

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1785 Session of
1991

INTRODUCED BY BATTISTO, OLIVER, STRITTMATTER, LEH, GIGLIOTTI AND
ROEBUCK, JUNE 25, 1991

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JUNE 25, 1991

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 Department of Labor and Industry; defining its functions,
8 powers and duties; providing for procedure and enforcement;
9 providing for formulation of an educational program to
10 prevent prejudice; providing for judicial review and
11 enforcement and imposing penalties," further providing for
12 the right to freedom from discrimination in employment,
13 housing and public accommodations; prohibiting discrimination
14 because of familial status; amending and adding certain
15 definitions; further providing for the powers and duties of
16 the Pennsylvania Human Relations Commission; further
17 providing for enforcement, remedies and penalties; making
18 editorial changes; and continuing the Pennsylvania Human
19 Relations Commission pursuant to the Sunset Act.

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

22 Section 1. Sections 2 and 3 of the act of October 27, 1955
23 (P.L.744, No.222), known as the Pennsylvania Human Relations
24 Act, amended December 16, 1986 (P.L.1626, No.186), are amended
25 to read:

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

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

27 (b) It is hereby declared to be the public policy of this
28 Commonwealth to foster the employment of all individuals in
29 accordance with their fullest capacities regardless of their
30 race, color, religious creed, ancestry, age, sex, national

1 origin, handicap or disability, use of guide [dogs because of
2 blindness or deafness of the user, use of support animals
3 because of a] or support animals because of the blindness,
4 deafness or physical handicap of the user or because the user is
5 a handler or trainer of support or guide animals, [age, sex, or
6 national origin,] and to safeguard their right to obtain and
7 hold employment without such discrimination, to assure equal
8 opportunities to all individuals and to safeguard their rights
9 to public accommodation and to secure housing accommodation and
10 commercial property regardless of race, color, familial status,
11 religious creed, ancestry, [sex,] age, sex, national origin,
12 handicap or disability, use of guide or support animals because
13 of blindness or deafness of the user [or national origin] or
14 because the user is a handler or trainer of guide or support
15 animals.

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

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

1 animals is hereby recognized as and declared to be a civil right
2 which shall be enforceable as set forth in this act.

3 Section 2. Section 4 of the act, amended February 28, 1961
4 (P.L.47, No.19), January 24, 1966 (1965 P.L.1523, No.533),
5 November 29, 1967 (P.L.632, No.291), December 19, 1974 (P.L.966,
6 No.318), November 26, 1978 (P.L.1292, No.309), December 9, 1982
7 (P.L.1053, No.247), December 15, 1982 (P.L.1267, No.288) and
8 December 16, 1986 (P.L.1626, No.186), is 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 race, color, age, sex,
28 national origin or non-job related handicap or disability,
29 includes religious, fraternal, charitable and sectarian
30 corporations and associations employing four or more persons

1 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 [between the ages of
21 forty and seventy inclusive] forty years of age or older and
22 shall also include any other person so protected by further
23 amendment to the Federal Age Discrimination in 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 major life activities;

(2) a record of such an impairment; or

(3) is regarded as having such an impairment.

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

(u) The term "Fair Housing Act" means Public Law 90-284, 42

1 U.S.C. § 3601 et seq.

2 (v) The term "accessible" means accessibility in compliance
3 with the accessibility standards set forth in the following:

4 (1) The Fair Housing Act (Public Law 90-284, 42 U.S.C. §
5 3601 et seq.).

6 (2) The Americans with Disabilities Act of 1990 (Public Law
7 101-336, 42 U.S.C. § 12101 et seq.).

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

13 (4) Any other applicable Federal or State law or regulation,
14 or any local ordinance or resolution, relating to accessibility
15 or accommodations.

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 paragraph, the Pennsylvania Human
27 Relations Commission's requirements shall include, but not be
28 limited to, the following:

29 (i) The existence of significant facilities and services
30 specifically designed to meet the physical or social needs of

older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons.

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

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

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

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

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

(1) The making or purchasing of loans or providing other financial assistance.

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

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

Section 3. Sections 5, 5.3 and 6 of the act, added or amended December 16, 1986 (P.L.1626, No.186), are amended to read:

Section 5. Unlawful Discriminatory Practices.--It shall be

1 an unlawful discriminatory practice, unless based upon a bona
2 fide occupational qualification, or in the case of a fraternal
3 corporation or association, unless based upon membership in such
4 association or corporation, or except where based upon
5 applicable security regulations established by the United States
6 or the Commonwealth of Pennsylvania:

7 (a) For any employer because of the race, color, religious
8 creed, ancestry, age, sex, national origin or non-job related
9 handicap or disability, or the use of a guide or support animal
10 because of the blindness, deafness or physical handicap of any
11 individual or independent contractor, to refuse to hire or
12 employ or contract with, or to bar or to discharge from
13 employment such individual or independent contractor, or to
14 otherwise discriminate against such individual or independent
15 contractor with respect to compensation, hire, tenure, terms,
16 conditions or privileges of employment or contract, if the
17 individual or independent contractor is the best able and most
18 competent to perform the services required. The provision of
19 this paragraph shall not apply, to (1) [termination of
20 employment because of the terms or conditions of any bona fide
21 retirement or pension plan, (2)] operation of the terms or
22 conditions of any bona fide retirement or pension plan which
23 have the effect of a minimum service requirement, [(3)] (2)
24 operation of the terms or conditions of any bona fide group or
25 employe insurance plan, [(4)] (3) age limitations placed upon
26 entry into bona fide apprenticeship programs of two years or
27 more approved by the State Apprenticeship and Training Council
28 of the Department of Labor and Industry, established by the act
29 of July 14, 1961 (P.L.604, No.304), known as "The Apprenticeship
30 and Training Act." Notwithstanding any provision of this clause,

1 it shall not be an unlawful employment practice for a religious
2 corporation or association to hire or employ on the basis of sex
3 in those certain instances where sex is a bona fide occupational
4 qualification because of the religious beliefs, practices, or
5 observances of the corporation, or association.

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

9 (1) Elicit any information or make or keep a record of or
10 use any form of application or application blank containing
11 questions or entries concerning the race, color, religious
12 creed, ancestry, age, sex, national origin [or], past handicap
13 or disability, or the use of a guide or support animal because
14 of the blindness, deafness or physical handicap of any applicant
15 for employment or membership. [An employer may inquire as to the
16 existence and nature of a present handicap or disability. To
17 determine whether such handicap or disability substantially
18 interferes with the ability to perform the essential function of
19 the employment which is applied for, is being engaged in, or has
20 been engaged in, the employer must inquire beyond the mere
21 existence of a handicap or disability.] Prior to an offer of
22 employment, an employer may not inquire as to whether an
23 individual has a handicap or disability or as to the severity of
24 such handicap or disability. An employer may inquire as to the
25 individual's ability to perform the essential functions of the
26 employment.

27 (2) Print or publish or cause to be printed or published any
28 notice or advertisement relating to employment or membership
29 indicating any preference, limitation, specification or
30 discrimination based upon race, color, religious creed,

1 ancestry, age, sex, national origin [or], non-job related
2 handicap or disability or the use of a guide or support animal
3 because of the blindness, deafness or physical handicap of the
4 user.

5 (3) Deny or limit, through a quota system, employment or
6 membership because of race, color, religious creed, ancestry,
7 age, sex, national origin, non-job related handicap or
8 disability, the use of a guide or support animal because of the
9 blindness, deafness or physical handicap of the user, or place
10 of birth.

11 (4) Substantially confine or limit recruitment or hiring of
12 individuals, with intent to circumvent the spirit and purpose of
13 this act, to any employment agency, employment service, labor
14 organization, training school or training center or any other
15 employe-referring source which services individuals who are
16 predominantly of the same race, color, religious creed,
17 ancestry, age, sex, national origin or non-job related handicap
18 or disability.

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

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

25 (c) For any labor organization because of the race, color,
26 religious creed, ancestry, age, sex, national origin [or], non-
27 job related handicap or disability, or the use of a guide or
28 support animal because of the blindness, deafness or physical
29 handicap of any individual to deny full and equal membership
30 rights to any individual or otherwise to discriminate against

1 such individuals with respect to hire, tenure, terms, conditions
2 or privileges of employment or any other matter, directly or
3 indirectly, related to employment.

4 (d) For any person, employer, employment agency or labor
5 organization to discriminate in any manner against any
6 individual because such individual has opposed any practice
7 forbidden by this act, or because such individual has made a
8 charge, testified or assisted, in any manner, in any
9 investigation, proceeding or hearing under this act.

10 (e) For any person, employer, employment agency, labor
11 organization or employe, to aid, abet, incite, compel or coerce
12 the doing of any act declared by this section to be an unlawful
13 discriminatory practice, or to obstruct or prevent any person
14 from complying with the provisions of this act or any order
15 issued thereunder, or to attempt, directly or indirectly, to
16 commit any act declared by this section to be an unlawful
17 discriminatory practice.

18 (f) For any employment agency to fail or refuse to classify
19 properly, refer for employment or otherwise to discriminate
20 against any individual because of his race, color, religious
21 creed, ancestry, age, sex, national origin [or], non-job related
22 handicap or disability or the use of a guide or support animal
23 because of the blindness, deafness or physical handicap of the
24 user.

25 (g) For any individual seeking employment to publish or
26 cause to be published any advertisement which in any manner
27 expresses a limitation or preference as to the race, color,
28 religious creed, ancestry, age, sex, national origin [or], non-
29 job related handicap or disability or the use of a guide or
30 support animal because of the blindness, deafness or physical

1 handicap of any prospective employer.

2 (h) For any person to:

3 (1) Refuse to sell, lease, finance or otherwise to deny or
4 withhold any housing accommodation or commercial property from
5 any person because of the race, color, familial status, age,
6 religious creed, ancestry, sex, national origin or handicap or
7 disability of any person, prospective owner, occupant or user of
8 such housing accommodation or commercial property, or to refuse
9 to lease any housing accommodation or commercial property to any
10 person due to use of a guide animal because of the blindness or
11 deafness of the user, [or] use of a support animal because of a
12 physical handicap of the user or because the user is a handler
13 or trainer of support or guide animals or because of the
14 handicap or disability of an individual with whom the person is
15 known to have a relationship or association.

16 (1.1) Evict or attempt to evict an occupant of any housing
17 accommodation before the end of the term of a lease because of
18 pregnancy or the birth of a child.

19 (2) Refuse to lend money, whether or not secured by mortgage
20 or otherwise for the acquisition, construction, rehabilitation,
21 repair or maintenance of any housing accommodation or commercial
22 property or otherwise withhold financing of any housing
23 accommodation or commercial property from any person because of
24 the race, color, familial status, age, religious creed,
25 ancestry, sex, national origin, handicap or disability [or] of
26 any person, the use of a guide or support animal because of the
27 blindness, deafness or physical handicap of the user or because
28 the user is a handler or trainer of support or guide animals[,
29 of any present or prospective owner, occupant or user of such
30 housing accommodation or commercial property] or because of the

1 handicap or disability of an individual with whom the person is
2 known to have a relationship or association.

3 (3) Discriminate against any person in the terms or
4 conditions of selling or leasing any housing accommodation or
5 commercial property or in furnishing facilities, services or
6 privileges in connection with the ownership, occupancy or use of
7 any housing accommodation or commercial property because of the
8 race, color, familial status, age, religious creed, ancestry,
9 sex, national origin, handicap or disability [or] of any person,
10 the use of a guide or support animal because of the blindness,
11 deafness or physical handicap of the user or because the user is
12 a handler or trainer of support or guide animals[, of any
13 present or prospective owner, occupant or user of such housing
14 accommodation or commercial property] or because of the handicap
15 or disability of an individual with whom the person is known to
16 have a relationship or association.

17 (4) Discriminate against any person in the terms or
18 conditions of any loan of money, whether or not secured by
19 mortgage or otherwise for the acquisition, construction,
20 rehabilitation, repair or maintenance of housing accommodation
21 or commercial property because of the race, color, familial
22 status, age, religious creed, ancestry, sex, national origin or
23 handicap or disability of any [present or prospective owner,
24 occupant or user of any housing accommodation or commercial
25 property] person, the use of a guide or support animal because
26 of the blindness, deafness or physical handicap of the user or
27 because the user is a handler or trainer of guide or support
28 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 (5) Print, publish or circulate any statement or
2 advertisement: (i) relating to the sale, lease or acquisition of
3 any housing accommodation or commercial property or the loan of
4 money, whether or not secured by mortgage, or otherwise for the
5 acquisition, construction, rehabilitation, repair or maintenance
6 of any housing accommodation or commercial property which
7 indicates any preference, limitation, specification, or
8 discrimination based upon race, color, familial status, age,
9 religious creed, ancestry, sex, national origin [or], handicap
10 or disability or because of the handicap or disability of an
11 individual with whom the person is known to have a relationship
12 or association, or (ii) relating to the [lease] sale, lease or
13 acquisition of any housing accommodation or commercial property
14 which indicates any preference, limitation, specification or
15 discrimination based upon use of a guide or support animal
16 because of the blindness, deafness or physical handicap of the
17 user or because the user is a handler or trainer of support or
18 guide animals.

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

1 use any form of application, containing questions or entries
2 concerning the use of a guide or support animal because of the
3 blindness, deafness or physical handicap of the user or because
4 the user is a handler or trainer of support or guide animals, in
5 connection with the lease of any housing accommodation or
6 commercial property.

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

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

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

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

28 Nothing in this clause (h) of this section, regarding age or
29 familial status, shall apply with respect to housing for older
30 persons.

1 Nothing in this clause (h) of this section shall bar any
2 religious or denominational institution or organization or any
3 charitable or educational organization, which is operated,
4 supervised or controlled by or in connection with a religious
5 organization or any bona fide private or fraternal organization
6 from giving preference to persons of the same religion or
7 denomination or to members of such private or fraternal
8 organization or from making such selection as is calculated by
9 such organization to promote the religious principles or the
10 aims, purposes of fraternal principles for which it is
11 established or maintained. Nor shall it apply to the rental of
12 rooms in a landlord occupied rooming house with a common
13 entrance, nor with respect to discrimination based on sex, the
14 rental or leasing of housing accommodations in a single-sex
15 dormitory.

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

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

28 (2) Publish, circulate, issue, display, post or mail, either
29 directly or indirectly, any written or printed communication,
30 notice or advertisement to the effect that any of the

1 accommodations, advantages, facilities and privileges of any
2 such place shall be refused, withheld from or denied to any
3 person on account of race, color, religious creed, sex,
4 ancestry, national origin or handicap or disability, or to any
5 person due to use of a guide or support animal because of the
6 blindness, deafness or physical handicap of the user, or because
7 the user is a handler or trainer of support or guide animals, or
8 that the patronage or custom thereat of any person, belonging to
9 or purporting to be of any particular race, color, religious
10 creed, sex, ancestry, national origin or handicap or disability,
11 or to any person due to use of a guide or support animal because
12 of the blindness, deafness or physical handicap of the user or
13 because the user is a handler or trainer of support or guide
14 animals, is unwelcome, objectionable or not acceptable, desired
15 or solicited.

16 (3) Exclude or otherwise deny equal goods, services,
17 facilities, privileges, advantages, accommodations or other
18 opportunities to a person because of the handicap or disability
19 of an individual with whom the person is known to have a
20 relationship or association.

21 (4) Construct, operate or otherwise make available such
22 place of public accommodation, resort or amusement which is not
23 accessible.

24 [Nothing in clause (h) of this section shall bar any
25 religious or denominational institution or organization or any
26 charitable or educational organization, which is operated,
27 supervised or controlled by or in connection with a religious
28 organization or any bona fide private or fraternal organization
29 from giving preference to persons of the same religion or
30 denomination or to members of such private or fraternal

1 organization or from making such selection as is calculated by
2 such organization to promote the religious principles or the
3 aims, purposes or fraternal principles for which it is
4 established or maintained. Nor shall it apply to the rental of
5 rooms or apartments in a landlord occupied rooming house with a
6 common entrance.]

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

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

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

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

25 Section 5.3. Prohibition of Certain Real Estate Practices.--
26 It shall be an unlawful discriminatory practice for any person
27 to:

28 (a) Induce, solicit or attempt to induce or solicit for
29 commercial profit any listing, sale or transaction involving any
30 housing accommodation or commercial property by representing

1 that such housing accommodation or commercial property is within
2 any neighborhood, community or area adjacent to any other area
3 in which there reside, or do not reside, persons of a particular
4 race, color, familial status, age, religious creed, ancestry,
5 sex, national origin, handicap or disability, or who are guide
6 or support animal dependent.

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

16 (c) Misrepresent, create or distort a circumstance,
17 condition or incident for the purpose of fostering the
18 impression or belief, on the part of any owner, occupant or
19 prospective owner or occupant of any housing accommodation or
20 commercial property, that such housing accommodation or
21 commercial property is within any neighborhood, community or
22 area adjacent to any other area which would be adversely
23 impacted by the residence, or future increased or decreased
24 residence, of persons of a particular race, color, familial
25 status, age, religious creed, ancestry, sex, national origin,
26 handicap or disability, or who are guide or support animal
27 dependent within such neighborhood, community or area.

28 (d) In any way misrepresent or otherwise misadvertise within
29 a neighborhood or community, whether or not in writing, that any
30 housing accommodation or commercial property within such

1 neighborhood or community is available for inspection, sale,
2 lease, sublease or other transfer, in any context where such
3 misrepresentation or misadvertising would have the effect of
4 fostering an impression or belief that there has been or will be
5 an increase in real estate activity within such neighborhood or
6 community due to the residence, or anticipated increased or
7 decreased residence, of persons of a particular race, color,
8 familial status, age, religious creed, ancestry, sex, national
9 origin, handicap or disability, or the use of a guide or support
10 animal because of the blindness, deafness or physical handicap
11 of the user.

12 Section 6. Pennsylvania Human Relations Commission.--(a)
13 There shall be, and there is hereby established in the
14 Governor's Office a non-partisan, departmental administrative
15 commission for the administration of this act, which shall be
16 known as the "Pennsylvania Human Relations Commission," and
17 which is hereinafter referred to as the "Commission."

18 (b) Said Commission shall consist of eleven members, to be
19 known as Commissioners, who shall be appointed by the Governor
20 by and with the advice and consent of a majority of the members
21 of the Senate, not more than six of such Commissioners to be
22 from the same political party, and each of whom shall hold
23 office for a term of five years or until his successor shall
24 have been duly appointed and qualified. Vacancies occurring in
25 an office of a member of the Commission by expiration of term,
26 death, resignation, removal or for any other reason shall be
27 filled in the manner aforesaid for the balance of that term.
28 Commission members failing to attend meetings for three
29 consecutive months shall forfeit their seats unless the
30 chairperson of the commission receives written notification from

1 the member involved that the absence was due to personal illness
2 or the death or illness of an immediate family member.

3 (c) Subject to the provisions of this act, the Commission
4 shall have all the powers and shall perform the duties generally
5 vested in and imposed upon departmental administrative boards
6 and commissions by the act, approved the ninth day of April, one
7 thousand nine hundred twenty-nine (Pamphlet Laws 177), known as
8 "The Administrative Code of one thousand nine hundred twenty-
9 nine," and its amendments, and shall be subject to all the
10 provisions of such code which apply generally to departmental
11 administrative boards and commissions.

12 (d) The Governor shall designate one of the members of the
13 Commission to be its [chairman] chairperson who shall preside at
14 all meetings of the Commission and perform all the duties and
15 functions of the [chairman] chairperson thereof. The Commission
16 may designate one of its members to act as [chairman]
17 chairperson during the absence or incapacity of the [chairman]
18 chairperson and, when so acting, the member so designated shall
19 have and perform all the powers and duties of the [chairman]
20 chairperson of the Commission.

21 (e) Six members of the Commission or a majority of those
22 duly appointed and qualified shall constitute a quorum for
23 transacting business, and a majority vote of those present at
24 any meeting shall be sufficient for any official action taken by
25 the Commission.

26 (f) Each member of the Commission shall receive per diem
27 compensation at the rate of sixty dollars (\$60) per day for the
28 time actually devoted to the business of the Commission. Members
29 shall also receive the amount of reasonable traveling, hotel and
30 other necessary expenses incurred in the performance of their

1 duties in accordance with Commonwealth regulations.

2 (g) The Commission shall adopt an official seal by which its
3 acts and proceedings shall be authenticated, and of which the
4 courts shall take judicial notice. The certificate of the
5 [chairman] chairperson of the Commission, under the seal of the
6 Commission and attested by the secretary, shall be accepted in
7 evidence in any judicial proceeding in any court of this
8 Commonwealth as adequate and sufficient proof of the acts and
9 proceedings of the Commission therein certified to.

10 Section 4. Section 7 of the act, amended February 28, 1961
11 (P.L.47, No.19), December 27, 1965 (P.L.1224, No.497), October
12 11, 1967 (P.L.426, No.191), December 9, 1982 (P.L.1053, No.247),
13 December 16, 1986 (P.L.1626, No.186) and repealed in part April
14 28, 1978 (P.L.202, No.53), is amended to read:

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

17 (a) To establish and maintain a central office in the City
18 of Harrisburg.

19 (b) To meet and function at any place within the
20 Commonwealth.

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

27 (c.1) To conduct mandatory training seminars on the
28 Pennsylvania Human Relations Act and other applicable Federal
29 and State law procedures and rules for all investigative
30 personnel.

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

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

10 (d) To adopt, promulgate, amend and rescind rules and
11 regulations to effectuate the policies and provisions of this
12 act.

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

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

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

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

27 (g) (1) To hold hearings, subpoena witnesses, compel their
28 attendance, administer oaths, take testimony of any person under
29 oath or affirmation and, in connection therewith, to require the
30 production for examination of any books and papers relating to

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

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

26 (h) To inspect upon request such records of the Commonwealth
27 or any political subdivision, board, department, commission or
28 school district thereof as it may deem necessary or advisable to
29 carry into effect the provisions of this act.

30 (i) To create such advisory agencies and conciliation

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

16 (j) To issue such publications and such results of
17 investigations and research as, in its judgment, will tend to
18 promote good will and minimize or eliminate discrimination
19 because of race, color, familial status, religious creed,
20 ancestry, age, sex, national origin or handicap or disability.

21 (k) [From time to time but not less than once a year, to
22 report to the General Assembly and the Governor describing in
23 detail the investigations, proceedings and hearings it has
24 conducted and their outcome, the decisions it has rendered and
25 the other work performed by it, and make recommendations for
26 such further legislation concerning abuses and discrimination
27 because of race, color, religious creed, ancestry, age, sex,
28 national origin or handicap or disability as may be desirable.]
29 To submit an annual report for each fiscal year by the following
30 March 31 to the General Assembly, the Labor and Industry

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

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

16 [(m) To submit annually a report to the Labor and Industry
17 Committee of the Senate and the State Government Committee of
18 the House, with a description of the types of complaints
19 received, status of cases, Commission action which has been
20 taken, how many were found to have probable cause, how many were
21 resolved by public hearing and the length of time from the
22 initial complaint to final Commission resolution.]

23 (n) To notify local human relations commissions of
24 complaints received by the Pennsylvania Human Relations
25 Commission involving persons within a commission's jurisdiction.
26 The Pennsylvania Human Relations Commission may enter into work-
27 sharing agreements with those local commissions having
28 comparable jurisdiction and enforcement authority.

29 (o) To prepare and publish all findings of fact, conclusions
30 of the law, final decisions and orders made after a public

1 hearing by the hearing examiners, Commission panel or full
2 Commission.

3 (p) To give public access to the commission's compliance
4 manual.

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

7 Section 5. Section 8 of the act, amended December 16, 1986
8 (P.L.1626, No.186), is amended to read:

9 Section 8. Educational Program.--

10 The Commission, in cooperation with the Department of
11 Education, is authorized to prepare a comprehensive educational
12 program, designed for the students of the schools in this
13 Commonwealth and for all other residents thereof, in order to
14 eliminate prejudice against and to further good will among all
15 persons, without regard to race, color, familial status,
16 religious creed, ancestry, age, sex, national origin, handicap
17 or disability.

18 Section 6. Section 9 of the act, amended December 9, 1982
19 (P.L.1053, No.247) and December 16, 1986 (P.L.1626, No.186), is
20 amended to read:

21 Section 9. Procedure.--(a) Any person claiming to be
22 aggrieved by an alleged unlawful discriminatory practice may
23 make, sign and file with the Commission a verified complaint, in
24 writing, which shall state the name and address of the person,
25 employer, labor organization or employment agency alleged to
26 have committed the unlawful discriminatory practice complained
27 of, and which shall set forth the particulars thereof and
28 contain such other information as may be required by the
29 Commission. Commission representatives shall not modify the
30 substance of the complaint. The Commission upon its own

1 initiative or the Attorney General may, in like manner, make,
2 sign and file such complaint. Any employer whose employes, or
3 some of them, hinder or threaten to hinder compliance with the
4 provisions of this act may file with the Commission a verified
5 complaint, asking for assistance by conciliation or other
6 remedial action and, during such period of conciliation or other
7 remedial action, no hearings, orders or other actions shall be
8 taken by the Commission against such employer.

9 (b) (1) After the filing of any complaint, or whenever
10 there is reason to believe that an unlawful discriminatory
11 practice has been committed, the Commission shall make a prompt
12 investigation in connection therewith.

13 (2) The Commission shall send a copy of the complaint to the
14 named respondent within thirty days from the date of docketing
15 the complaint, unless otherwise required by the Fair Housing
16 Act.

17 (3) A respondent shall file a written, verified answer to
18 the complaint within thirty days of service of the complaint,
19 unless otherwise required by the Fair Housing Act. The
20 Commission, upon request of the respondent, may grant an
21 extension of not more than thirty additional days, unless
22 otherwise required by the Fair Housing Act.

23 (4) After service of the complaint, the Commission shall
24 encourage voluntary and informed predetermination settlements
25 between parties.

26 (c) If it shall be determined after such investigation that
27 no probable cause exists for crediting the allegations of the
28 complaint, the Commission shall, within ten days from such
29 determination, cause to be issued and served upon the
30 complainant written notice of such determination, and the said

1 complainant or his attorney may, within ten days after such
2 service, file with the Commission a written request for a
3 preliminary hearing before the Commission to determine probable
4 cause for crediting the allegations of the complaint. If it
5 shall be determined after such investigation that probable cause
6 exists for crediting the allegations of the complaint, the
7 Commission shall immediately endeavor to eliminate the unlawful
8 discriminatory practice complained of by conference,
9 conciliation and persuasion. The members of the Commission and
10 its staff shall not disclose what has transpired in the course
11 of such endeavors: Provided, That the Commission may publish the
12 facts in the case of any complaint which has been dismissed, and
13 the terms of conciliation when the complaint has been adjusted,
14 without disclosing, except as required by the Fair Housing Act,
15 the identity of the parties involved.

16 (d) In case of failure so to eliminate such practice or in
17 advance thereof, if in the judgment of the Commission
18 circumstances so warrant, the Commission shall cause to be
19 issued and served a written notice, together with a copy of such
20 complaint as the same may have been amended, requiring the
21 person, employer, labor organization or employment agency named
22 in such complaint, hereinafter referred to as respondent, to
23 answer the charges of such complaint at a hearing before the
24 Commission at a time and place to be specified in such notice.
25 The place of any such hearing shall be in the county in which
26 the alleged offense was committed.

27 (d.1) (1) When notice of hearing is given as set forth in
28 subsection (d) and an election procedure is required by the Fair
29 Housing Act, either party may elect to have the claim asserted
30 in the complaint decided in a civil action brought under the

1 original jurisdiction of Commonwealth Court. The written notice
2 of the Commission shall be sent to all parties and will inform
3 them of their right to take civil action. An election must be
4 made within twenty days after receipt of the notice of hearing.
5 A party making this election shall notify the Commission and all
6 other parties. If an election for civil action is made by either
7 party, the Commission shall, within thirty days from the date of
8 election, commence and maintain a civil action on behalf of the
9 complainant. Provided, however, That whenever the Attorney
10 General signs and files the complaint pursuant to subsection
11 (a), the Attorney General shall, within thirty days from the
12 date of election, commence and maintain a civil action on behalf
13 of the complainant. In those cases commenced by the Attorney
14 general, the Commission shall have the right to intervene.
15 Nothing in this section shall be construed as restricting the
16 power of the Attorney General under the act of October 15, 1980
17 (P.L.950, No.164), known as the "Commonwealth Attorneys Act."

18 (2) All filing fees shall be waived for the Commission and
19 all parties in any action brought under this section, including
20 the action brought under Commonwealth Court's original
21 jurisdiction and any appeal arising out of such action.

22 (3) If, after a trial held pursuant to this subsection,
23 Commonwealth Court finds that a respondent engaged in or is
24 engaging in any unlawful discriminatory practice as defined in
25 this act, the court may award attorney fees and costs to the
26 complainant on whose behalf the Commission commenced the action.

27 (4) If, after a trial held pursuant to this subsection,
28 Commonwealth Court finds that a respondent has not engaged in or
29 is not engaging in any unlawful discriminatory practice as
30 defined in this act, the court may award attorney fees and costs

1 to the prevailing respondent if the respondent proves that the
2 complaint upon which the civil action was based was brought in
3 bad faith.

4 (e) The case in support of the complaint shall be presented
5 before the Commission or before a permanent hearing examiner
6 designated by the Commission for the purpose of hearing said
7 complaint by one of its attorneys or agents, by the
8 complainant's attorney or by a designated agent of the
9 complainant. The respondent may file a written, verified answer
10 to the complaint and appear at such hearing in person or
11 otherwise, with or without counsel, and submit testimony. The
12 complainant may likewise appear at such hearing in person or
13 otherwise, with or without counsel, and submit testimony. The
14 Commission or the complainant shall have the power reasonably
15 and fairly to amend any complaint, and the respondent shall have
16 like power to amend his answer. The Commission shall not be
17 bound by the strict rules of evidence prevailing in courts of
18 law or equity. The testimony taken at the hearing shall be under
19 oath and be transcribed.

20 (f) (1) If, upon all the evidence at the hearing, the
21 Commission shall find that a respondent has engaged in or is
22 engaging in any unlawful discriminatory practice as defined in
23 this act, the Commission shall state its findings of fact, and
24 shall issue and cause to be served on such respondent an order
25 requiring such respondent to cease and desist from such unlawful
26 discriminatory practice and to take such affirmative action,
27 including, but not limited to, reimbursement of certifiable
28 travel expenses in matters involving the complaint, [not to
29 exceed fifty dollars (\$50),] compensation for loss of work in
30 matters involving the complaint, [not to exceed two hundred

1 dollars (\$200),] hiring, reinstatement or upgrading of employes,
2 with or without back pay, admission or restoration to membership
3 in any respondent labor organization, the making of reasonable
4 accommodations, or selling or leasing specified housing
5 accommodations or commercial property upon such equal terms and
6 conditions and with such equal facilities, services and
7 privileges or lending money, whether or not secured by mortgage
8 or otherwise for the acquisition, construction, rehabilitation,
9 repair or maintenance of housing accommodations or commercial
10 property, upon such equal terms and conditions to any person
11 discriminated against or all persons, and all other items or
12 amounts of actual damages, as, in the judgment of the
13 Commission, will effectuate the purposes of this act, and
14 including a requirement for report of the manner of compliance.

15 (2) Such order may also assess a civil penalty against the
16 respondent in a complaint of discrimination filed under sections
17 5(h) or 5.3 of this act:

18 (i) in an amount not exceeding ten thousand dollars
19 (\$10,000) if the respondent has not been adjudged to have
20 committed any prior discriminatory practice;

21 (ii) in an amount not exceeding twenty-five thousand dollars
22 (\$25,000) if the respondent has been adjudged to have committed
23 one other discriminatory practice during the five-year period
24 ending on the date of this order; or

25 (iii) in an amount not exceeding fifty thousand dollars
26 (\$50,000) if the respondent has been adjudged to have committed
27 more than one other discriminatory practice during the seven-
28 year period ending on the date of this order. If however, the
29 acts constituting the discriminatory practice that is the object
30 of the charge are committed by the same natural person who has

1 been previously adjudged to have committed acts constituting a
2 discriminatory practice, then the civil penalties set forth in
3 subparagraphs (ii) and (iii) may be imposed without regard to
4 the period of time within which any subsequent discriminatory
5 practice occurred.

6 (3) When the respondent is a licensee of the Commonwealth,
7 the Commission shall inform the appropriate State licensing
8 authority of the order with the request that the licensing
9 authority take such action as it deems appropriate against such
10 licensee. An appeal from the Commission's order shall act as a
11 supersedeas and stay such action by the State licensing
12 authority until a final decision on said appeal. If, upon all
13 the evidence, the Commission shall find that a respondent has
14 not engaged in any such unlawful discriminatory practice, the
15 Commission shall state its findings of fact, and shall issue and
16 cause to be served on the complainant an order dismissing the
17 said complaint as to such respondent.

18 (f.1) If, upon all the evidence at the hearing, the
19 Commission shall find that a respondent has engaged in or is
20 engaging in any unlawful discriminatory practice as defined in
21 this act, the Commission may award attorney fees and costs to
22 prevailing complainants.

23 (f.2) If, upon all the evidence at the hearing, the
24 Commission shall find that a respondent has not engaged in or is
25 not engaging in any unlawful discriminatory practice as defined
26 in this act, the Commission may award attorney fees and costs to
27 a prevailing respondent if the respondent proves that the
28 complaint was brought in bad faith.

29 (g) The Commission shall establish rules or practice to
30 govern, expedite and effectuate the foregoing procedure and its

1 own actions thereunder. Three or more members of the Commission
2 or a permanent hearing examiner designated by the Commission
3 shall constitute the Commission for any hearing required to be
4 held by the Commission under this act. The recommended findings,
5 conclusions and order made by said members or permanent hearing
6 examiner shall be reviewed and approved or reversed by the
7 Commission before such order may be served upon the parties to
8 the complaint. The recommended findings, conclusions and order
9 made by said members or permanent hearing examiner shall become
10 a part of the permanent record of the proceeding and shall
11 accompany any order served upon the parties to the complaint.

12 (h) Any complaint filed pursuant to this section must be so
13 filed within one hundred eighty days after the alleged act of
14 discrimination, unless otherwise required by the Fair Housing
15 Act.

16 (i) Any complaint may be withdrawn at any time by the party
17 filing the complaint.

18 Section 7. Section 9.1 of the act is repealed.

19 Section 8. The act is amended by adding a section to read:

20 Section 9.2. Injunctions.--If the Commission concludes, at
21 any time following the filing of a complaint under this act,
22 that prompt judicial action is necessary to prevent immediate
23 and irreparable harm, the Commission may commence an action in
24 Commonwealth Court or the appropriate court of common pleas, and
25 that court may grant an appropriate preliminary or special
26 injunction pending final disposition of the complaint. Any such
27 order or relief shall be granted in accordance with Rule 1531 of
28 the Pennsylvania Rules of Civil Procedure.

29 Section 9. Section 12 of the act, amended December 19, 1974
30 (P.L.966, No.318) and December 16, 1986 (P.L.1626, No.186), is

1 amended to read:

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

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

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

24 (c) (1) In cases involving a claim of discrimination, if a
25 complainant invokes the procedures set forth in this act, that
26 individual's right of action in the courts of the Commonwealth
27 shall not be foreclosed. If within one (1) year after the filing
28 of a complaint with the Commission, the Commission dismisses the
29 complaint or has not entered into a conciliation agreement to
30 which the complainant is a party, the Commission must so notify

1 the complainant. On receipt of such a notice the complainant
2 shall be able to bring an action in the courts of common pleas
3 of the Commonwealth based on the right to freedom from
4 discrimination granted by this act.

5 (2) An action under this subsection shall be filed within
6 two years after the date of notice from the Commission closing
7 the complaint. Any complaint so filed shall be served on the
8 Commission at the time the complaint is filed in court. The
9 Commission shall notify the complainant of this requirement.

10 (3) If the court finds that the respondent has engaged in or
11 is engaging in an unlawful discriminatory practice charged in
12 the complaint, the court shall enjoin the respondent from
13 engaging in such unlawful discriminatory practice and order
14 affirmative action which may include, but is not limited to,
15 reinstatement or hiring of employees, granting of back pay, or
16 any other legal or equitable relief as the court deems
17 appropriate. Back pay liability shall not accrue from a date
18 more than three years prior to the filing of a complaint
19 charging violations of this act.

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

22 (c.1) Notwithstanding subsections (a) and (c) or any other
23 provision of this act, nothing in this act shall be deemed to
24 authorize imposition by the Commission of remedial quota relief
25 in cases involving hiring or promoting of employees of the
26 Commonwealth, its agencies or instrumentalities or employees of
27 local governments and school districts in this Commonwealth.
28 This subsection shall not, however, prohibit the voluntary
29 adoption of an affirmative action plan designed to assure that
30 all persons are accorded equality of opportunity in employment.

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

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

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

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

18 Section 10. This act, with respect to the Pennsylvania Human
19 Relations Commission, constitutes the legislation required to
20 reestablish that agency under the act of December 22, 1981
21 (P.L.508, No.142), known as the Sunset Act.

22 Section 11. The Pennsylvania Human Relations Commission
23 shall continue together with its statutory functions and duties
24 until December 31, 2001, when it shall terminate and go out of
25 existence unless reestablished or continued by the General
26 Assembly for an additional ten years. Evaluation and review,
27 termination, reestablishment and continuation of the agency
28 beyond December 31, 2001, and every tenth year thereafter, shall
29 be conducted pursuant to the act of December 22, 1981 (P.L.508,
30 No.142), known as the Sunset Act.

1 Section 12. The presently confirmed members of the existing
2 Pennsylvania Human Relations Commission, as of December 31,
3 1991, shall continue to serve as members until their present
4 terms of office expire and until their successors are appointed
5 and qualified.

6 Section 13. Each rule and regulation of the Pennsylvania
7 Human Relations Commission in effect on December 31, 1991, shall
8 remain in effect until repealed or amended by the Pennsylvania
9 Human Relations Commission.

10 Section 14. If enacted after December 31, 1991, this act
11 shall be retroactive to that date.

12 Section 15. This act shall take effect immediately.