale or leasing of houses, condominiums, apartments, and other residences; financial transactions relating to housing; and advertisements, solicitations, or negotiations relating to housing transactions. Discrimination based on a person's disability or the use of a trained guide dog or service animal includes refusal to make reasonable accommodations in rules, policies, or practices that are necessary to afford the person the equal opportunity to use and enjoy a dwelling.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The WLAD defines "service animal" as an animal that is trained for the purpose of assisting or accommodating a person's sensory, mental, or physical disability. Washington court cases interpreting provisions of the WLAD relating to service animals have held that an animal is not a "service animal" under the WLAD unless the animal has been specifically trained for the purpose of providing assistance to or accommodating a person with a disability.

The Washington State Human Rights Commission (Commission) is responsible for administering and enforcing the WLAD. The Commission receives and investigates complaints that allege unfair practices, and if the Commission finds that there is reasonable cause to believe that an unfair practice has occurred, it must first try to eliminate the unfair practice via conference and conciliation. If the parties do not reach an agreement, the Commission must refer the matter to an administrative law judge who may, after a hearing, issue an order providing relief to the complainant.

Under federal law, the Fair Housing Act (FHA) also prohibits discrimination against persons with disabilities in housing transactions, including requiring reasonable modifications to rules, policies, practices, or services that are necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling. The FHA is administered by the U.S. Department of Housing and Urban Development (HUD). HUD has contracted with the Commission to investigate claims of discrimination filed with HUD by Washington residents. HUD administrative cases and guidelines provide that training is not necessarily required in order for an animal to qualify as an assistance animal. Rather, an animal can qualify as an assistance animal if the animal performs tasks that alleviate the effects of the disability or assist the person in an identifiable way to make more effective use of their housing.

Summary of Bill:

The definition of "service animal" under the WLAD for the purposes of unfair practices in real estate transactions is revised to mean "any animal that will provide a person with a disability with the equal opportunity to use and enjoy the dwelling."

Provisions of the WLAD relating to unfair practices in real estate transactions are amended to refer to "service animal or trained guide dog" instead of "trained guide dog or service animal."

References in the real estate transactions provisions to "person who is blind, deaf, or physically disabled" are replaced with "person with disability."

Appropriation: None.

Fiscal Note: Requested 1/12/10.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.