

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 828 Session of 2009

INTRODUCED BY READSHAW, CUTLER, SIPTROTH, CARROLL, FREEMAN,  
GIBBONS, W. KELLER, KORTZ, KULA, LONGIETTI, MCGEEHAN, MELIO,  
MENSCH, MUNDY, MUSTIO, M. O'BRIEN, STABACK, VULAKOVICH AND  
YOUNGBLOOD, MARCH 10, 2009

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MARCH 10, 2009

AN ACT

1 Amending the act of October 27, 1955 (P.L.744, No.222),  
2 entitled, as amended, "An act prohibiting certain practices  
3 of discrimination because of race, color, religious creed,  
4 ancestry, age or national origin by employers, employment  
5 agencies, labor organizations and others as herein defined;  
6 creating the Pennsylvania Human Relations Commission in the  
7 Governor's Office; defining its functions, powers and duties;  
8 providing for procedure and enforcement; providing for  
9 formulation of an educational program to prevent prejudice;  
10 providing for judicial review and enforcement and imposing  
11 penalties," prohibiting certain practices of discrimination  
12 because of genetic information.

13 The General Assembly of the Commonwealth of Pennsylvania  
14 hereby enacts as follows:

15 Section 1. The title and sections 2 and 3 of the act of  
16 October 27, 1955 (P.L.744, No.222), known as the Pennsylvania  
17 Human Relations Act, amended December 20, 1991 (P.L.414, No.51),  
18 are amended to read:

AN ACT

20 Prohibiting certain practices of discrimination because of  
21 genetic information, race, color, religious creed, ancestry,  
22 age or national origin by employers, employment agencies,

1 labor organizations and others as herein defined; creating  
2 the Pennsylvania Human Relations Commission in the Governor's  
3 Office; defining its functions, powers and duties; providing  
4 for procedure and enforcement; providing for formulation of  
5 an educational program to prevent prejudice; providing for  
6 judicial review and enforcement and imposing penalties.

7 Section 2. Findings and Declaration of Policy.--

8 (a) The practice or policy of discrimination against  
9 individuals or groups by reason of their genetic information,  
10 race, color, familial status, religious creed, ancestry, age,  
11 sex, national origin, handicap or disability, use of guide or  
12 support animals because of the blindness, deafness or physical  
13 handicap of the user or because the user is a handler or trainer  
14 of support or guide animals is a matter of concern of the  
15 Commonwealth. Such discrimination foments domestic strife and  
16 unrest, threatens the rights and privileges of the inhabitants  
17 of the Commonwealth, and undermines the foundations of a free  
18 democratic state. The denial of equal employment, housing and  
19 public accommodation opportunities because of such  
20 discrimination, and the consequent failure to utilize the  
21 productive capacities of individuals to their fullest extent,  
22 deprives large segments of the population of the Commonwealth of  
23 earnings necessary to maintain decent standards of living,  
24 necessitates their resort to public relief and intensifies group  
25 conflicts, thereby resulting in grave injury to the public  
26 health and welfare, compels many individuals to live in  
27 dwellings which are substandard, unhealthful and overcrowded,  
28 resulting in racial segregation in public schools and other  
29 community facilities, juvenile delinquency and other evils,  
30 thereby threatening the peace, health, safety and general

1 welfare of the Commonwealth and its inhabitants.

2 (b) It is hereby declared to be the public policy of this  
3 Commonwealth to foster the employment of all individuals in  
4 accordance with their fullest capacities regardless of their  
5 race, color, religious creed, ancestry, age, sex, national  
6 origin, handicap or disability, use of guide or support animals  
7 because of the blindness, deafness or physical handicap of the  
8 user or because the user is a handler or trainer of support or  
9 guide animals, and to safeguard their right to obtain and hold  
10 employment without such discrimination, to assure equal  
11 opportunities to all individuals and to safeguard their rights  
12 to public accommodation and to secure housing accommodation and  
13 commercial property regardless of genetic information, race,  
14 color, familial status, religious creed, ancestry, age, sex,  
15 national origin, handicap or disability, use of guide or support  
16 animals because of blindness or deafness of the user or because  
17 the user is a handler or trainer of guide or support animals.

18 (c) This act shall be deemed an exercise of the police power  
19 of the Commonwealth for the protection of the public welfare,  
20 prosperity, health and peace of the people of the Commonwealth  
21 of Pennsylvania.

22 Section 3. Right to Freedom from Discrimination in  
23 Employment, Housing and Public Accommodation.--The opportunity  
24 for an individual to obtain employment for which he is  
25 qualified, and to obtain all the accommodations, advantages,  
26 facilities and privileges of any public accommodation and of any  
27 housing accommodation and commercial property without  
28 discrimination because of genetic information, race, color,  
29 familial status, religious creed, ancestry, handicap or  
30 disability, age, sex, national origin, the use of a guide or

1 support animal because of the blindness, deafness or physical  
2 handicap of the user or because the user is a handler or trainer  
3 of support or guide animals is hereby recognized as and declared  
4 to be a civil right which shall be enforceable as set forth in  
5 this act.

6 Section 2. Sections 4 and 5 of the act, amended December 20,  
7 1991 (P.L.414, No.51), July 12, 1996 (P.L.684, No.117) and June  
8 25, 1997 (P.L.326, No.34), are amended to read:

9 Section 4. Definitions.--As used in this act unless a  
10 different meaning clearly appears from the context:

11 (a) The term "person" includes one or more individuals,  
12 partnerships, associations, organizations, corporations, legal  
13 representatives, trustees in bankruptcy or receivers. It also  
14 includes, but is not limited to, any owner, lessor, assignor,  
15 builder, manager, broker, salesman, agent, employe, independent  
16 contractor, lending institution and the Commonwealth of  
17 Pennsylvania, and all political subdivisions, authorities,  
18 boards and commissions thereof.

19 (b) The term "employer" includes the Commonwealth or any  
20 political subdivision or board, department, commission or school  
21 district thereof and any person employing four or more persons  
22 within the Commonwealth, but except as hereinafter provided,  
23 does not include religious, fraternal, charitable or sectarian  
24 corporations or associations, except such corporations or  
25 associations supported, in whole or in part, by governmental  
26 appropriations. The term "employer" with respect to  
27 discriminatory practices based on genetic information, race,  
28 color, age, sex, national origin or non-job related handicap or  
29 disability, includes religious, fraternal, charitable and  
30 sectarian corporations and associations employing four or more

1 persons within the Commonwealth.

2 (c) The term "employee" does not include (1) any individual  
3 employed in agriculture or in the domestic service of any  
4 person, (2) any individuals who, as a part of their employment,  
5 reside in the personal residence of the employer, (3) any  
6 individual employed by said individual's parents, spouse or  
7 child.

8 (d) The term "labor organizations" includes any organization  
9 which exists for the purpose, in whole or in part, of collective  
10 bargaining or of dealing with employers concerning grievances,  
11 terms or conditions of employment or of other mutual aid or  
12 protection in relation to employment.

13 (e) The term "employment agency" includes any person  
14 regularly undertaking, with or without compensation, to procure  
15 opportunities to work or to procure, recruit, refer or place  
16 employees.

17 (f) The term "Commission" means the Pennsylvania Human  
18 Relations Commission created by this act.

19 (g) The term "discriminate" includes segregate.

20 (h) The term "age" includes any person forty years of age or  
21 older and shall also include any other person so protected by  
22 further amendment to the Federal Age Discrimination in  
23 Employment Act.

24 (i) The term "housing accommodations" includes (1) any  
25 building, structure, mobile home site or facility, or portion  
26 thereof, which is used or occupied or is intended, arranged or  
27 designed to be used or occupied as the home residence or  
28 sleeping place of one or more individuals, groups or families  
29 whether or not living independently of each other; and (2) any  
30 vacant land offered for sale, lease or held for the purpose of

1 constructing or locating thereon any such building, structure,  
2 mobile home site or facility. The term "housing accommodation"  
3 shall not include any personal residence offered for rent by the  
4 owner or lessee thereof or by his or her broker, salesperson,  
5 agent or employe.

6 (j) The term "commercial property" means (1) any building,  
7 structure or facility, or portion thereof, which is used,  
8 occupied or is intended, arranged or designed to be used or  
9 occupied for the purpose of operating a business, an office, a  
10 manufactory or any public accommodation; and (2) any vacant land  
11 offered for sale, lease or held for the purpose of constructing  
12 or locating thereon any such building, structure, facility,  
13 business concern or public accommodation.

14 (k) The term "personal residence" means a building or  
15 structure containing living quarters occupied or intended to be  
16 occupied by no more than two individuals, two groups or two  
17 families living independently of each other and used by the  
18 owner or lessee thereof as a bona fide residence for himself and  
19 any members of his family forming his household.

20 (l) The term "public accommodation, resort or amusement"  
21 means any accommodation, resort or amusement which is open to,  
22 accepts or solicits the patronage of the general public,  
23 including but not limited to inns, taverns, roadhouses, hotels,  
24 motels, whether conducted for the entertainment of transient  
25 guests or for the accommodation of those seeking health,  
26 recreation or rest, or restaurants or eating houses, or any  
27 place where food is sold for consumption on the premises,  
28 buffets, saloons, barrooms or any store, park or enclosure where  
29 spirituous or malt liquors are sold, ice cream parlors,  
30 confectioneries, soda fountains and all stores where ice cream,

1 ice and fruit preparations or their derivatives, or where  
2 beverages of any kind are retailed for consumption on the  
3 premises, drug stores, dispensaries, clinics, hospitals,  
4 bathhouses, swimming pools, barber shops, beauty parlors, retail  
5 stores and establishments, theatres, motion picture houses,  
6 airdromes, roof gardens, music halls, race courses, skating  
7 rinks, amusement and recreation parks, fairs, bowling alleys,  
8 gymnasiums, shooting galleries, billiard and pool parlors,  
9 public libraries, kindergartens, primary and secondary schools,  
10 high schools, academies, colleges and universities, extension  
11 courses and all educational institutions under the supervision  
12 of this Commonwealth, nonsectarian cemeteries, garages and all  
13 public conveyances operated on land or water or in the air as  
14 well as the stations, terminals and airports thereof, financial  
15 institutions and all Commonwealth facilities and services,  
16 including such facilities and services of all political  
17 subdivisions thereof, but shall not include any accommodations  
18 which are in their nature distinctly private.

19 (m) The term "political subdivision" means any county, city,  
20 borough, incorporated town or township of this Commonwealth.

21 (n) The term "legislative body" means the body or board  
22 authorized by law to enact ordinances or adopt resolutions for  
23 the political subdivision.

24 (o) The term "local commission" means a Human Relations  
25 Commission created by the legislative body of a political  
26 subdivision.

27 (p) The term "non-job related handicap or disability" means  
28 any handicap or disability which does not substantially  
29 interfere with the ability to perform the essential functions of  
30 the employment which a handicapped person applies for, is

engaged in or has been engaged in. Uninsurability or increased cost of insurance under a group or employee insurance plan does not render a handicap or disability job related.

(p.1) The term "handicap or disability," with respect to a person, means:

(1) a physical or mental impairment which substantially limits one or more of such person's major life activities;

(2) a record of having such an impairment; or

(3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance, as defined in section 102 of the Controlled Substances Act (Public Law 91-513, 21 U.S.C. § 802).

(q) The term "permanent hearing examiner" shall mean a full-time employee who is an attorney.

(r) The term "designated agent of the complainant" shall mean an individual who is a para-legal under the supervision of a practicing attorney.

(s) The term "commercial profit" means any form of compensation in money, or which can be measured in terms of money.

(t) The term "familial status" means one or more individuals who have not attained the age of eighteen years being domiciled with:

(1) a parent or other person having legal custody of such individual or individuals; or

(2) the designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is



1 in the process of securing legal custody of any individual who  
2 has not attained the age of 18 years.

3 (u) The term "Fair Housing Act" means Public Law 90-284, 42  
4 U.S.C. § 3601 et seq.

5 (v) The term "accessible" means being in compliance with the  
6 applicable standards set forth in the following:

7 (1) the Fair Housing Act (Public Law 90-284, 42 U.S.C. §  
8 3601 et seq.);

9 (2) the Americans with Disabilities Act of 1990 (Public Law  
10 101-336, 42 U.S.C. § 12101 et seq.); and

11 (3) the act of September 1, 1965 (P.L.459, No.235),  
12 entitled, as amended, "An act requiring that certain buildings  
13 and facilities adhere to certain principles, standards and  
14 specifications to make the same accessible to and usable by  
15 persons with physical handicaps, and providing for enforcement."

16 (w) (1) The term "housing for older persons" means housing:

17 (i) provided under any Federal or State program that the  
18 Pennsylvania Human Relations Commission determines is  
19 specifically designed and operated to assist elderly persons as  
20 defined in the Federal or State program;

21 (ii) is intended for and solely occupied by persons sixty-  
22 two years of age or older; or

23 (iii) is intended and operated for occupancy by at least one  
24 person fifty-five years of age or older per unit.

25 (2) In determining whether housing qualifies as housing for  
26 older persons under this clause, the Pennsylvania Human  
27 Relations Commission's requirements shall include, but not be  
28 limited to, the following:

29 (ii) At least eighty percent of the units are occupied by at  
30 least one person fifty-five years of age or older per unit.

1 (iii) There is publication of, and adherence to, policies  
2 and procedures which demonstrate an intent by the owner or  
3 manager to provide housing for persons fifty-five years of age  
4 or older.

5 (iv) The housing complies with regulations promulgated by  
6 the Pennsylvania Human Relations Commission for verification of  
7 occupancy. Regulations under this paragraph shall do all of the  
8 following:

9 (A) Provide for verification by reliable surveys and  
10 affidavits. Surveys and affidavits under this subparagraph shall  
11 be admissible in administrative and judicial proceedings for the  
12 purpose of verification under this paragraph.

13 (B) Include examples of the types of policies and procedures  
14 relevant to a determination of compliance with the requirement  
15 of paragraph (iii).

16 (3) Housing shall not fail to meet the requirements for  
17 housing for older persons by reason of unoccupied units provided  
18 that such units are reserved for occupancy by persons who meet  
19 the age requirements of this clause.

20 (x) The term "independent contractor" includes any person  
21 who is subject to the provisions governing any of the  
22 professions and occupations regulated by State licensing laws  
23 enforced by the Bureau of Professional and Occupational Affairs  
24 in the Department of State, or is included in the Fair Housing  
25 Act (Public Law 90-284, 42 U.S.C. § 3601 et seq.).

26 (y) The term "real estate-related transaction" means any of  
27 the following:

28 (1) The making or purchasing of loans or providing other  
29 financial assistance for purchasing, constructing, improving,  
30 repairing or maintaining a housing accommodation or commercial

1 property.

2 (2) The purchasing, constructing, improving, repairing or  
3 maintaining a housing accommodation or commercial property.

4 (3) The selling, brokering or appraising of real property.

5 (z) The term "advertisement" or "advertising" means any  
6 advertisement and any similar written, printed, taped or  
7 broadcast communication, notice, statement or the like which is  
8 disseminated (whether published, printed, circulated, issued,  
9 displayed, posted or mailed) for the purpose of promoting  
10 housing activity, including, but not limited to, rentals, leases  
11 and sales.

12 (aa) The term "advertiser" means any person who places,  
13 publishes, broadcasts or similarly causes to be disseminated by  
14 any other means an advertisement or advertising as defined in  
15 clause (z).

16 (bb) The term "genetic information" means information about  
17 genes, gene products, or inherited characteristics that may  
18 derive from an individual or with respect to that individual,  
19 another individual related by blood to that individual, or a  
20 spouse or adopted child of the individual.

21 Section 5. Unlawful Discriminatory Practices.--It shall be  
22 an unlawful discriminatory practice, unless based upon a bona  
23 fide occupational qualification, or in the case of a fraternal  
24 corporation or association, unless based upon membership in such  
25 association or corporation, or except where based upon  
26 applicable security regulations established by the United States  
27 or the Commonwealth of Pennsylvania:

28 (a) For any employer because of the genetic information,  
29 race, color, religious creed, ancestry, age, sex, national  
30 origin or non-job related handicap or disability or the use of a

1 guide or support animal because of the blindness, deafness or  
2 physical handicap of any individual or independent contractor,  
3 to refuse to hire or employ or contract with, or to bar or to  
4 discharge from employment such individual or independent  
5 contractor, or to otherwise discriminate against such individual  
6 or independent contractor with respect to compensation, hire,  
7 tenure, terms, conditions or privileges of employment or  
8 contract, if the individual or independent contractor is the  
9 best able and most competent to perform the services required.  
10 The provision of this paragraph shall not apply, to (1)  
11 operation of the terms or conditions of any bona fide retirement  
12 or pension plan which have the effect of a minimum service  
13 requirement, (2) operation of the terms or conditions of any  
14 bona fide group or employee insurance plan, (3) age limitations  
15 placed upon entry into bona fide apprenticeship programs of two  
16 years or more approved by the State Apprenticeship and Training  
17 Council of the Department of Labor and Industry, established by  
18 the act of July 14, 1961 (P.L.604, No.304), known as "The  
19 Apprenticeship and Training Act." Notwithstanding any provision  
20 of this clause, it shall not be an unlawful employment practice  
21 for a religious corporation or association to hire or employ on  
22 the basis of sex in those certain instances where sex is a bona  
23 fide occupational qualification because of the religious  
24 beliefs, practices, or observances of the corporation, or  
25 association.

26 (b) For any employer, employment agency or labor  
27 organization, prior to the employment, contracting with an  
28 independent contractor or admission to membership, to:

29 (1) Elicit any information or make or keep a record of or  
30 use any form of application or application blank containing

1 questions or entries concerning the genetic information, race,  
2 color, religious creed, ancestry, age, sex, national origin,  
3 past handicap or disability or the use of a guide or support  
4 animal because of the blindness, deafness or physical handicap  
5 of any applicant for employment or membership. Prior to an offer  
6 of employment, an employer may not inquire as to whether an  
7 individual has a handicap or disability or as to the severity of  
8 such handicap or disability. An employer may inquire as to the  
9 individual's ability to perform the essential functions of the  
10 employment.

11 (2) Print or publish or cause to be printed or published any  
12 notice or advertisement relating to employment or membership  
13 indicating any preference, limitation, specification or  
14 discrimination based upon genetic information, race, color,  
15 religious creed, ancestry, age, sex, national origin, non-job  
16 related handicap or disability or the use of a guide or support  
17 animal because of the blindness, deafness or physical handicap  
18 of the user.

19 (3) Deny or limit, through a quota system, employment or  
20 membership because of genetic information, race, color,  
21 religious creed, ancestry, age, sex, national origin, non-job  
22 related handicap or disability, the use of a guide or support  
23 animal because of the blindness, deafness or physical handicap  
24 of the user or place of birth.

25 (4) Substantially confine or limit recruitment or hiring of  
26 individuals, with intent to circumvent the spirit and purpose of  
27 this act, to any employment agency, employment service, labor  
28 organization, training school or training center or any other  
29 employe-referring source which services individuals who are  
30 predominantly of the same genetic information, race, color,

1 religious creed, ancestry, age, sex, national origin or non-job  
2 related handicap or disability.

3 (5) Deny employment because of a prior handicap or  
4 disability.

5 Nothing in clause (b) of this section shall bar any  
6 institution or organization for handicapped or disabled persons  
7 from limiting or giving preference in employment or membership  
8 to handicapped or disabled persons.

9 (c) For any labor organization because of the genetic  
10 information, race, color, religious creed, ancestry, age, sex,  
11 national origin, non-job related handicap or disability or the  
12 use of a guide or support animal because of the blindness,  
13 deafness or physical handicap of any individual to deny full and  
14 equal membership rights to any individual or otherwise to  
15 discriminate against such individuals with respect to hire,  
16 tenure, terms, conditions or privileges of employment or any  
17 other matter, directly or indirectly, related to employment.

18 (d) For any person, employer, employment agency or labor  
19 organization to discriminate in any manner against any  
20 individual because such individual has opposed any practice  
21 forbidden by this act, or because such individual has made a  
22 charge, testified or assisted, in any manner, in any  
23 investigation, proceeding or hearing under this act.

24 (e) For any person, employer, employment agency, labor  
25 organization or employe, to aid, abet, incite, compel or coerce  
26 the doing of any act declared by this section to be an unlawful  
27 discriminatory practice, or to obstruct or prevent any person  
28 from complying with the provisions of this act or any order  
29 issued thereunder, or to attempt, directly or indirectly, to  
30 commit any act declared by this section to be an unlawful

1 discriminatory practice.

2 (f) For any employment agency to fail or refuse to classify  
3 properly, refer for employment or otherwise to discriminate  
4 against any individual because of his genetic information, race,  
5 color, religious creed, ancestry, age, sex, national origin,  
6 non-job related handicap or disability or the use of a guide or  
7 support animal because of the blindness, deafness or physical  
8 handicap of the user.

9 (g) For any individual seeking employment to publish or  
10 cause to be published any advertisement which in any manner  
11 expresses a limitation or preference as to the genetic  
12 information, race, color, religious creed, ancestry, age, sex,  
13 national origin, non-job related handicap or disability or the  
14 use of a guide or support animal because of the blindness,  
15 deafness or physical handicap of any prospective employer.

16 (h) For any person to:

17 (1) Refuse to sell, lease, finance or otherwise to deny or  
18 withhold any housing accommodation or commercial property from  
19 any person because of the genetic information, race, color,  
20 familial status, age, religious creed, ancestry, sex, national  
21 origin or handicap or disability of any person, prospective  
22 owner, occupant or user of such housing accommodation or  
23 commercial property, or to refuse to lease any housing  
24 accommodation or commercial property to any person due to use of  
25 a guide animal because of the blindness or deafness of the user,  
26 use of a support animal because of a physical handicap of the  
27 user or because the user is a handler or trainer of support or  
28 guide animals or because of the handicap or disability of an  
29 individual with whom the person is known to have a relationship  
30 or association.

1 (1.1) Evict or attempt to evict an occupant of any housing  
2 accommodation before the end of the term of a lease because of  
3 pregnancy or the birth of a child.

4 (2) Refuse to lend money, whether or not secured by mortgage  
5 or otherwise for the acquisition, construction, rehabilitation,  
6 repair or maintenance of any housing accommodation or commercial  
7 property or otherwise withhold financing of any housing  
8 accommodation or commercial property from any person because of  
9 the genetic information, race, color, familial status, age,  
10 religious creed, ancestry, sex, national origin, handicap or  
11 disability of any person, the use of a guide or support animal  
12 because of the blindness, deafness or physical handicap of the  
13 user or because the user is a handler or trainer of support or  
14 guide animals or because of the handicap or disability of an  
15 individual with whom the person is known to have a relationship  
16 or association.

17 (3) Discriminate against any person in the terms or  
18 conditions of selling or leasing any housing accommodation or  
19 commercial property or in furnishing facilities, services or  
20 privileges in connection with the ownership, occupancy or use of  
21 any housing accommodation or commercial property because of the  
22 genetic information, race, color, familial status, age,  
23 religious creed, ancestry, sex, national origin, handicap or  
24 disability of any person, the use of a guide or support animal  
25 because of the blindness, deafness or physical handicap of the  
26 user or because the user is a handler or trainer of support or  
27 guide animals or because of the handicap or disability of an  
28 individual with whom the person is known to have a relationship  
29 or association.

30 (3.1) Refuse to permit, at the expense of a person with a



1 handicap, reasonable modifications of existing premises occupied  
2 or to be occupied by such person if such modifications may be  
3 necessary to afford such person full enjoyment of the premises,  
4 except that, in the case of a rental, the landlord may, where it  
5 is reasonable to do so, grant permission for a modification if  
6 the renter agrees to restore the interior of the premises to the  
7 condition that existed before the modification, with reasonable  
8 wear and tear excepted.

9 (3.2) Refuse to make reasonable accommodations in rules,  
10 policies, practices or services when such accommodations may be  
11 necessary to afford such person equal opportunity to use and  
12 enjoy a housing accommodation.

13 (4) Discriminate against any person in the terms or  
14 conditions of any loan of money, whether or not secured by  
15 mortgage or otherwise for the acquisition, construction,  
16 rehabilitation, repair or maintenance of housing accommodation  
17 or commercial property because of the genetic information, race,  
18 color, familial status, age, religious creed, ancestry, sex,  
19 national origin or handicap or disability of any person, the use  
20 of a guide or support animal because of the blindness, deafness  
21 or physical handicap of the user or because the user is a  
22 handler or trainer of guide or support animals or because of the  
23 handicap or disability of an individual with whom the person is  
24 known to have a relationship or association.

25 (5) Print, publish or circulate any statement or  
26 advertisement: (i) relating to the sale, lease or acquisition of  
27 any housing accommodation or commercial property or the loan of  
28 money, whether or not secured by mortgage, or otherwise for the  
29 acquisition, construction, rehabilitation, repair or maintenance  
30 of any housing accommodation or commercial property which

1 indicates any preference, limitation, specification, or  
2 discrimination based upon genetic information, race, color,  
3 familial status, age, religious creed, ancestry, sex, national  
4 origin, handicap or disability or because of the handicap or  
5 disability of an individual with whom the person is known to  
6 have a relationship or association, or (ii) relating to the  
7 sale, lease or acquisition of any housing accommodation or  
8 commercial property which indicates any preference, limitation,  
9 specification or discrimination based upon use of a guide or  
10 support animal because of the blindness, deafness or physical  
11 handicap of the user or because the user is a handler or trainer  
12 of support or guide animals.

13 (6) Make any inquiry, elicit any information, make or keep  
14 any record or use any form of application, containing questions  
15 or entries concerning genetic information, race, color, familial  
16 status, age, religious creed, ancestry, sex, national origin,  
17 handicap or disability or because of the handicap or disability  
18 of an individual with whom the person is known to have a  
19 relationship or association in connection with the sale or lease  
20 of any housing accommodation or commercial property or loan of  
21 any money, whether or not secured by mortgage or otherwise for  
22 the acquisition, construction, rehabilitation, repair or  
23 maintenance of any housing accommodation or commercial property,  
24 or to make any inquiry, elicit any information, make or keep any  
25 record or use any form of application, containing questions or  
26 entries concerning the use of a guide or support animal because  
27 of the blindness, deafness or physical handicap of the user or  
28 because the user is a handler or trainer of support or guide  
29 animals, in connection with the lease of any housing  
30 accommodation or commercial property.

1       (7) Construct, operate, offer for sale, lease or rent or  
2 otherwise make available housing or commercial property which is  
3 not accessible.

4       (8) Discriminate in real estate-related transactions, as  
5 described by and subject to the following:

6       (i) It shall be unlawful for any person or other entity  
7 whose business includes engaging in real estate-related  
8 transactions to discriminate against any person in making  
9 available such a transaction or in the terms or conditions of  
10 such a transaction because of genetic information, race, color,  
11 religious creed, ancestry, national origin, sex, age, handicap  
12 or disability, use of a guide or support animal because of a  
13 physical handicap or because the user is a handler or trainer of  
14 guide or support animals or familial status.

15       (ii) Nothing in this act prohibits a person engaged in the  
16 business of furnishing appraisals of real property to take into  
17 consideration factors other than genetic information, race,  
18 color, religious creed, ancestry, national origin, sex, age,  
19 handicap or disability, use of a guide or support animal because  
20 of a physical handicap or because the user is a handler or  
21 trainer of guide or support animals or familial status.

22       (9) Nothing in this clause, regarding age or familial  
23 status, shall apply with respect to housing for older persons. A  
24 person shall not be held personally liable for monetary damages  
25 for a violation of this act if the person reasonably relied, in  
26 good faith, on the application of the exemption of this  
27 subclause. A person may only prove good faith reliance on the  
28 application of the exemption of this subclause by proving that  
29 at the time of the act complained of all of the following  
30 applied:

1 (i) The person had no actual knowledge that the housing was  
2 not eligible for exemption under this subclause.

3 (ii) The owner or manager of the housing had stated  
4 formally, in writing, that the housing complied with the  
5 requirements for exemption under this subclause.

6 (10) Nothing in this clause shall bar any religious or  
7 denominational institution or organization or any charitable or  
8 educational organization which is operated, supervised or  
9 controlled by or in connection with a religious organization or  
10 any bona fide private or fraternal organization from giving  
11 preference to persons of the same religion or denomination or to  
12 members of such private or fraternal organization or from making  
13 such selection as is calculated by such organization to promote  
14 the religious principles or the aims, purposes or fraternal  
15 principles for which it is established or maintained. Nor shall  
16 it apply to the rental of rooms in a landlord-occupied rooming  
17 house with a common entrance, nor with respect to discrimination  
18 based on sex, the advertising, rental or leasing of housing  
19 accommodations in a single-sex dormitory or rooms in one's  
20 personal residence in which common living areas are shared.

21 (11) Nothing in this act limits the applicability of the  
22 Fair Housing Act and reasonable State or local restrictions on  
23 the maximum number of occupants permitted to occupy a dwelling  
24 or a reasonable restriction relating to health or safety  
25 standards or business necessity. Owners and managers of  
26 dwellings may develop and implement reasonable occupancy and  
27 safety standards based on factors such as the number and size of  
28 sleeping areas or bedrooms and the overall size of a dwelling  
29 unit so long as the standards do not violate the Fair Housing  
30 Act or State or local restrictions.

(i) For any person being the owner, lessee, proprietor, manager, superintendent, agent or employe of any public accommodation, resort or amusement to:

(1) Refuse, withhold from, or deny to any person because of his genetic information, race, color, sex, religious creed, ancestry, national origin or handicap or disability, or to any person due to use of a guide or support animal because of the blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals, either directly or indirectly, any of the accommodations, advantages, facilities or privileges of such public accommodation, resort or amusement.

(2) Publish, circulate, issue, display, post or mail, either directly or indirectly, any written or printed communication, notice or advertisement to the effect that any of the accommodations, advantages, facilities and privileges of any such place shall be refused, withheld from or denied to any person on account of genetic information, race, color, religious creed, sex, ancestry, national origin or handicap or disability, or to any person due to use of a guide or support animal because of the blindness, deafness or physical handicap of the user, or because the user is a handler or trainer of support or guide animals, or that the patronage or custom thereof of any person, belonging to or purporting to be of any particular genetic information, race, color, religious creed, sex, ancestry, national origin or handicap or disability, or to any person due to use of a guide or support animal because of the blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals, is unwelcome, objectionable or not acceptable, desired or solicited.

1 (3) Exclude or otherwise deny equal goods, services,  
2 facilities, privileges, advantages, accommodations or other  
3 opportunities to a person because of the handicap or disability  
4 of an individual with whom the person is known to have a  
5 relationship or association.

6 (4) Construct, operate or otherwise make available such  
7 place of public accommodation, resort or amusement which is not  
8 accessible.

9 (j) For any person subject to the act to fail to post and  
10 exhibit prominently in his place of business any fair practices  
11 notice prepared and distributed by the Pennsylvania Human  
12 Relations Commission.

13 (k) For any employer to discriminate against an employe or a  
14 prospective employe because the employe only has a diploma based  
15 on passing a general educational development test as compared to  
16 a high school diploma. However, should vocational technical  
17 training or other special training be required with regard to a  
18 specific position, then such training or special training may be  
19 considered by the employer.

20 (l) To exclude or otherwise deny equal jobs or benefits to a  
21 person because of the handicap or disability of an individual  
22 with whom the person is known to have a relationship or  
23 association.

24 This section of the act shall not be construed to prohibit  
25 the refusal to hire or the dismissal of a person who is not able  
26 to function properly in the job applied for or engaged in.

27 Section 3. Sections 5.3 and 7 of the act, amended December  
28 20, 1991 (P.L.414, No.51), are amended to read:

29 Section 5.3. Prohibition of Certain Real Estate Practices.--  
30 It shall be an unlawful discriminatory practice for any person

1 to:

2 (a) Induce, solicit or attempt to induce or solicit for  
3 commercial profit any listing, sale or transaction involving any  
4 housing accommodation or commercial property by representing  
5 that such housing accommodation or commercial property is within  
6 any neighborhood, community or area adjacent to any other area  
7 in which there reside, or do not reside, persons of a particular  
8 genetic information, race, color, familial status, age,  
9 religious creed, ancestry, sex, national origin, handicap or  
10 disability, or who are guide or support animal dependent.

11 (b) Discourage, or attempt to discourage, for commercial  
12 profit, the purchase or lease of any housing accommodation or  
13 commercial property by representing that such housing  
14 accommodation or commercial property is within any neighborhood,  
15 community or area adjacent to any other area in which there  
16 reside, or may in the future reside in increased or decreased  
17 numbers, persons of a particular genetic information, race,  
18 color, familial status, age, religious creed, ancestry, sex,  
19 national origin, handicap or disability, or who are guide or  
20 support animal dependent.

21 (c) Misrepresent, create or distort a circumstance,  
22 condition or incident for the purpose of fostering the  
23 impression or belief, on the part of any owner, occupant or  
24 prospective owner or occupant of any housing accommodation or  
25 commercial property, that such housing accommodation or  
26 commercial property is within any neighborhood, community or  
27 area adjacent to any other area which would be adversely  
28 impacted by the residence, or future increased or decreased  
29 residence, of persons of a particular genetic information, race,  
30 color, familial status, age, religious creed, ancestry, sex,

1 national origin, handicap or disability, or who are guide or  
2 support animal dependent within such neighborhood, community or  
3 area.

4 (d) In any way misrepresent or otherwise misadvertise within  
5 a neighborhood or community, whether or not in writing, that any  
6 housing accommodation or commercial property within such  
7 neighborhood or community is available for inspection, sale,  
8 lease, sublease or other transfer, in any context where such  
9 misrepresentation or misadvertising would have the effect of  
10 fostering an impression or belief that there has been or will be  
11 an increase in real estate activity within such neighborhood or  
12 community due to the residence, or anticipated increased or  
13 decreased residence, of persons of a particular genetic  
14 information, race, color, familial status, age, religious creed,  
15 ancestry, sex, national origin, handicap or disability, or the  
16 use of a guide or support animal because of the blindness,  
17 deafness or physical handicap of the user.

18 Section 7. Powers and Duties of the Commission.--The  
19 Commission shall have the following powers and duties:

20 (a) To establish and maintain a central office in the City  
21 of Harrisburg.

22 (b) To meet and function at any place within the  
23 Commonwealth.

24 (c) To appoint such attorneys and permanent hearing  
25 examiners and other employees and agents as it may deem  
26 necessary, fix their compensation within the limitations  
27 provided by law, and prescribe their duties. Permanent hearing  
28 examiners shall perform no duties inconsistent with their duties  
29 and responsibilities as permanent hearing examiners.

30 (c.1) To conduct mandatory training seminars on the



1 Pennsylvania Human Relations Act and other applicable Federal  
2 and State law, procedures and rules for all investigative  
3 personnel.

4 (c.2) To afford complainants and respondents the opportunity  
5 for comments after the final disposition of a complaint. These  
6 comments shall be provided to the Commission members.

7 (c.3) To appoint attorneys to perform the following  
8 functions: (1) render legal advice to Commission members on  
9 matters appearing before it; or (2) give legal assistance to  
10 complainants appearing before the Commission or hearing  
11 examiners. These responsibilities shall require a separate staff  
12 of attorneys to perform each function.

13 (d) To adopt, promulgate, amend and rescind rules and  
14 regulations to effectuate the policies and provisions of this  
15 act.

16 (e) To formulate policies to effectuate the purposes of this  
17 act and make recommendations to agencies and officers of the  
18 Commonwealth or political subdivisions of government or board,  
19 department, commission or school district thereof to effectuate  
20 such policies.

21 (f) To initiate, receive, investigate and pass upon  
22 complaints charging unlawful discriminatory practices.

23 (f.1) To investigate where no complaint has been filed but  
24 with the consent of at least eight of the members of the  
25 Commission any problem of racial discrimination with the intent  
26 of avoiding and preventing the development of racial tension.

27 (f.2) On request of the Governor, to investigate claims of  
28 excessive use of force by police in civil rights protest  
29 activities.

30 (g) (1) To hold hearings, subpoena witnesses, compel their

1 attendance, administer oaths, take testimony of any person under  
2 oath or affirmation and, in connection therewith, to require the  
3 production for examination of any books and papers relating to  
4 any matter under investigation where a complaint has been  
5 properly filed before the Commission. The Commission may make  
6 rules as to the issuance of subpoenas by individual  
7 Commissioners. In case of contumacy or refusal to obey a  
8 subpoena issued to any person any court of jurisdiction, upon  
9 application by the Commission, may issue to such person an order  
10 requiring such person to appear before the Commission, there to  
11 produce documentary evidence, if so ordered, or there to give  
12 evidence touching the matter in question, and any failure to  
13 obey such order of the court may be punished by said court as a  
14 contempt thereof.

15 (2) No person shall be excused from attending and  
16 testifying, or from producing records, correspondence, documents  
17 or other evidence in obedience to the subpoena of the Commission  
18 or of any individual Commissioner, on the ground that the  
19 testimony or evidence required of him may tend to incriminate  
20 him or subject him to a penalty or forfeiture, but no person  
21 shall be prosecuted or subjected to any penalty or forfeiture  
22 for or on account of any transaction, matter or thing concerning  
23 which he is compelled, after having claimed his privilege  
24 against self-incrimination, to testify or produce evidence,  
25 except that such person so testifying shall not be exempt from  
26 prosecution and punishment for perjury committed in so  
27 testifying. The immunity herein provided shall extend only to  
28 natural persons so compelled to testify.

29 (h) To inspect upon request such records of the Commonwealth  
30 or any political subdivision, board, department, commission or

1 school district thereof as it may deem necessary or advisable to  
2 carry into effect the provisions of this act.

3 (i) To create such advisory agencies and conciliation  
4 councils, local or state-wide, as will aid in effectuating the  
5 purposes of this act. The Commission may itself or it may  
6 empower these agencies and councils to (1) study the problems of  
7 discrimination in all or specific fields of human relationships  
8 when based on genetic information, race, color, familial status,  
9 religious creed, ancestry, age, sex, national origin or handicap  
10 or disability, and (2) foster, through community effort or  
11 otherwise, good will among the groups and elements of the  
12 population of the State. Such agencies and councils may make  
13 recommendations to the Commission for the development of  
14 policies and procedure in general. Advisory agencies and  
15 conciliation councils created by the Commission shall be  
16 composed of representative citizens, serving without pay, but  
17 the Commission may make provision for technical and clerical  
18 assistance to such agencies and councils, and for the payment of  
19 the expenses of such assistance.

20 (j) To issue such publications and such results of  
21 investigations and research as, in its judgment, will tend to  
22 promote good will and minimize or eliminate discrimination  
23 because of genetic information, race, color, familial status,  
24 religious creed, ancestry, age, sex, national origin or handicap  
25 or disability.

26 (k) To submit an annual report for each fiscal year by the  
27 following March 31 to the General Assembly, the Labor and  
28 Industry Committee of the Senate and the State Government  
29 Committee of the House of Representatives and the Governor  
30 describing in detail the types of complaints received, the

1 investigations, status of cases, Commission action which has  
2 been taken, how many were found to have probable cause, how many  
3 were resolved by public hearing and the length of time from the  
4 initial complaint to final Commission resolution. It shall also  
5 contain recommendations for such further legislation concerning  
6 abuses and discrimination because of genetic information, race,  
7 color, familial status, religious creed, ancestry, national  
8 origin, age, sex, handicap or disability or the use of a guide  
9 or support animal because of the blindness, deafness or physical  
10 handicap of the user or because the user is a handler or trainer  
11 of support or guide animals, as may be desirable.

12 (l) To prepare and distribute fair practices notices.

13 (n) To notify local human relations commissions of  
14 complaints received by the Pennsylvania Human Relations  
15 Commission involving persons within a commission's jurisdiction.  
16 The Pennsylvania Human Relations Commission may enter into work-  
17 sharing agreements with those local commissions having  
18 comparable jurisdiction and enforcement authority.

19 (o) To prepare and publish all findings of fact, conclusions  
20 of the law, final decisions and orders made after a public  
21 hearing by the hearing examiners, Commission panel or full  
22 Commission.

23 (p) To give public access to the commission's compliance  
24 manual.

25 (q) To preserve opinions rendered by the Commission for five  
26 years from the date of publication.

27 Section 4. Section 8 of the act, amended July 12, 1996  
28 (P.L.684, No.117), is amended to read:

29 Section 8. Educational Program.--The Commission, in  
30 cooperation with the Department of Education, is authorized to

1 recommend a multicultural educational program, designed for the  
2 students of the schools in this Commonwealth and for all other  
3 residents thereof, with emphasis on foreign cultural and  
4 language studies, as well as on the basic shared precepts and  
5 principles of United States culture, in order to promote  
6 cultural understanding and appreciation and to further good will  
7 among all persons, without regard to genetic information, race,  
8 color, familial status, religious creed, ancestry, age, sex,  
9 national origin, handicap or disability.

10 Section 5. Section 12 of the act, amended December 20, 1991  
11 (P.L.414, No.51), is amended to read:

12 Section 12. Construction and Exclusiveness of Remedy.--

13 (a) The provisions of this act shall be construed liberally  
14 for the accomplishment of the purposes thereof, and any law  
15 inconsistent with any provisions hereof shall not apply.

16 (b) Except as provided in subsection (c), nothing contained  
17 in this act shall be deemed to repeal or supersede any of the  
18 provisions of any existing or hereafter adopted municipal  
19 ordinance, municipal charter or of any law of this Commonwealth  
20 relating to discrimination because of genetic information, race,  
21 color, familial status, religious creed, ancestry, age, sex,  
22 national origin or handicap or disability, but as to acts  
23 declared unlawful by section five of this act the procedure  
24 herein provided shall, when invoked, be exclusive and the final  
25 determination therein shall exclude any other action, civil or  
26 criminal, based on the same grievance of the complainant  
27 concerned. If the complainant institutes any action based on  
28 such grievance without resorting to the procedure provided in  
29 this act, such complainant may not subsequently resort to the  
30 procedure herein. In the event of a conflict between the

1 interpretation of a provision of this act and the interpretation  
2 of a similar provision contained in any municipal ordinance, the  
3 interpretation of the provision in this act shall apply to such  
4 municipal ordinance.

5 (c) (1) In cases involving a claim of discrimination, if a  
6 complainant invokes the procedures set forth in this act, that  
7 individual's right of action in the courts of the Commonwealth  
8 shall not be foreclosed. If within one (1) year after the filing  
9 of a complaint with the Commission, the Commission dismisses the  
10 complaint or has not entered into a conciliation agreement to  
11 which the complainant is a party, the Commission must so notify  
12 the complainant. On receipt of such a notice the complainant  
13 shall be able to bring an action in the courts of common pleas  
14 of the Commonwealth based on the right to freedom from  
15 discrimination granted by this act.

16 (2) An action under this subsection shall be filed within  
17 two years after the date of notice from the Commission closing  
18 the complaint. Any complaint so filed shall be served on the  
19 Commission at the time the complaint is filed in court. The  
20 Commission shall notify the complainant of this requirement.

21 (3) If the court finds that the respondent has engaged in or  
22 is engaging in an unlawful discriminatory practice charged in  
23 the complaint, the court shall enjoin the respondent from  
24 engaging in such unlawful discriminatory practice and order  
25 affirmative action which may include, but is not limited to,  
26 reinstatement or hiring of employees, granting of back pay, or  
27 any other legal or equitable relief as the court deems  
28 appropriate. Back pay liability shall not accrue from a date  
29 more than three years prior to the filing of a complaint  
30 charging violations of this act.

1       (4) The court shall serve upon the Commission any final  
2 order issued in any action brought under this subsection.

3       (c.1) Notwithstanding subsections (a) and (c) or any other  
4 provision of this act, nothing in this act shall be deemed to  
5 authorize imposition by the Commission of remedial quota relief  
6 in cases involving hiring or promoting of employees of the  
7 Commonwealth, its agencies or instrumentalities or employees of  
8 local governments and school districts in this Commonwealth.

9 This subsection shall not, however, prohibit the voluntary  
10 adoption of an affirmative action plan designed to assure that  
11 all persons are accorded equality of opportunity in employment.

12       (c.2) If, after a trial held pursuant to subsection (c), the  
13 court of common pleas finds that a defendant engaged in or is  
14 engaging in any unlawful discriminatory practice as defined in  
15 this act, the court may award attorney fees and costs to the  
16 prevailing plaintiff.

17       (c.3) If, after a trial held pursuant to subsection (c), the  
18 court of common pleas finds that a defendant has not engaged in  
19 or is not engaging in any unlawful discriminatory practice as  
20 defined in this act, the court may award attorney fees and costs  
21 to the prevailing defendant if the defendant proves that the  
22 complaint was brought in bad faith.

23       (d) Nothing in this act shall be construed to require any  
24 employer to hire any person with a job-related handicap or  
25 disability.

26       (e) The time limits for filing under any complaint or other  
27 pleading under this act shall be subject to waiver, estoppel and  
28 equitable tolling.

29       (f) Nothing in this act shall be constructed as superseding  
30 any provision of the act of October 15, 1980 (P.L.950, No.164),

1 known as the "Commonwealth Attorneys Act." All court actions  
2 commenced by or against the Commission shall be subject to the  
3 provisions of that act.

4 Section 6. This act shall take effect in 60 days.