

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1827 Session of
1991

INTRODUCED BY BATTISTO, STRITTMATTER, ROEBUCK, GIGLIOTTI, LEH
AND OLIVER, JUNE 26, 1991

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JUNE 26, 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. The title of the act of October 27, 1955
23 (P.L.744, No.222), known as the Pennsylvania Human Relations
24 Act, amended February 28, 1961 (P.L.47, No.19), is amended to
25 read:

26 AN ACT

1 Prohibiting certain practices of discrimination because of race,
2 color, religious creed, ancestry, age or national origin by
3 employers, employment agencies, labor organizations and
4 others as herein defined; creating the Pennsylvania Human
5 Relations Commission in the [Department of Labor and
6 Industry] Governor's Office; defining its functions, powers
7 and duties; providing for procedure and enforcement;
8 providing for formulation of an educational program to
9 prevent prejudice; providing for judicial review and
10 enforcement and imposing penalties.

11 Section 2. Sections 2 and 3 of the act, amended December 16,
12 1986 (P.L.1626, No.186), are amended to read:

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

14 (a) The practice or policy of discrimination against
15 individuals or groups by reason of their race, color, familial
16 status, religious creed, ancestry, age, sex, national origin,
17 handicap or disability, use of guide [animals because of
18 blindness or deafness of the user, use of support animals
19 because of a] or support animals because of the blindness,
20 deafness or physical handicap of the user or because the user is
21 a handler or trainer of support or guide animals[, age, sex, or
22 national origin] is a matter of concern of the Commonwealth.
23 Such discrimination foments domestic strife and unrest,
24 threatens the rights and privileges of the inhabitants of the
25 Commonwealth, and undermines the foundations of a free
26 democratic state. The denial of equal employment, housing and
27 public accommodation opportunities because of such
28 discrimination, and the consequent failure to utilize the
29 productive capacities of individuals to their fullest extent,
30 deprives large segments of the population of the Commonwealth of

1 earnings necessary to maintain decent standards of living,
2 necessitates their resort to public relief and intensifies group
3 conflicts, thereby resulting in grave injury to the public
4 health and welfare, compels many individuals to live in
5 dwellings which are substandard, unhealthful and overcrowded,
6 resulting in racial segregation in public schools and other
7 community facilities, juvenile delinquency and other evils,
8 thereby threatening the peace, health, safety and general
9 welfare of the Commonwealth and its inhabitants.

10 (b) It is hereby declared to be the public policy of this
11 Commonwealth to foster the employment of all individuals in
12 accordance with their fullest capacities regardless of their
13 race, color, religious creed, ancestry, age, sex, national
14 origin, handicap or disability, use of guide [dogs because of
15 blindness or deafness of the user, use of support animals
16 because of a] or support animals because of the blindness,
17 deafness or physical handicap of the user or because the user is
18 a handler or trainer of support or guide animals, [age, sex, or
19 national origin,] and to safeguard their right to obtain and
20 hold employment without such discrimination, to assure equal
21 opportunities to all individuals and to safeguard their rights
22 to public accommodation and to secure housing accommodation and
23 commercial property regardless of race, color, familial status,
24 religious creed, ancestry, [sex,] age, sex, national origin,
25 handicap or disability, use of guide or support animals because
26 of blindness or deafness of the user [or national origin] or
27 because the user is a handler or trainer of guide or support
28 animals.

29 (c) This act shall be deemed an exercise of the police power
30 of the Commonwealth for the protection of the public welfare,

1 prosperity, health and peace of the people of the Commonwealth
2 of Pennsylvania.

3 Section 3. Right to Freedom from Discrimination in
4 Employment, Housing and Public Accommodation.--The opportunity
5 for an individual to obtain employment for which he is
6 qualified, and to obtain all the accommodations, advantages,
7 facilities and privileges of any public accommodation and of any
8 housing accommodation and commercial property without
9 discrimination because of race, color, familial status,
10 religious creed, ancestry, handicap or disability, age, sex,
11 national origin, the use of a guide or support animal because of
12 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 hereby recognized as and declared to be a civil right
15 which shall be enforceable as set forth in this act.

16 Section 3. Section 4 of the act, amended February 28, 1961
17 (P.L.47, No.19), January 24, 1966 (1965 P.L.1523, No.533),
18 November 29, 1967 (P.L.632, No.291), December 19, 1974 (P.L.966,
19 No.318), November 26, 1978 (P.L.1292, No.309), December 9, 1982
20 (P.L.1053, No.247), December 15, 1982 (P.L.1267, No.288) and
21 December 16, 1986 (P.L.1626, No.186), is amended to read:

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

24 (a) The term "person" includes one or more individuals,
25 partnerships, associations, organizations, corporations, legal
26 representatives, trustees in bankruptcy or receivers. It also
27 includes, but is not limited to, any owner, lessor, assignor,
28 builder, manager, broker, salesman, agent, employe, independent
29 contractor, lending institution and the Commonwealth of
30 Pennsylvania, and all political subdivisions, authorities,

1 boards and commissions thereof.

2 (b) The term "employer" includes the Commonwealth or any
3 political subdivision or board, department, commission or school
4 district thereof and any person employing four or more persons
5 within the Commonwealth, but except as hereinafter provided,
6 does not include religious, fraternal, charitable or sectarian
7 corporations or associations, except such corporations or
8 associations supported, in whole or in part, by governmental
9 appropriations. The term "employer" with respect to
10 discriminatory practices based on race, color, age, sex,
11 national origin or non-job related handicap or disability,
12 includes religious, fraternal, charitable and sectarian
13 corporations and associations employing four or more persons
14 within the Commonwealth.

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

21 (d) The term "labor organizations" includes any organization
22 which exists for the purpose, in whole or in part, of collective
23 bargaining or of dealing with employers concerning grievances,
24 terms or conditions of employment or of other mutual aid or
25 protection in relation to employment.

26 (e) The term "employment agency" includes any person
27 regularly undertaking, with or without compensation, to procure
28 opportunities to work or to procure, recruit, refer or place
29 employees.

30 (f) The term "Commission" means the Pennsylvania Human

1 Relations Commission created by this act.

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

3 (h) The term "age" includes any person [between the ages of
4 forty and seventy inclusive] forty years of age or older and
5 shall also include any other person so protected by further
6 amendment to the Federal Age Discrimination in Employment Act.

7 (i) The term "housing accommodations" includes (1) any
8 building, structure, mobile home site or facility, or portion
9 thereof, which is used or occupied or is intended, arranged or
10 designed to be used or occupied as the home residence or
11 sleeping place of one or more individuals, groups or families
12 whether or not living independently of each other; and (2) any
13 vacant land offered for sale, lease or held for the purpose of
14 constructing or locating thereon any such building, structure,
15 mobile home site or facility. The term "housing accommodation"
16 shall not include any personal residence offered for rent by the
17 owner or lessee thereof or by his or her broker, salesperson,
18 agent or employe.

19 (j) The term "commercial property" means (1) any building,
20 structure or facility, or portion thereof, which is used,
21 occupied or is intended, arranged or designed to be used or
22 occupied for the purpose of operating a business, an office, a
23 manufactory or any public accommodation; and (2) any vacant land
24 offered for sale, lease or held for the purpose of constructing
25 or locating thereon any such building, structure, facility,
26 business concern or public accommodation.

27 (k) The term "personal residence" means a building or
28 structure containing living quarters occupied or intended to be
29 occupied by no more than two individuals, two groups or two
30 families living independently of each other and used by the

1 owner or lessee thereof as a bona fide residence for himself and
2 any members of his family forming his household.

3 (1) The term "public accommodation, resort or amusement"
4 means any accommodation, resort or amusement which is open to,
5 accepts or solicits the patronage of the general public,
6 including but not limited to inns, taverns, roadhouses, hotels,
7 motels, whether conducted for the entertainment of transient
8 guests or for the accommodation of those seeking health,
9 recreation or rest, or restaurants or eating houses, or any
10 place where food is sold for consumption on the premises,
11 buffets, saloons, barrooms or any store, park or enclosure where
12 spirituous or malt liquors are sold, ice cream parlors,
13 confectioneries, soda fountains and all stores where ice cream,
14 ice and fruit preparations or their derivatives, or where
15 beverages of any kind are retailed for consumption on the
16 premises, drug stores, dispensaries, clinics, hospitals,
17 bathhouses, swimming pools, barber shops, beauty parlors, retail
18 stores and establishments, theatres, motion picture houses,
19 airdromes, roof gardens, music halls, race courses, skating
20 rinks, amusement and recreation parks, fairs, bowling alleys,
21 gymnasiums, shooting galleries, billiard and pool parlors,
22 public libraries, kindergartens, primary and secondary schools,
23 high schools, academies, colleges and universities, extension
24 courses and all educational institutions under the supervision
25 of this Commonwealth, nonsectarian cemeteries, garages and all
26 public conveyances operated on land or water or in the air as
27 well as the stations, terminals and airports thereof, financial
28 institutions and all Commonwealth facilities and services,
29 including such facilities and services of all political
30 subdivisions thereof, but shall not include any accommodations

1 which are in their nature distinctly private.

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

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

7 (o) The term "local commission" means a Human Relations
8 Commission created by the legislative body of a political
9 subdivision.

10 (p) The term "non-job related handicap or disability" means
11 any handicap or disability which does not substantially
12 interfere with the ability to perform the essential functions of
13 the employment which a handicapped person applies for, is
14 engaged in or has been engaged in. Uninsurability or increased
15 cost of insurance under a group or employee insurance plan does
16 not render a handicap or disability job related.

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

19 (1) a physical or mental impairment which substantially
20 limits one or more major life activities;

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

22 (3) is regarded as having such an impairment.

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

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

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

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

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

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

9 The protections afforded against discrimination on the basis of
10 familial status shall apply to any person who is pregnant or is
11 in the process of securing legal custody of any individual who
12 has not attained the age of 18 years.

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

15 (v) The term "accessible" means being in compliance with the
16 accessibility standards set forth in the following:

17 (1) the Fair Housing Act (Public Law 90-284, 42 U.S.C. §
18 3601 et seq.);

19 (2) the Americans with Disabilities Act of 1990 (Public Law
20 101-336, 42 U.S.C. § 12101 et seq.);

21 (3) the act of September 1, 1965 (P.L.459, No.235),
22 entitled, as amended, "An act requiring that certain buildings
23 and facilities adhere to certain principles, standards and
24 specifications to make the same accessible to and usable by
25 persons with physical handicaps, and providing for enforcement";
26 and

27 (4) any other applicable Federal or State law or regulation,
28 or any local ordinance or resolution, relating to accessibility
29 or accommodations.

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

1 (i) provided under any Federal or State program that the
2 Pennsylvania Human Relations Commission determines is
3 specifically designed and operated to assist elderly persons as
4 defined in the Federal or State program;

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

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

9 (2) In determining whether housing qualifies as housing for
10 older persons under this clause (w), the Pennsylvania Human
11 Relations Commission's requirements shall include, but not be
12 limited to, the following:

13 (i) the existence of significant facilities and services
14 specifically designed to meet the physical or social needs of
15 older persons, or if the provision of such facilities and
16 services is not practicable, that such housing is necessary to
17 provide important housing opportunities for older persons;

18 (ii) that at least eighty percent of the units are occupied
19 by at least one person fifty-five years of age or older per
20 unit; and

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

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

28 (x) The term "independent contractor" includes any person
29 who is subject to the provisions governing any of the
30 professions and occupations regulated by State licensing laws

1 enforced by the Bureau of Professional and Occupational Affairs
2 in the Department of State, or is included in the Fair Housing
3 Act (Public Law 90-284, 42 U.S.C. § 3601 et seq.).

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

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

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

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

11 Section 4. Sections 5, 5.3 and 6 of the act, added or
12 amended December 16, 1986 (P.L.1626, No.186), are amended to
13 read:

14 Section 5. Unlawful Discriminatory Practices.--It shall be
15 an unlawful discriminatory practice, unless based upon a bona
16 fide occupational qualification, or in the case of a fraternal
17 corporation or association, unless based upon membership in such
18 association or corporation, or except where based upon
19 applicable security regulations established by the United States
20 or the Commonwealth of Pennsylvania:

21 (a) For any employer because of the race, color, religious
22 creed, ancestry, age, sex, national origin or non-job related
23 handicap or disability, or the use of a guide or support animal
24 because of the blindness, deafness or physical handicap of any
25 individual or independent contractor, to refuse to hire or
26 employ or contract with, or to bar or to discharge from
27 employment such individual or independent contractor, or to
28 otherwise discriminate against such individual or independent
29 contractor with respect to compensation, hire, tenure, terms,
30 conditions or privileges of employment or contract, if the

1 individual or independent contractor is the best able and most
2 competent to perform the services required. The provision of
3 this paragraph shall not apply, to (1) [termination of
4 employment because of the terms or conditions of any bona fide
5 retirement or pension plan, (2)] operation of the terms or
6 conditions of any bona fide retirement or pension plan which
7 have the effect of a minimum service requirement, [(3)] (2)
8 operation of the terms or conditions of any bona fide group or
9 employe insurance plan, [(4)] (3) age limitations placed upon
10 entry into bona fide apprenticeship programs of two years or
11 more approved by the State Apprenticeship and Training Council
12 of the Department of Labor and Industry, established by the act
13 of July 14, 1961 (P.L.604, No.304), known as "The Apprenticeship
14 and Training Act." Notwithstanding any provision of this clause,
15 it shall not be an unlawful employment practice for a religious
16 corporation or association to hire or employ on the basis of sex
17 in those certain instances where sex is a bona fide occupational
18 qualification because of the religious beliefs, practices, or
19 observances of the corporation, or association.

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

23 (1) Elicit any information or make or keep a record of or
24 use any form of application or application blank containing
25 questions or entries concerning the race, color, religious
26 creed, ancestry, age, sex, national origin [or], past handicap
27 or disability, or the use of a guide or support animal because
28 of the blindness, deafness or physical handicap of any applicant
29 for employment or membership. [An employer may inquire as to the
30 existence and nature of a present handicap or disability. To

1 determine whether such handicap or disability substantially
2 interferes with the ability to perform the essential function of
3 the employment which is applied for, is being engaged in, or has
4 been engaged in, the employer must inquire beyond the mere
5 existence of a handicap or disability.] Prior to an offer of
6 employment, an employer may not inquire as to whether an
7 individual has a handicap or disability or as to the severity of
8 such handicap or disability. An employer may inquire as to the
9 individual's ability to perform the essential functions of the
10 employment.

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

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

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

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

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

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

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

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

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

1 discriminatory practice.

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

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

16 (h) For any person to:

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

30 (1.1) Evict or attempt to evict an occupant of any housing

1 accommodation before the end of the term of a lease because of
2 pregnancy or the birth of a child.

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

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

1 (4) Discriminate against any person in the terms or
2 conditions of any loan of money, whether or not secured by
3 mortgage or otherwise for the acquisition, construction,
4 rehabilitation, repair or maintenance of housing accommodation
5 or commercial property because of the race, color, familial
6 status, age, religious creed, ancestry, sex, national origin or
7 handicap or disability of any [present or prospective owner,
8 occupant or user of any housing accommodation or commercial
9 property] person, the use of a guide or support animal because
10 of the blindness, deafness or physical handicap of the user or
11 because the user is a handler or trainer of guide or support
12 animals or because of the handicap or disability of an
13 individual with whom the person is known to have a relationship
14 or association.

15 (5) Print, publish or circulate any statement or
16 advertisement: (i) relating to the sale, lease or acquisition of
17 any housing accommodation or commercial property or the loan of
18 money, whether or not secured by mortgage, or otherwise for the
19 acquisition, construction, rehabilitation, repair or maintenance
20 of any housing accommodation or commercial property which
21 indicates any preference, limitation, specification, or
22 discrimination based upon race, color, familial status, age,
23 religious creed, ancestry, sex, national origin [or], handicap
24 or disability or because of the handicap or disability of an
25 individual with whom the person is known to have a relationship
26 or association, or (ii) relating to the [lease] sale, lease or
27 acquisition of any housing accommodation or commercial property
28 which indicates any preference, limitation, specification or
29 discrimination based upon use of a guide or support animal
30 because of the blindness, deafness or physical handicap of the

1 user or because the user is a handler or trainer of support or
2 guide animals.

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

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

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

26 (i) It shall be unlawful for any person or other entity
27 whose business includes engaging in real estate-related
28 transactions to discriminate against any person in making
29 available such a transaction, or in the terms of conditions of
30 such a transaction, because of race, color, religious creed,

ancestry, 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, 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.

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

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

(i) For any person being the owner, lessee, proprietor,

1 manager, superintendent, agent or employe of any [place of]
2 public accommodation, resort or amusement to:

3 (1) Refuse, withhold from, or deny to any person because of
4 his race, color, sex, religious creed, ancestry, national origin
5 or handicap or disability, or to any person due to use of a
6 guide or support animal because of the blindness, deafness or
7 physical handicap of the user or because the user is a handler
8 or trainer of support or guide animals, either directly or
9 indirectly, any of the accommodations, advantages, facilities or
10 privileges of such [place of] public accommodation, resort or
11 amusement.

12 (2) Publish, circulate, issue, display, post or mail, either
13 directly or indirectly, any written or printed communication,
14 notice or advertisement to the effect that any of the
15 accommodations, advantages, facilities and privileges of any
16 such place shall be refused, withheld from or denied to any
17 person on account of race, color, religious creed, sex,
18 ancestry, national origin or handicap or disability, or to any
19 person due to use of a guide or support animal because of the
20 blindness, deafness or physical handicap of the user, or because
21 the user is a handler or trainer of support or guide animals, or
22 that the patronage or custom thereat of any person, belonging to
23 or purporting to be of any particular race, color, religious
24 creed, sex, ancestry, national origin or handicap or disability,
25 or to any person due to 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 support or guide
28 animals, is unwelcome, objectionable or not acceptable, desired
29 or solicited.

30 (3) Exclude or otherwise deny equal goods, services,

1 facilities, privileges, advantages, accommodations or other
2 opportunities to a person because of the handicap or disability
3 of an individual with whom the person is known to have a
4 relationship or association.

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

8 [Nothing in clause (h) of this section shall bar any
9 religious or denominational institution or organization or any
10 charitable or educational organization, which is operated,
11 supervised or controlled by or in connection with a religious
12 organization or any bona fide private or fraternal organization
13 from giving preference to persons of the same religion or
14 denomination or to members of such private or fraternal
15 organization or from making such selection as is calculated by
16 such organization to promote the religious principles or the
17 aims, purposes or fraternal principles for which it is
18 established or maintained. Nor shall it apply to the rental of
19 rooms or apartments in a landlord occupied rooming house with a
20 common entrance.]

21 (j) For any person subject to the act to fail to post and
22 exhibit prominently in his place of business any fair practices
23 notice prepared and distributed by the Pennsylvania Human
24 Relations Commission.

25 (k) For any employer to discriminate against an employe or a
26 prospective employe because the employe only has a general
27 education development certificate as compared to a high school
28 diploma. However, should vocational technical training or other
29 special training be required with regard to a specific position,
30 then such training or special training may be considered by the

1 employer.

2 (1) To exclude or otherwise deny equal jobs or benefits to a
3 person because of the handicap or disability of an individual
4 with whom the person is known to have a relationship or
5 association.

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

9 Section 5.3. Prohibition of Certain Real Estate Practices.--
10 It shall be an unlawful discriminatory practice for any person
11 to:

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

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

30 (c) Misrepresent, create or distort a circumstance,

1 condition or incident for the purpose of fostering the
2 impression or belief, on the part of any owner, occupant or
3 prospective owner or occupant of any housing accommodation or
4 commercial property, that such housing accommodation or
5 commercial property is within any neighborhood, community or
6 area adjacent to any other area which would be adversely
7 impacted by the residence, or future increased or decreased
8 residence, of persons of a particular race, color, familial
9 status, age, religious creed, ancestry, sex, national origin,
10 handicap or disability, or who are guide or support animal
11 dependent within such neighborhood, community or area.

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

26 Section 6. Pennsylvania Human Relations Commission.--(a)
27 There shall be, and there is hereby established in the
28 Governor's Office a non-partisan, departmental administrative
29 commission for the administration of this act, which shall be
30 known as the "Pennsylvania Human Relations Commission," and

1 which is hereinafter referred to as the "Commission."

2 **(b)** Said Commission shall consist of eleven members, to be
3 known as Commissioners, who shall be appointed by the Governor
4 by and with the advice and consent of a majority of the members
5 of the Senate, not more than six of such Commissioners to be
6 from the same political party, and each of whom shall hold
7 office for a term of five years or until his successor shall
8 have been duly appointed and qualified. Vacancies occurring in
9 an office of a member of the Commission by expiration of term,
10 death, resignation, removal or for any other reason shall be
11 filled in the manner aforesaid for the balance of that term.
12 Commission members failing to attend meetings for three
13 consecutive months shall forfeit their seats unless the
14 chairperson of the commission receives written notification from
15 the member involved that the absence was due to personal illness
16 or the death or illness of an immediate family member.

17 **(c)** Subject to the provisions of this act, the Commission
18 shall have all the powers and shall perform the duties generally
19 vested in and imposed upon departmental administrative boards
20 and commissions by the act, approved the ninth day of April, one
21 thousand nine hundred twenty-nine (Pamphlet Laws 177), known as
22 "The Administrative Code of one thousand nine hundred twenty-
23 nine," and its amendments, and shall be subject to all the
24 provisions of such code which apply generally to departmental
25 administrative boards and commissions.

26 **(d)** The Governor shall designate one of the members of the
27 Commission to be its [chairman] chairperson who shall preside at
28 all meetings of the Commission and perform all the duties and
29 functions of the [chairman] chairperson thereof. The Commission
30 may designate one of its members to act as [chairman]

1 chairperson during the absence or incapacity of the [chairman]
2 chairperson and, when so acting, the member so designated shall
3 have and perform all the powers and duties of the [chairman]
4 chairperson of the Commission.

5 (e) Six members of the Commission or a majority of those
6 duly appointed and qualified shall constitute a quorum for
7 transacting business, and a majority vote of those present at
8 any meeting shall be sufficient for any official action taken by
9 the Commission.

10 (f) Each member of the Commission shall receive per diem
11 compensation at the rate of sixty dollars (\$60) per day for the
12 time actually devoted to the business of the Commission. Members
13 shall also receive the amount of reasonable traveling, hotel and
14 other necessary expenses incurred in the performance of their
15 duties in accordance with Commonwealth regulations.

16 (g) The Commission shall adopt an official seal by which its
17 acts and proceedings shall be authenticated, and of which the
18 courts shall take judicial notice. The certificate of the
19 [chairman] chairperson of the Commission, under the seal of the
20 Commission and attested by the secretary, shall be accepted in
21 evidence in any judicial proceeding in any court of this
22 Commonwealth as adequate and sufficient proof of the acts and
23 proceedings of the Commission therein certified to.

24 Section 5. Section 7 of the act, amended February 28, 1961
25 (P.L.47, No.19), December 27, 1965 (P.L.1224, No.497), October
26 11, 1967 (P.L.426, No.191), December 9, 1982 (P.L.1053, No.247),
27 December 16, 1986 (P.L.1626, No.186) and repealed in part April
28 28, 1978 (P.L.202, No.53), is amended to read:

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

1 (a) To establish and maintain a central office in the City
2 of Harrisburg.

3 (b) To meet and function at any place within the
4 Commonwealth.

5 (c) To appoint such attorneys and permanent hearing
6 examiners and other employees and agents as it may deem
7 necessary, fix their compensation within the limitations
8 provided by law, and prescribe their duties. Permanent hearing
9 examiners shall perform no duties inconsistent with their duties
10 and responsibilities as permanent hearing examiners.

11 (c.1) To conduct mandatory training seminars on the
12 Pennsylvania Human Relations Act and other applicable Federal
13 and State law, procedures and rules for all investigative
14 personnel.

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

18 (c.3) To appoint attorneys to perform the following
19 functions: (1) render legal advice to Commission members on
20 matters appearing before it; or (2) give legal assistance to
21 complainants appearing before the Commission or hearing
22 examiners. These responsibilities shall require a separate staff
23 of attorneys to perform each function.

24 (d) To adopt, promulgate, amend and rescind rules and
25 regulations to effectuate the policies and provisions of this
26 act.

27 (e) To formulate policies to effectuate the purposes of this
28 act, and make recommendations to agencies and officers of the
29 Commonwealth or political subdivisions of government or board,
30 department, commission or school district thereof, to effectuate

1 such policies.

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

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

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

11 (g) (1) To hold hearings, subpoena witnesses, compel their
12 attendance, administer oaths, take testimony of any person under
13 oath or affirmation and, in connection therewith, to require the
14 production for examination of any books and papers relating to
15 any matter under investigation where a complaint has been
16 properly filed before the Commission. The Commission may make
17 rules as to the issuance of subpoenas by individual
18 Commissioners. In case of contumacy or refusal to obey a
19 subpoena issued to any person any court of jurisdiction, upon
20 application by the Commission, may issue to such person an order
21 requiring such person to appear before the Commission, there to
22 produce documentary evidence, if so ordered, or there to give
23 evidence touching the matter in question, and any failure to
24 obey such order of the court may be punished by said court as a
25 contempt thereof.

26 (2) No person shall be excused from attending and
27 testifying, or from producing records, correspondence, documents
28 or other evidence in obedience to the subpoena of the Commission
29 or of any individual Commissioner, on the ground that the
30 testimony or evidence required of him may tend to incriminate

1 him or subject him to a penalty or forfeiture, but no person
2 shall be prosecuted or subjected to any penalty or forfeiture
3 for or on account of any transaction, matter or thing concerning
4 which he is compelled, after having claimed his privilege
5 against self-incrimination, to testify or produce evidence,
6 except that such person so testifying shall not be exempt from
7 prosecution and punishment for perjury committed in so
8 testifying. The immunity herein provided shall extend only to
9 natural persons so compelled to testify.

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

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

30 (j) To issue such publications and such results of

1 investigations and research as, in its judgment, will tend to
2 promote good will and minimize or eliminate discrimination
3 because of race, color, familial status, religious creed,
4 ancestry, age, sex, national origin or handicap or disability.

5 (k) [From time to time but not less than once a year, to
6 report to the General Assembly and the Governor describing in
7 detail the investigations, proceedings and hearings it has
8 conducted and their outcome, the decisions it has rendered and
9 the other work performed by it, and make recommendations for
10 such further legislation concerning abuses and discrimination
11 because of race, color, religious creed, ancestry, age, sex,
12 national origin or handicap or disability as may be desirable.]
13 To submit an annual report for each fiscal year by the following
14 March 31 to the General Assembly, the Labor and Industry
15 Committee of the Senate and the State Government Committee of
16 the House of Representatives and the Governor describing in
17 detail the types of complaints received, the investigations,
18 status of cases, Commission action which has been taken, how
19 many were found to have probable cause, how many were resolved
20 by public hearing and the length of time from the initial
21 complaint to final Commission resolution. It shall also contain
22 recommendations for such further legislation concerning abuses
23 and discrimination because of race, color, familial status,
24 religious creed, ancestry, national origin, age, sex, handicap
25 or disability, or 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 support or guide
28 animals, as may be desirable.

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

30 [(m) To submit annually a report to the Labor and Industry

1 Committee of the Senate and the State Government Committee of
2 the House, with a description of the types of complaints
3 received, status of cases, Commission action which has been
4 taken, how many were found to have probable cause, how many were
5 resolved by public hearing and the length of time from the
6 initial complaint to final Commission resolution.]

7 (n) To notify local human relations commissions of
8 complaints received by the Pennsylvania Human Relations
9 Commission involving persons within a commission's jurisdiction.
10 The Pennsylvania Human Relations Commission may enter into work-
11 sharing agreements with those local commissions having
12 comparable jurisdiction and enforcement authority.

13 (o) To prepare and publish all findings of fact, conclusions
14 of the law, final decisions and orders made after a public
15 hearing by the hearing examiners, Commission panel or full
16 Commission.

17 (p) To give public access to the commission's compliance
18 manual.

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

21 Section 6. Section 8 of the act, amended December 16, 1986
22 (P.L.1626, No.186), is amended to read:

23 Section 8. Educational Program.--

24 The Commission, in cooperation with the Department of
25 Education, is authorized to prepare a comprehensive educational
26 program, designed for the students of the schools in this
27 Commonwealth and for all other residents thereof, in order to
28 eliminate prejudice against and to further good will among all
29 persons, without regard to race, color, familial status,
30 religious creed, ancestry, age, sex, national origin, handicap

1 or disability.

2 Section 7. Section 9 of the act, amended December 9, 1982
3 (P.L.1053, No.247) and December 16, 1986 (P.L.1626, No.186), is
4 amended to read:

5 Section 9. Procedure.--(a) Any person claiming to be
6 aggrieved by an alleged unlawful discriminatory practice may
7 make, sign and file with the Commission a verified complaint, in
8 writing, which shall state the name and address of the person,
9 employer, labor organization or employment agency alleged to
10 have committed the unlawful discriminatory practice complained
11 of, and which shall set forth the particulars thereof and
12 contain such other information as may be required by the
13 Commission. Commission representatives shall not modify the
14 substance of the complaint. The Commission upon its own
15 initiative or the Attorney General may, in like manner, make,
16 sign and file such complaint. Any employer whose employes, or
17 some of them, hinder or threaten to hinder compliance with the
18 provisions of this act may file with the Commission a verified
19 complaint, asking for assistance by conciliation or other
20 remedial action and, during such period of conciliation or other
21 remedial action, no hearings, orders or other actions shall be
22 taken by the Commission against such employer.

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

27 (2) The Commission shall send a copy of the complaint to the
28 named respondent within thirty days from the date of docketing
29 the complaint, unless otherwise required by the Fair Housing
30 Act.

1 (3) A respondent shall file a written, verified answer to
2 the complaint within thirty days of service of the complaint,
3 unless otherwise required by the Fair Housing Act. The
4 Commission, upon request of the respondent, may grant an
5 extension of not more than thirty additional days, unless
6 otherwise required by the Fair Housing Act.

7 (4) After service of the complaint, the Commission shall
8 encourage voluntary and informed predetermination settlements
9 between parties.

10 (c) If it shall be determined after such investigation that
11 no probable cause exists for crediting the allegations of the
12 complaint, the Commission shall, within ten days from such
13 determination, cause to be issued and served upon the
14 complainant written notice of such determination, and the said
15 complainant or his attorney may, within ten days after such
16 service, file with the Commission a written request for a
17 preliminary hearing before the Commission to determine probable
18 cause for crediting the allegations of the complaint. If it
19 shall be determined after such investigation that probable cause
20 exists for crediting the allegations of the complaint, the
21 Commission shall immediately endeavor to eliminate the unlawful
22 discriminatory practice complained of by conference,
23 conciliation and persuasion. The members of the Commission and
24 its staff shall not disclose what has transpired in the course
25 of such endeavors: Provided, That the Commission may publish the
26 facts in the case of any complaint which has been dismissed, and
27 the terms of conciliation when the complaint has been adjusted,
28 without disclosing, except as required by the Fair Housing Act,
29 the identity of the parties involved.

30 (d) In case of failure so to eliminate such practice or in

1 advance thereof, if in the judgment of the Commission
2 circumstances so warrant, the Commission shall cause to be
3 issued and served a written notice, together with a copy of such
4 complaint as the same may have been amended, requiring the
5 person, employer, labor organization or employment agency named
6 in such complaint, hereinafter referred to as respondent, to
7 answer the charges of such complaint at a hearing before the
8 Commission at a time and place to be specified in such notice.
9 The place of any such hearing shall be in the county in which
10 the alleged offense was committed.

11 (d.1) When notice of hearing is given as set forth in
12 subsection (d) and an election procedure is required by the Fair
13 Housing Act, either party may elect to have the claim asserted
14 in the complaint decided in a civil action brought under the
15 original jurisdiction of Commonwealth Court. The written notice
16 of the Commission shall be sent to all parties and will inform
17 them of their right to take civil action. An election must be
18 made within twenty days after receipt of the notice of hearing.
19 A party making this election shall notify the Commission and all
20 other parties. If an election for civil action is made by either
21 party, the Commission shall, within thirty days from the date of
22 election, commence and maintain a civil action on behalf of the
23 complainant. Provided, however, That whenever the Attorney
24 General signs and files the complaint pursuant to subsection
25 (a), the Attorney General shall, within thirty days from the
26 date of election, commence and maintain a civil action on behalf
27 of the complainant. In those cases commenced by the Attorney
28 General, the Commission shall have the right to intervene.
29 Nothing in this section shall be construed as restricting the
30 power of the Attorney General under the act of October 15, 1980

1 (P.L.950, No.164), known as the "Commonwealth Attorneys Act." In
2 any action brought under this subsection:

3 (1) All filing fees shall be waived for the Commission and
4 all parties, including the action brought under Commonwealth
5 Court's original jurisdiction and any appeal arising out of such
6 action.

7 (2) If, after a trial, Commonwealth Court finds that a
8 respondent engaged in or is engaging in any unlawful
9 discriminatory practice as defined in this act, the court may
10 award attorney fees and costs to the complainant on whose behalf
11 the Commission commenced the action.

12 (3) If, after a trial, Commonwealth Court finds that a
13 respondent has not engaged in or is not engaging in any unlawful
14 discriminatory practice as defined in this act, the court may
15 award attorney fees and costs to the prevailing respondent if
16 the respondent proves that the complaint upon which the civil
17 action was based was brought in bad faith.

18 (e) The case in support of the complaint shall be presented
19 before the Commission or before a permanent hearing examiner
20 designated by the Commission for the purpose of hearing said
21 complaint by one of its attorneys or agents, by the
22 complainant's attorney or by a designated agent of the
23 complainant. The respondent may [file a written, verified answer
24 to the complaint and] appear at such hearing in person or
25 otherwise, with or without counsel, and submit testimony. The
26 complainant may likewise appear at such hearing in person or
27 otherwise, with or without counsel, and submit testimony. The
28 Commission or the complainant shall have the power reasonably
29 and fairly to amend any complaint, and the respondent shall have
30 like power to amend his answer. The Commission shall not be

1 bound by the strict rules of evidence prevailing in courts of
2 law or equity. The testimony taken at the hearing shall be under
3 oath and be transcribed.

4 (f) (1) If, upon all the evidence at the hearing, the
5 Commission shall find that a respondent has engaged in or is
6 engaging in any unlawful discriminatory practice as defined in
7 this act, the Commission shall state its findings of fact, and
8 shall issue and cause to be served on such respondent an order
9 requiring such respondent to cease and desist from such unlawful
10 discriminatory practice and to take such affirmative action,
11 including, but not limited to, reimbursement of certifiable
12 travel expenses in matters involving the complaint, [not to
13 exceed fifty dollars (\$50),] compensation for loss of work in
14 matters involving the complaint, [not to exceed two hundred
15 dollars (\$200),] hiring, reinstatement or upgrading of employes,
16 with or without back pay, admission or restoration to membership
17 in any respondent labor organization, the making of reasonable
18 accommodations, or selling or leasing specified housing
19 accommodations or commercial property upon such equal terms and
20 conditions and with such equal facilities, services and
21 privileges or lending money, whether or not secured by mortgage
22 or otherwise for the acquisition, construction, rehabilitation,
23 repair or maintenance of housing accommodations or commercial
24 property, upon such equal terms and conditions to any person
25 discriminated against or all persons, and all other items or
26 amounts of actual damages, as, in the judgment of the
27 Commission, will effectuate the purposes of this act, and
28 including a requirement for report of the manner of compliance.

29 (2) Such order may also assess a civil penalty against the
30 respondent in a complaint of discrimination filed under sections

5(h) or 5.3 of this act:

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

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

(iii) in an amount not exceeding fifty thousand dollars (\$50,000) if the respondent has been adjudged to have committed more than one other discriminatory practice during the seven-year period ending on the date of this order.

If however, the acts constituting the discriminatory practice that is the object of the charge are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory practice, then the civil penalties set forth in subparagraphs (ii) and (iii) may be imposed without regard to the period of time within which any subsequent discriminatory practice occurred.

(3) When the respondent is a licensee of the Commonwealth, the Commission shall inform the appropriate State licensing authority of the order with the request that the licensing authority take such action as it deems appropriate against such licensee. An appeal from the Commission's order shall act as a supersedeas and stay such action by the State licensing authority until a final decision on said appeal.

(4) If, upon all the evidence, the Commission shall find that a respondent has not engaged in any such unlawful discriminatory practice, the Commission shall state its findings of fact, and shall issue and cause to be served on the

1 complainant an order dismissing the said complaint as to such
2 respondent.

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

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

14 (g) The Commission shall establish rules [or] of practice to
15 govern, expedite and effectuate the foregoing procedure and its
16 own actions thereunder. Three or more members of the Commission
17 or a permanent hearing examiner designated by the Commission
18 shall constitute the Commission for any hearing required to be
19 held by the Commission under this act. The recommended findings,
20 conclusions and order made by said members or permanent hearing
21 examiner shall be reviewed and approved or reversed by the
22 Commission before such order may be served upon the parties to
23 the complaint. The recommended findings, conclusions and order
24 made by said members or permanent hearing examiner shall become
25 a part of the permanent record of the proceeding and shall
26 accompany any order served upon the parties to the complaint.

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

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

3 Section 8. Section 9.1 of the act is repealed.

4 Section 9. The act is amended by adding a section to read:

5 Section 9.2. Injunctions.--If the Commission concludes, at
6 any time following the filing of a complaint under this act,
7 that prompt judicial action is necessary to prevent immediate
8 and irreparable harm, the Commission may commence an action in
9 Commonwealth Court or the appropriate court of common pleas, and
10 that court may grant an appropriate preliminary or special
11 injunction pending final disposition of the complaint. Any such
12 order or relief shall be granted in accordance with Rule 1531 of
13 the Pennsylvania Rules of Civil Procedure.

14 Section 10. Section 12 of the act, amended December 19, 1974
15 (P.L.966, No.318) and December 16, 1986 (P.L.1626, No.186), is
16 amended to read:

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

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

21 (b) Except as provided in subsection (c), nothing contained
22 in this act shall be deemed to repeal or supersede any of the
23 provisions of any existing or hereafter adopted municipal
24 ordinance, municipal charter or of any law of this Commonwealth
25 relating to discrimination because of race, color, familial
26 status, religious creed, ancestry, age, sex, national origin or
27 handicap or disability, but as to acts declared unlawful by
28 section five of this act the procedure herein provided shall,
29 when invoked, be exclusive and the final determination therein
30 shall exclude any other action, civil or criminal, based on the

1 same grievance of the complainant concerned. If the complainant
2 institutes any action based on such grievance without resorting
3 to the procedure provided in this act, such complainant may not
4 subsequently resort to the procedure herein. In the event of a
5 conflict between the interpretation of a provision of this act
6 and the interpretation of a similar provision contained in any
7 municipal ordinance, the interpretation of the provision in this
8 act shall apply to such municipal ordinance.

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

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

25 (3) If the court finds that the respondent has engaged in or
26 is engaging in an unlawful discriminatory practice charged in
27 the complaint, the court shall enjoin the respondent from
28 engaging in such unlawful discriminatory practice and order
29 affirmative action which may include, but is not limited to,
30 reinstatement or hiring of employees, granting of back pay, or

1 any other legal or equitable relief as the court deems
2 appropriate. Back pay liability shall not accrue from a date
3 more than three years prior to the filing of a complaint
4 charging violations of this act.

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

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

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

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

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

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

30 (e) The time limits for filing under any complaint or other

1 pleading under this act shall be subject to waiver, estoppel and
2 equitable tolling.

3 Section 11. This act, with respect to the Pennsylvania Human
4 Relations Commission, constitutes the legislation required to
5 reestablish that agency under the act of December 22, 1981
6 (P.L.508, No.142), known as the Sunset Act.

7 Section 12. The Pennsylvania Human Relations Commission
8 shall continue together with its statutory functions and duties
9 until December 31, 2001, when it shall terminate and go out of
10 existence unless reestablished or continued by the General
11 Assembly for an additional ten years. Evaluation and review,
12 termination, reestablishment and continuation of the agency
13 beyond December 31, 2001, and every tenth year thereafter, shall
14 be conducted pursuant to the act of December 22, 1981 (P.L.508,
15 No.142), known as the Sunset Act.

16 Section 13. The presently confirmed members of the existing
17 Pennsylvania Human Relations Commission, as of December 31,
18 1991, shall continue to serve as members until their present
19 terms of office expire and until their successors are appointed
20 and qualified.

21 Section 14. Each rule and regulation of the Pennsylvania
22 Human Relations Commission in effect on December 31, 1991, shall
23 remain in effect until repealed or amended by the Pennsylvania
24 Human Relations Commission.

25 Section 15. If enacted after December 31, 1991, this act
26 shall be retroactive to that date.

27 Section 16. This act shall take effect immediately.