

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 1827

Session of  
1991

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

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AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF  
REPRESENTATIVES, AS AMENDED, AUGUST 1, 1991

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## 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:

1 AN ACT

2 Prohibiting certain practices of discrimination because of race,  
3 color, religious creed, ancestry, age or national origin by  
4 employers, employment agencies, labor organizations and  
5 others as herein defined; creating the Pennsylvania Human  
6 Relations Commission in the [Department of Labor and  
7 Industry] Governor's Office; defining its functions, powers  
8 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.

12 Section 2. Sections 2 and 3 of the act, amended December 16,  
13 1986 (P.L.1626, No.186), are amended to read:

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

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

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

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

30 (c) This act shall be deemed an exercise of the police power

1 of the Commonwealth for the protection of the public welfare,  
2 prosperity, health and peace of the people of the Commonwealth  
3 of Pennsylvania.

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

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

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

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

1 Pennsylvania, and all political subdivisions, authorities,  
2 boards and commissions thereof.

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

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

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

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

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

(g) The term "discriminate" includes segregate.

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

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

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

(k) The term "personal residence" means a building or structure containing living quarters occupied or intended to be occupied by no more than two individuals, two groups or two

1 families living independently of each other and used by the  
2 owner or lessee thereof as a bona fide residence for himself and  
3 any members of his family forming his household.

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

1 subdivisions thereof, but shall not include any accommodations  
2 which are in their nature distinctly private.

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

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

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

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

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

20 ~~(1) a physical or mental impairment which substantially~~ <—  
21 ~~limits one or more major life activities;~~

22 ~~(2) a record of such an impairment; or~~

23 ~~(3) is regarded as having such an impairment.~~

24 (1) A PHYSICAL OR MENTAL IMPAIRMENT WHICH SUBSTANTIALLY <—  
25 LIMITS ONE OR MORE OF SUCH PERSON'S MAJOR LIFE ACTIVITIES;

26 (2) A RECORD OF HAVING SUCH AN IMPAIRMENT; OR

27 (3) BEING REGARDED AS HAVING SUCH AN IMPAIRMENT,

28 BUT SUCH TERM DOES NOT INCLUDE CURRENT, ILLEGAL USE OF OR  
29 ADDICTION TO A CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 102

30 OF THE CONTROLLED SUBSTANCES ACT (PUBLIC LAW 91-513, 21 U.S.C. §



1 802).

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

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

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

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

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

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

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

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

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

26 (1) the Fair Housing Act (Public Law 90-284, 42 U.S.C. §  
27 3601 et seq.);

28 (2) the Americans with Disabilities Act of 1990 (Public Law  
29 101-336, 42 U.S.C. § 12101 et seq.);

30 (3) the act of September 1, 1965 (P.L.459, No.235),

1 entitled, as amended, "An act requiring that certain buildings  
2 and facilities adhere to certain principles, standards and  
3 specifications to make the same accessible to and usable by  
4 persons with physical handicaps, and providing for enforcement";  
5 and

6 (4) any other applicable Federal or State law or regulation,  
7 or any local ordinance or resolution, relating to accessibility  
8 or accommodations.

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

10 (i) provided under any Federal or State program that the  
11 Pennsylvania Human Relations Commission determines is  
12 specifically designed and operated to assist elderly persons as  
13 defined in the Federal or State program;

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

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

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

22 (i) the existence of significant facilities and services  
23 specifically designed to meet the physical or social needs of  
24 older persons, or if the provision of such facilities and  
25 services is not practicable, that such housing is necessary to  
26 provide important housing opportunities for older persons;

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

30 (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 FOR PURCHASING, CONSTRUCTING, IMPROVING, REPAIRING OR MAINTAINING A HOUSING ACCOMMODATION OR COMMERCIAL PROPERTY.

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

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

Section 4. 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 an unlawful discriminatory practice, unless based upon a bona fide occupational qualification, or in the case of a fraternal corporation or association, unless based upon membership in such association or corporation, or except where based upon applicable security regulations established by the United States

1 or the Commonwealth of Pennsylvania:

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

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

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

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

(3) Deny or limit, through a quota system, employment or

1 membership because of race, color, religious creed, ancestry,  
2 age, sex, national origin, non-job related handicap or  
3 disability, the use of a guide or support animal because of the  
4 blindness, deafness or physical handicap of the user, or place  
5 of birth.

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

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

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

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

29 (d) For any person, employer, employment agency or labor  
30 organization to discriminate in any manner against any

1 individual because such individual has opposed any practice  
2 forbidden by this act, or because such individual has made a  
3 charge, testified or assisted, in any manner, in any  
4 investigation, proceeding or hearing under this act.

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

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

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

27 (h) For any person to:

28 (1) Refuse to sell, lease, finance or otherwise to deny or  
29 withhold any housing accommodation or commercial property from  
30 any person because of the race, color, familial status, age,

1 religious creed, ancestry, sex, national origin or handicap or  
2 disability of any person, prospective owner, occupant or user of  
3 such housing accommodation or commercial property, or to refuse  
4 to lease any housing accommodation or commercial property to any  
5 person due to use of a guide animal because of the blindness or  
6 deafness of the user, [or] use of a support animal because of a  
7 physical handicap of the user or because the user is a handler  
8 or trainer of support or guide animals or because of the  
9 handicap or disability of an individual with whom the person is  
10 known to have a relationship or association.

11 (1.1) Evict or attempt to evict an occupant of any housing  
12 accommodation before the end of the term of a lease because of  
13 pregnancy or the birth of a child.

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

28 (3) Discriminate against any person in the terms or  
29 conditions of selling or leasing any housing accommodation or  
30 commercial property or in furnishing facilities, services or



1 privileges in connection with the ownership, occupancy or use of  
2 any housing accommodation or commercial property because of the  
3 race, color, familial status, age, religious creed, ancestry,  
4 sex, national origin, handicap or disability [or] of any person,  
5 the use of a guide or support animal because of the blindness,  
6 deafness or physical handicap of the user or because the user is  
7 a handler or trainer of support or guide animals[, of any  
8 present or prospective owner, occupant or user of such housing  
9 accommodation or commercial property.] or because of the  
10 handicap or disability of an individual with whom the person is  
11 known to have a relationship or association.

12 (3.1) REFUSE TO PERMIT, AT THE EXPENSE OF A PERSON WITH A <—  
13 HANDICAP, REASONABLE MODIFICATIONS OF EXISTING PREMISES OCCUPIED  
14 OR TO BE OCCUPIED BY SUCH PERSON IF SUCH MODIFICATIONS MAY BE  
15 NECESSARY TO AFFORD SUCH PERSON FULL ENJOYMENT OF THE PREMISES,  
16 EXCEPT THAT, IN THE CASE OF A RENTAL, THE LANDLORD MAY, WHERE IT  
17 IS REASONABLE TO DO SO, GRANT PERMISSION FOR A MODIFICATION IF  
18 THE RENTER AGREES TO RESTORE THE INTERIOR OF THE PREMISES TO THE  
19 CONDITION THAT EXISTED BEFORE THE MODIFICATION, WITH REASONABLE  
20 WEAR AND TEAR EXCEPTED.

21 (3.2) REFUSE TO MAKE REASONABLE ACCOMMODATIONS IN RULES,  
22 POLICIES, PRACTICES OR SERVICES WHEN SUCH ACCOMMODATIONS MAY BE  
23 NECESSARY TO AFFORD SUCH PERSON EQUAL OPPORTUNITY TO USE AND  
24 ENJOY A HOUSING ACCOMMODATION.

25 (4) Discriminate against any person in the terms or  
26 conditions of any loan of money, whether or not secured by  
27 mortgage or otherwise for the acquisition, construction,  
28 rehabilitation, repair or maintenance of housing accommodation  
29 or commercial property because of the race, color, familial  
30 status, age, religious creed, ancestry, sex, national origin or

1 handicap or disability of any [present or prospective owner,  
2 occupant or user of any housing accommodation or commercial  
3 property] person, the use of a guide or support animal because  
4 of the blindness, deafness or physical handicap of the user or  
5 because the user is a handler or trainer of guide or support  
6 animals or because of the handicap or disability of an  
7 individual with whom the person is known to have a relationship  
8 or association.

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

27 (6) Make any inquiry, elicit any information, make or keep  
28 any record or use any form of application, containing questions  
29 or entries concerning race, color, familial status, age,  
30 religious creed, ancestry, sex, national origin [or], handicap

1 or disability or because of the handicap or disability of an  
2 individual with whom the person is known to have a relationship  
3 or association in connection with the sale or lease of any  
4 housing accommodation or commercial property or loan of any  
5 money, whether or not secured by mortgage or otherwise for the  
6 acquisition, construction, rehabilitation, repair or maintenance  
7 of any housing accommodation or commercial property, or to make  
8 any inquiry, elicit any information, make or keep any record or  
9 use any form of application, containing questions or entries  
10 concerning 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, in  
13 connection with the lease of any housing accommodation or  
14 commercial property.

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

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

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

29 (ii) Nothing in this act prohibits a person engaged in the  
30 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, manager, superintendent, agent or employe of any [place of] public accommodation, resort or amusement to:

(1) Refuse, withhold from, or deny to any person because of his race, color, sex, religious creed, ancestry, national origin or handicap or disability, or to any person due to use of a guide or support animal because of the blindness, deafness or

1 physical handicap of the user or because the user is a handler  
2 or trainer of support or guide animals, either directly or  
3 indirectly, any of the accommodations, advantages, facilities or  
4 privileges of such [place of] public accommodation, resort or  
5 amusement.

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

24 (3) Exclude or otherwise deny equal goods, services,  
25 facilities, privileges, advantages, accommodations or other  
26 opportunities to a person because of the handicap or disability  
27 of an individual with whom the person is known to have a  
28 relationship or association.

29 (4) Construct, operate or otherwise make available such  
30 place of public accommodation, resort or amusement which is not

1 accessible.

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

15 (j) For any person subject to the act to fail to post and  
16 exhibit prominently in his place of business any fair practices  
17 notice prepared and distributed by the Pennsylvania Human  
18 Relations Commission.

19 (k) For any employer to discriminate against an employe or a  
20 prospective employe because the employe only has a [general <—  
21 education development certificate] DIPLOMA BASED ON PASSING A <—  
22 GENERAL EDUCATIONAL DEVELOPMENT TEST as compared to a high  
23 school diploma. However, should vocational technical training or  
24 other special training be required with regard to a specific  
25 position, then such training or special training may be  
26 considered by the employer.

27 (l) To exclude or otherwise deny equal jobs or benefits to a  
28 person because of the handicap or disability of an individual  
29 with whom the person is known to have a relationship or  
30 association.

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

4 Section 5.3. Prohibition of Certain Real Estate Practices.--

5 It shall be an unlawful discriminatory practice for any person  
6 to:

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

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

25 (c) Misrepresent, create or distort a circumstance,  
26 condition or incident for the purpose of fostering the  
27 impression or belief, on the part of any owner, occupant or  
28 prospective owner or occupant of any housing accommodation or  
29 commercial property, that such housing accommodation or  
30 commercial property is within any neighborhood, community or

1 area adjacent to any other area which would be adversely  
2 impacted by the residence, or future increased or decreased  
3 residence, of persons of a particular race, color, familial  
4 status, age, religious creed, ancestry, sex, national origin,  
5 handicap or disability, or who are guide or support animal  
6 dependent within such neighborhood, community or area.

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

21 Section 6. Pennsylvania Human Relations Commission.--(a)  
22 There shall be, and there is hereby established in the  
23 Governor's Office a non-partisan, departmental administrative  
24 commission for the administration of this act, which shall be  
25 known as the "Pennsylvania Human Relations Commission," and  
26 which is hereinafter referred to as the "Commission."

27 (b) Said Commission shall consist of eleven members, to be  
28 known as Commissioners, who shall be appointed by the Governor  
29 by and with the advice and consent of a majority of the members  
30 of the Senate, not more than six of such Commissioners to be



1 from the same political party, and each of whom shall hold  
2 office for a term of five years or until his successor shall  
3 have been duly appointed and qualified. Vacancies occurring in  
4 an office of a member of the Commission by expiration of term,  
5 death, resignation, removal or for any other reason shall be  
6 filled in the manner aforesaid for the balance of that term.  
7 Commission members failing to attend meetings for three  
8 consecutive months shall forfeit their seats unless the  
9 chairperson of the commission receives written notification from  
10 the member involved that the absence was due to personal illness  
11 or the death or illness of an immediate family member.

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

21 (d) The Governor shall designate one of the members of the  
22 Commission to be its [chairman] chairperson who shall preside at  
23 all meetings of the Commission and perform all the duties and  
24 functions of the [chairman] chairperson thereof. The Commission  
25 may designate one of its members to act as [chairman]  
26 chairperson during the absence or incapacity of the [chairman]  
27 chairperson and, when so acting, the member so designated shall  
28 have and perform all the powers and duties of the [chairman]  
29 chairperson of the Commission.

30 (e) Six members of the Commission or a majority of those

1 duly appointed and qualified shall constitute a quorum for  
2 transacting business, and a majority vote of those present at  
3 any meeting shall be sufficient for any official action taken by  
4 the Commission.

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

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

19 Section 5. Section 7 of the act, amended February 28, 1961  
20 (P.L.47, No.19), December 27, 1965 (P.L.1224, No.497), October  
21 11, 1967 (P.L.426, No.191), December 9, 1982 (P.L.1053, No.247),  
22 December 16, 1986 (P.L.1626, No.186) and repealed in part April  
23 28, 1978 (P.L.202, No.53), is amended to read:

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

26 (a) To establish and maintain a central office in the City  
27 of Harrisburg.

28 (b) To meet and function at any place within the  
29 Commonwealth.

30 (c) To appoint such attorneys and permanent hearing

1 examiners and other employees and agents as it may deem  
2 necessary, fix their compensation within the limitations  
3 provided by law, and prescribe their duties. Permanent hearing  
4 examiners shall perform no duties inconsistent with their duties  
5 and responsibilities as permanent hearing examiners.

6 (c.1) To conduct mandatory training seminars on the  
7 Pennsylvania Human Relations Act and other applicable Federal  
8 and State law, procedures and rules for all investigative  
9 personnel.

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

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

19 (d) To adopt, promulgate, amend and rescind rules and  
20 regulations to effectuate the policies and provisions of this  
21 act.

22 (e) To formulate policies to effectuate the purposes of this  
23 act, and make recommendations to agencies and officers of the  
24 Commonwealth or political subdivisions of government or board,  
25 department, commission or school district thereof, to effectuate  
26 such policies.

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

29 (f.1) To investigate where no complaint has been filed but  
30 with the consent of at least eight of the members of the

1 Commission any problem of racial discrimination with the intent  
2 of avoiding and preventing the development of racial tension.

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

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

21 (2) No person shall be excused from attending and  
22 testifying, or from producing records, correspondence, documents  
23 or other evidence in obedience to the subpoena of the Commission  
24 or of any individual Commissioner, on the ground that the  
25 testimony or evidence required of him may tend to incriminate  
26 him or subject him to a penalty or forfeiture, but no person  
27 shall be prosecuted or subjected to any penalty or forfeiture  
28 for or on account of any transaction, matter or thing concerning  
29 which he is compelled, after having claimed his privilege  
30 against self-incrimination, to testify or produce evidence,

1 except that such person so testifying shall not be exempt from  
2 prosecution and punishment for perjury committed in so  
3 testifying. The immunity herein provided shall extend only to  
4 natural persons so compelled to testify.

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

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

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

30 (k) [From time to time but not less than once a year, to

1 report to the General Assembly and the Governor describing in  
2 detail the investigations, proceedings and hearings it has  
3 conducted and their outcome, the decisions it has rendered and  
4 the other work performed by it, and make recommendations for  
5 such further legislation concerning abuses and discrimination  
6 because of race, color, religious creed, ancestry, age, sex,  
7 national origin or handicap or disability as may be desirable.]  
8 To submit an annual report for each fiscal year by the following  
9 March 31 to the General Assembly, the Labor and Industry  
10 Committee of the Senate and the State Government Committee of  
11 the House of Representatives and the Governor describing in  
12 detail the types of complaints received, the investigations,  
13 status of cases, Commission action which has been taken, how  
14 many were found to have probable cause, how many were resolved  
15 by public hearing and the length of time from the initial  
16 complaint to final Commission resolution. It shall also contain  
17 recommendations for such further legislation concerning abuses  
18 and discrimination because of race, color, familial status,  
19 religious creed, ancestry, national origin, age, sex, handicap  
20 or disability, or the use of a guide or support animal because  
21 of the blindness, deafness or physical handicap of the user or  
22 because the user is a handler or trainer of support or guide  
23 animals, as may be desirable.

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

25 [(m) To submit annually a report to the Labor and Industry  
26 Committee of the Senate and the State Government Committee of  
27 the House, with a description of the types of complaints  
28 received, status of cases, Commission action which has been  
29 taken, how many were found to have probable cause, how many were  
30 resolved by public hearing and the length of time from the

1 initial complaint to final Commission resolution.]

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

8 (o) To prepare and publish all findings of fact, conclusions  
9 of the law, final decisions and orders made after a public  
10 hearing by the hearing examiners, Commission panel or full  
11 Commission.

12 (p) To give public access to the commission's compliance  
13 manual.

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

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

18 Section 8. Educational Program.--

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

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

30 Section 9. Procedure.--(a) Any person claiming to be

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

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

22 (2) The Commission shall send a copy of the complaint to the  
23 named respondent within thirty days from the date of docketing  
24 the complaint, unless otherwise required by the Fair Housing  
25 Act.

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



1 otherwise required by the Fair Housing Act.

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

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

25 (d) In case of failure so to eliminate such practice or in  
26 advance thereof, if in the judgment of the Commission  
27 circumstances so warrant, the Commission shall cause to be  
28 issued and served a written notice, together with a copy of such  
29 complaint as the same may have been amended, requiring the  
30 person, employer, labor organization or employment agency named

1 in such complaint, hereinafter referred to as respondent, to  
2 answer the charges of such complaint at a hearing before the  
3 Commission at a time and place to be specified in such notice.  
4 The place of any such hearing shall be in the county in which  
5 the alleged offense was committed.

6 (d.1) When notice of hearing is given as set forth in  
7 subsection (d) and an election procedure is required by the Fair  
8 Housing Act, either party may elect to have the claim asserted  
9 in the complaint decided in a civil action brought under the  
10 original jurisdiction of Commonwealth Court. The written notice  
11 of the Commission shall be sent to all parties and will inform  
12 them of their right to take civil action. An election must be  
13 made within twenty days after receipt of the notice of hearing.  
14 A party making this election shall notify the Commission and all  
15 other parties. If an election for civil action is made by either  
16 party, the Commission shall, within thirty days from the date of  
17 election, commence and maintain a civil action on behalf of the  
18 complainant. Provided, however, That whenever the Attorney  
19 General signs and files the complaint pursuant to subsection  
20 (a), the Attorney General shall, within thirty days from the  
21 date of election, commence and maintain a civil action on behalf  
22 of the complainant. In those cases commenced by the Attorney  
23 General, the Commission shall have the right to intervene.  
24 ~~Nothing in this section shall be construed as restricting the~~ <—  
25 ~~power of the Attorney General under the act of October 15, 1980~~  
26 ~~(P.L.950, No.164), known as the "Commonwealth Attorneys Act." In~~  
27 any action brought under this subsection:

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

1 action.

2 (2) If, after a trial, Commonwealth Court finds that a  
3 respondent engaged in or is engaging in any unlawful  
4 discriminatory practice as defined in this act, the court may  
5 award attorney fees and costs to the complainant on whose behalf  
6 the Commission commenced the action ACTION WAS COMMENCED. <—

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

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

29 (f) (1) If, upon all the evidence at the hearing, the  
30 Commission shall find that a respondent has engaged in or is

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

24 (2) Such order may also assess a civil penalty against the  
25 respondent in a complaint of discrimination filed under sections  
26 5(h) or 5.3 of this act:

27 (i) in an amount not exceeding ten thousand dollars  
28 (\$10,000) if the respondent has not been adjudged to have  
29 committed any prior discriminatory practice;

30 (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 complainant an order dismissing the said complaint as to such respondent.

(f.1) If, upon all the evidence at the hearing, the Commission shall find that a respondent has engaged in or is engaging in any unlawful discriminatory practice as defined in

1 this act, the Commission may award attorney fees and costs to  
2 prevailing complainants.

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

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

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

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

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

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

30 Section 9.2. Injunctions.--If the Commission concludes, at

1 any time following the filing of a complaint under this act,  
2 that prompt judicial action is necessary to prevent immediate  
3 and irreparable harm, the Commission may commence an action in  
4 Commonwealth Court or the appropriate court of common pleas, and  
5 that court may grant an appropriate preliminary or special  
6 injunction pending final disposition of the complaint. Any such  
7 order or relief shall be granted in accordance with Rule 1531 of  
8 the Pennsylvania Rules of Civil Procedure.

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

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

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

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

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

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

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

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

30 (4) The court shall serve upon the Commission any final



1 order issued in any action brought under this subsection.

2 (c.1) Notwithstanding subsections (a) and (c) or any other  
3 provision of this act, nothing in this act shall be deemed to  
4 authorize imposition by the Commission of remedial quota relief  
5 in cases involving hiring or promoting of employees of the  
6 Commonwealth, its agencies or instrumentalities or employees of  
7 local governments and school districts in this Commonwealth.  
8 This subsection shall not, however, prohibit the voluntary  
9 adoption of an affirmative action plan designed to assure that  
10 all persons are accorded equality of opportunity in employment.

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

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

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

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

28 (F) NOTHING IN THIS ACT SHALL BE CONSTRUCTED AS SUPERSEDING <—  
29 ANY PROVISION OF THE ACT OF OCTOBER 15, 1980 (P.L.950, NO.164),  
30 KNOWN AS THE "COMMONWEALTH ATTORNEYS ACT." ALL COURT ACTIONS

1 COMMENCED BY OR AGAINST THE COMMISSION SHALL BE SUBJECT TO THE  
2 PROVISIONS OF THAT ACT.

3 SECTION 11. SECTION 12.2 OF THE ACT, AMENDED DECEMBER 19,  
4 1974 (P.L.966, NO.318), IS AMENDED TO READ:

5 SECTION 12.2. COOPERATION OF STATE AGENCIES.--THE BUREAU  
6 [FOR THE VISUALLY AND PHYSICALLY HANDICAPPED, THE BUREAU] OF  
7 BLINDNESS AND VISUAL SERVICES, THE OFFICE OF VOCATIONAL  
8 REHABILITATION, THE OFFICE FOR THE DEAF AND HEARING IMPAIRED,  
9 AND ANY OTHER STATE AGENCY WHICH SEEKS TO AID PERSONS WITH  
10 HANDICAPS OR DISABILITY SHALL ASSIST EMPLOYERS, THE COMMISSION  
11 AND THE COURTS OF THIS COMMONWEALTH IN THE IMPLEMENTATION AND  
12 ENFORCEMENT OF THIS ACT BY PROVIDING EXPERTISE IN THE AREA OF  
13 HANDICAPS AND DISABILITIES.

14 Section ~~11~~ 12. This act, with respect to the Pennsylvania <—  
15 Human Relations Commission, constitutes the legislation required  
16 to reestablish that agency under the act of December 22, 1981  
17 (P.L.508, No.142), known as the Sunset Act.

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

27 Section ~~13~~ 14. The presently confirmed members of the <—  
28 existing Pennsylvania Human Relations Commission, as of December  
29 31, 1991, shall continue to serve as members until their present  
30 terms of office expire and until their successors are appointed

1 and qualified.

2       Section ~~14~~ 15. Each rule and regulation of the Pennsylvania <—  
3 Human Relations Commission in effect on December 31, 1991, shall  
4 remain in effect until repealed or amended by the Pennsylvania  
5 Human Relations Commission.

6       Section ~~15~~ 16. If enacted after December 31, 1991, this act <—  
7 shall be retroactive to that date.

8       Section ~~16~~ 17. This act shall take effect immediately. <—