

# CLIENT ALERTS

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## House Of Representatives Approves Landmark Sexual Orientation Discrimination Bill

After more than 30 years of proposals in various forms, the United States House of Representatives has passed the Employment Non-Discrimination Act of 2007 ("ENDA"), which would prohibit employment discrimination on the basis of sexual orientation.

The bill, which was introduced by Rep. Barney Frank (D-Mass.), eventually found relatively smooth sailing in the House. The final vote of 235-184 was not nearly as close as many commentators had anticipated, perhaps due to the removal of controversial language pertaining to discrimination against members of the transgendered community.

The bill, which only applies to employers with 15 or more employees, includes an exemption for religious organizations. The bill will now be presented to the Senate, where it is expected to receive more opposition than in the House. Should it be approved by the Senate, ENDA's fate nevertheless would remain uncertain as President Bush has indicated that he may veto the bill.

### What This Means To Employers

At this time, 30 states do not have statutes prohibiting discrimination in employment based on sexual orientation. Even in those 20 states (and the District of Columbia) that have such restrictions, the statutes are not always identical to ENDA. Among other things, the definition of "sexual orientation" in some state statutes does not match ENDA's, and some states' sexual orientation discrimination statutes have employee thresholds higher than ENDA's 15 employee threshold.

If ENDA becomes federal law, all employers will need to ensure that their policies and practices comply with the statute. That would include revising harassment training and training materials. Just as importantly, as with other protected categories, employers would need to prepare to defend against sexual orientation discrimination claims.

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If you have any questions regarding the Employment Non-Discrimination Act of 2007, please contact Michael Kun at (310) 557-9501 or [mkun@ebglaw.com](mailto:mkun@ebglaw.com).

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