INTRODUCED BY SACCON E, KNOWLES, METZGAR, BARRAR, KAUFFMAN, GROVE, COX, MILLARD, McGINNIS, READSHAW, WHEELAND, ZIMMERMAN, TALLMAN, WARD AND GABLER, JANUARY 23, 2017

REferred to committee on state government, January 23, 2017

AN ACT

Amending the act of October 27, 1955 (P.L.744, No.222), entitled, as amended, "An act prohibiting certain practices of discrimination because of race, color, religious creed, ancestry, age or national origin by employers, employment agencies, labor organizations and others as herein defined; creating the Pennsylvania Human Relations Commission in the Governor's Office; defining its functions, powers and duties; providing for procedure and enforcement; providing for formulation of an educational program to prevent prejudice; providing for judicial review and enforcement and imposing penalties," further providing for title of act, for findings and declaration of policy, for right to freedom from discrimination in employment, housing and public accommodation, for definitions, for unlawful discriminatory practices and for prohibition of certain real estate practices; providing for limited exceptions for employers; and further providing for powers and duties of the commission, for educational program and for construction and exclusiveness of remedy.

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

Section 1. The title and sections 2 and 3 of the act of October 27, 1955 (P.L.744, No.222), known as the Pennsylvania Human Relations Act, are amended to read:

AN ACT

Prohibiting certain practices of discrimination because of race,
color, religious creed, ancestry, exercise of self-defense rights, age or national origin by employers, employment agencies, labor organizations and others as herein defined; creating the Pennsylvania Human Relations Commission in the Governor's Office; defining its functions, powers and duties; providing for procedure and enforcement; providing for formulation of an educational program to prevent prejudice; providing for judicial review and enforcement and imposing penalties.

Section 2. Findings and Declaration of Policy.--

(a) The practice or policy of discrimination against individuals or groups by reason of their race, color, familial status, religious creed, ancestry, exercise of self-defense rights, age, sex, national origin, handicap or disability, use of guide or support animals 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 a matter of concern of the Commonwealth. Such discrimination foments domestic strife and unrest, threatens the rights and privileges of the inhabitants of the Commonwealth, and undermines the foundations of a free democratic state. The denial of equal employment, housing and public accommodation opportunities because of such discrimination, and the consequent failure to utilize the productive capacities of individuals to their fullest extent, deprives large segments of the population of the Commonwealth of earnings necessary to maintain decent standards of living, necessitates their resort to public relief and intensifies group conflicts, thereby resulting in grave injury to the public health and welfare, compels many individuals to live in dwellings which are substandard, unhealthful and
overcrowded, resulting in racial segregation in public schools and other community facilities, juvenile delinquency and other evils, thereby threatening the peace, health, safety and general welfare of the Commonwealth and its inhabitants.

(b) It is hereby declared to be the public policy of this Commonwealth to foster the employment of all individuals in accordance with their fullest capacities regardless of their race, color, religious creed, ancestry, exercise of self-defense rights, age, sex, national origin, handicap or disability, use of guide or support animals 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, and to safeguard their right to obtain and hold employment without such discrimination, to assure equal opportunities to all individuals and to safeguard their rights to public accommodation and to secure housing accommodation and commercial property regardless of race, color, familial status, religious creed, ancestry, exercise of self-defense rights, age, sex, national origin, handicap or disability, use of guide or support animals because of blindness or deafness of the user or because the user is a handler or trainer of guide or support animals.

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

Section 3. Right to Freedom from Discrimination in Employment, Housing and Public Accommodation.--The opportunity for an individual to obtain employment for which he is qualified, and to obtain all the accommodations, advantages, facilities and privileges of any public accommodation and of any
housing accommodation and commercial property without
discrimination because of race, color, familial status,
religious creed, ancestry, exercise of self-defense rights,
handicap or disability, age, sex, national origin, the 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 hereby recognized as
and declared to be a civil right which shall be enforceable as
set forth in this act.

Section 2. Section 4(b) of the act is amended and the
section is amended by adding subsections to read:

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

* * *

(b) The term "employer" includes the Commonwealth or any
political subdivision or board, department, commission or school
district thereof and any person employing four or more persons
within the Commonwealth, but except as hereinafter provided,
does not include religious, fraternal, charitable or sectarian
corporations or associations, except such corporations or
associations supported, in whole or in part, by governmental
appropriations. The term "employer" with respect to
discriminatory practices based on race, color, age, sex,
national origin, exercise of self-defense rights or non-job
related handicap or disability, includes religious, fraternal,
charitable and sectarian corporations and associations employing
four or more persons within the Commonwealth.

* * *

(bb) Except as provided herein, the term "exercise of self-
defense rights" means, pursuant to section 21 of Article I of

20170HB0038PN0045 - 4 -
the Constitution of Pennsylvania and the Second Amendment of the Constitution of the United States, unless expressly prohibited by 18 Pa.C.S. Ch. 61 (relating to firearms and other dangerous articles) or any other law of this Commonwealth, any of the following:

(1) The lawful ownership, use, possession or transportation of a firearm.

(2) The lawful carrying of a firearm under 18 Pa.C.S. § 6106(b) (relating to firearms not to be carried without a license) or 6109 (relating to licenses).

(3) The lawful storage of a firearm in a dwelling, residence or personal vehicle.

(4) The lawful transfer of a firearm.

(cc) The term "firearm" shall mean any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive or the frame or receiver of a weapon. The term shall include a scope, sight, bipod, sling, light, magazine, clip, ammunition or other firearm accessory attached to or intended to be used in conjunction with a firearm.

Section 3. Sections 5(a), (b), (c), (f), (g), (h)(1), (2), (3), (4), (5), (6) and (8) and (i)(1) and (2) and 5.3 of the act are amended to read:

Section 5. Unlawful Discriminatory Practices.--It shall be an unlawful discriminatory practice, unless based upon a bona fide occupational qualification, or in the case of a fraternal corporation or association, unless based upon membership in such association or corporation, or except where based upon applicable security regulations established by the United States or the Commonwealth of Pennsylvania:
(a) For any employer because of the race, color, religious creed, ancestry, exercise of self-defense rights, age, sex, national origin or non-job related handicap or disability or the use of a guide or support animal because of the blindness, deafness or physical handicap of any individual or independent contractor, to refuse to hire or employ or contract with, or to bar or to discharge from employment such individual or independent contractor, or to otherwise discriminate against such individual or independent contractor with respect to compensation, hire, tenure, terms, conditions or privileges of employment or contract, if the individual or independent contractor is the best able and most competent to perform the services required. The provision of this paragraph shall not apply, to (1) operation of the terms or conditions of any bona fide retirement or pension plan which have the effect of a minimum service requirement, (2) operation of the terms or conditions of any bona fide group or employe insurance plan, (3) age limitations placed upon entry into bona fide apprenticeship programs of two years or more approved by the State Apprenticeship and Training Council of the Department of Labor and Industry, established by the act of July 14, 1961 (P.L.604, No.304), known as "The Apprenticeship and Training Act."

Notwithstanding any provision of this clause, it shall not be an unlawful employment practice for a religious corporation or association to hire or employ on the basis of sex in those certain instances where sex is a bona fide occupational qualification because of the religious beliefs, practices, or observances of the corporation, or association.

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

1. Elicit any information or make or keep a record of or use any form of application or application blank containing questions or entries concerning the race, color, religious creed, ancestry, exercise of self-defense rights, age, sex, national origin, past handicap or disability or the use of a guide or support animal because of the blindness, deafness or physical handicap of any applicant for employment or membership. Prior to an offer of employment, an employer may not inquire as to whether an individual has a handicap or disability or as to the severity of such handicap or disability. An employer may inquire as to the individual's ability to perform the essential functions of the employment.

2. Print or publish or cause to be printed or published any notice or advertisement relating to employment or membership indicating any preference, limitation, specification or discrimination based upon race, color, religious creed, ancestry, exercise of self-defense rights, age, sex, national origin, non-job related handicap or disability or the use of a guide or support animal because of the blindness, deafness or physical handicap of the user.

3. Deny or limit, through a quota system, employment or membership because of race, color, religious creed, ancestry, exercise of self-defense rights, age, sex, national origin, non-job related handicap or disability, the use of a guide or support animal because of the blindness, deafness or physical handicap of the user or place of birth.

4. Substantially confine or limit recruitment or hiring of individuals, with intent to circumvent the spirit and purpose of this act, to any employment agency, employment service, labor
organization, training school or training center or any other employe-referring source which services individuals who are predominantly of the same race, color, religious creed, ancestry, age, sex, national origin or non-job related handicap or disability or which discriminates on the basis of the exercise of self-defense rights.

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

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

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

* * *

(f) For any employment agency to fail or refuse to classify properly, refer for employment or otherwise to discriminate against any individual because of his race, color, religious creed, ancestry, exercise of self-defense rights, age, sex, national origin, non-job related handicap or disability or the use of a guide or support animal because of the blindness, deafness or physical handicap of the user.

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

(h) For any person to:

(1) Refuse to sell, lease, finance or otherwise to deny or withhold any housing accommodation or commercial property from any person because of the race, color, familial status, age, religious creed, ancestry, exercise of self-defense rights, sex, national origin or handicap or disability of any person, prospective owner, occupant or user of such housing accommodation or commercial property, or to refuse to lease any housing accommodation or commercial property to any person due to use of a guide animal because of the blindness or deafness of the user, use of a support animal because of a physical handicap of the user or because the user is a handler or trainer of support or guide animals or because of the handicap or disability of an individual with whom the person is known to have a relationship or association.

* * *

(2) Refuse to lend money, whether or not secured by mortgage or otherwise for the acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation or commercial property or otherwise withhold financing of any housing accommodation or commercial property from any person because of the race, color, familial status, age, religious creed, ancestry, exercise of self-defense rights, sex, national origin, handicap or disability of any person, the 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 because of the handicap or
disability of an individual with whom the person is known to
have a relationship or association.

(3) Discriminate against any person in the terms or
conditions of selling or leasing any housing accommodation or
commercial property or in furnishing facilities, services or
privileges in connection with the ownership, occupancy or use of
any housing accommodation or commercial property because of the
race, color, familial status, age, religious creed, ancestry,
exercise of self-defense rights, sex, national origin, handicap
or disability of any person, the 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 because of the handicap or
disability of an individual with whom the person is known to
have a relationship or association.

* * *

(4) Discriminate against any person in the terms or
conditions of any loan of money, whether or not secured by
mortgage or otherwise for the acquisition, construction,
rehabilitation, repair or maintenance of housing accommodation
or commercial property because of the race, color, familial
status, age, religious creed, ancestry, exercise of self-defense
rights, sex, national origin or handicap or disability of any
person, the 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 guide or support animals or
because of the handicap or disability of an individual with whom
the person is known to have a relationship or association.

(5) Print, publish or circulate any statement or
description: (i) relating to the sale, lease or acquisition of
any housing accommodation or commercial property or the loan of
money, whether or not secured by mortgage, or otherwise for the
acquisition, construction, rehabilitation, repair or maintenance
of any housing accommodation or commercial property which
indicates any preference, limitation, specification, or
discrimination based upon race, color, familial status, age,
religious creed, ancestry, exercise of self-defense rights, sex,
national origin, handicap or disability or because of the
handicap or disability of an individual with whom the person is
known to have a relationship or association, or (ii) relating to
the sale, lease or acquisition of any housing accommodation or
commercial property which indicates any preference, limitation,
specification or discrimination based upon 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.

(6) Make any inquiry, elicit any information, make or keep
any record or use any form of application, containing questions
or entries concerning race, color, familial status, age,
religious creed, ancestry, exercise of self-defense rights, sex,
national origin, handicap or disability or because of the
handicap or disability of an individual with whom the person is
known to have a relationship or association in connection with
the sale or lease of any housing accommodation or commercial
property or loan of any money, whether or not secured by
mortgage or otherwise for the acquisition, construction,
rehabilitation, repair or maintenance of any housing
accommodation or commercial property, or to make any inquiry, elicit any information, make or keep any record or use any form of application, containing questions or entries concerning the 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, in connection with the lease of any housing accommodation or commercial property.

* * *

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

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

(ii) Nothing in this act prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religious creed, ancestry, exercise of self-defense rights, national origin, sex, age, handicap or disability, use of a guide or support animal because of a physical handicap or because the user is a handler or trainer of guide or support animals or familial status.

* * *

(i) For any person being the owner, lessee, proprietor, manager, superintendent, agent or employe of any public

20170HB0038PN0045 - 12 -
accommodation, resort or amusement to:

(1) Refuse, withhold from, or deny to any person because of his race, color, sex, religious creed, ancestry, exercise of self-defense rights, 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 race, color, religious creed, sex, ancestry, exercise of self-defense rights, 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 thereat of any person, belonging to or purporting to be of any particular race, color, religious creed, sex, ancestry, exercise of self-defense rights, 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 or to any person who exercises self-defense rights.
Section 5.3. Prohibition of Certain Real Estate Practices.-- It shall be an unlawful discriminatory practice for any person to:

(a) Induce, solicit or attempt to induce or solicit for commercial profit any listing, sale or transaction involving any housing accommodation or commercial property by representing that such housing accommodation or commercial property is within any neighborhood, community or area adjacent to any other area in which there reside, or do not reside, persons of a particular race, color, familial status, age, religious creed, ancestry, sex, national origin, handicap or disability, or who are guide or support animal dependent or who exercise self-defense rights.

(b) Discourage, or attempt to discourage, for commercial profit, the purchase or lease of any housing accommodation or commercial property by representing that such housing accommodation or commercial property is within any neighborhood, community or area adjacent to any other area in which there reside, or may in the future reside in increased or decreased numbers, persons of a particular race, color, familial status, age, religious creed, ancestry, sex, national origin, handicap or disability, or who are guide or support animal dependent or who exercise self-defense rights.

(c) Misrepresent, create or distort a circumstance, condition or incident for the purpose of fostering the impression or belief, on the part of any owner, occupant or prospective owner or occupant of any housing accommodation or commercial property, that such housing accommodation or commercial property is within any neighborhood, community or area adjacent to any other area which would be adversely affected by the presence of persons of a particular race, color, familial status, age, religious creed, ancestry, sex, national origin, handicap or disability, or who are guide or support animal dependent or who exercise self-defense rights.
impacted by the residence, or future increased or decreased
residence, of persons of a particular race, color, familial
status, age, religious creed, ancestry, sex, national origin,
handicap or disability, or who are guide or support animal
dependent or who exercise self-defense rights within such
neighborhood, community or area.

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

Section 4. The act is amended by adding a section to read:

Section 5.4. Limited Exceptions for Employers.--(a)

Notwithstanding any other provision of this act, an employer may
consider, advertise or require the exercise of self-defense
rights as a condition of employment for applicants or employes,
if the exercise of self-defense rights is an integral part of
the employment. This includes, but is not limited to:

(1) The ability of an employe or applicant to lawfully
possess or use a firearm.

(2) Whether or not the employe or applicant is licensed to
carry a firearm under 18 Pa.C.S. § 6109 (relating to licenses) or exempted from licensure under 18 Pa.C.S. § 6106(b) (relating to firearms not to be carried without a license).

(3) Whether or not the employe or applicant is certified under:

   (i) 53 Pa.C.S. Ch. 21 Subch. D (relating to municipal police education and training).


   (iii) The act of February 9, 1984 (P.L.3, No.2), known as the Sheriff and Deputy Sheriff Education and Training Act.


   (v) Any other firearms program that has been determined by the Commissioner of the Pennsylvania State Police to be of sufficient scope and duration as to provide the participant with basic training in the use and handling of firearms.

(4) An assessment, evaluation or certification related to the employe or applicant's ability to:

   (i) Handle a firearm safely.

   (ii) Properly and effectively use a firearm.

   (iii) Achieve a minimum competency level related to the use, handling, repair or modification of firearms.

(b) Notwithstanding any other provision of this act, an employer may reasonably regulate an employe's possession, storage or carrying of a firearm on property owned or controlled by the employer or during the employe's work hours, except that an employer shall not create any rule or policy or take any action that interferes with the following:

   (1) the lawful carrying of a concealed firearm by an employe
licensed to carry a firearm under 18 Pa.C.S. § 6109 or exempted
from licensure under 18 Pa.C.S. § 6106(b);
(2) the lawful storage of a firearm in an employe's personal
vehicle; or
(3) an employe's exercise of self-defense rights when not
acting in his capacity as an employe.

Section 5. Sections 7(i), (j) and (k), 8 and 12(b) of the
act are amended to read:

Section 7. Powers and Duties of the Commission.--The
Commission shall have the following powers and duties:
* * *
(i) To create such advisory agencies and conciliation
councils, local or state-wide, as will aid in effectuating the
purposes of this act. The Commission may itself or it may
empower these agencies and councils to (1) study the problems of
discrimination in all or specific fields of human relationships
when based on race, color, familial status, religious creed,
ancestry, exercise of self-defense rights, age, sex, national
origin or handicap or disability, and (2) foster, through
community effort or otherwise, good will among the groups and
elements of the population of the State. Such agencies and
councils may make recommendations to the Commission for the
development of policies and procedure in general. Advisory
agencies and conciliation councils created by the Commission
shall be composed of representative citizens, serving without
pay, but the Commission may make provision for technical and
clerical assistance to such agencies and councils, and for the
payment of the expenses of such assistance.
(j) To issue such publications and such results of
investigations and research as, in its judgment, will tend to
promote good will and minimize or eliminate discrimination
because of race, color, familial status, religious creed, ancestry, exercise of self-defense rights, age, sex, national origin or handicap or disability.

(k) To submit an annual report for each fiscal year by the following March 31 to the General Assembly, the Labor and Industry Committee of the Senate and the State Government Committee of the House of Representatives and the Governor describing in detail the types of complaints received, the investigations, status of cases, Commission action which has been taken, how many were found to have probable cause, how many were resolved by public hearing and the length of time from the initial complaint to final Commission resolution. It shall also contain recommendations for such further legislation concerning abuses and discrimination because of race, color, familial status, religious creed, ancestry, exercise of self-defense rights, national origin, age, sex, handicap or disability or the 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, as may be desirable.

* * *

Section 8. Educational Program.--The Commission, in cooperation with the Department of Education, is authorized to recommend a multicultural educational program, designed for the students of the schools in this Commonwealth and for all other residents thereof, with emphasis on foreign cultural and language studies, as well as on the basic shared precepts and principles of United States culture, in order to promote cultural understanding and appreciation and to further good will.
among all persons, without regard to race, color, familial
status, religious creed, ancestry, exercise of self-defense
rights, age, sex, national origin, handicap or disability.

Section 12. Construction and Exclusiveness of Remedy.--

* * *

(b) Except as provided in subsection (c), nothing contained
in this act shall be deemed to repeal or supersede any of the
provisions of any existing or hereafter adopted municipal
ordinance, municipal charter or of any law of this Commonwealth
relating to discrimination because of race, color, familial
status, religious creed, ancestry, exercise of self-defense
rights, age, sex, national origin or handicap or disability, but
as to acts declared unlawful by section five of this act the
procedure herein provided shall, when invoked, be exclusive and
the final determination therein shall exclude any other action,
civil or criminal, based on the same grievance of the
complainant concerned. If the complainant institutes any action
based on such grievance without resorting to the procedure
provided in this act, such complainant may not subsequently
resort to the procedure herein. In the event of a conflict
between the interpretation of a provision of this act and the
interpretation of a similar provision contained in any municipal
ordinance, the interpretation of the provision in this act shall
apply to such municipal ordinance.

* * *

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