

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 434 Session of 2007

INTRODUCED BY READSHAW, BENNINGHOFF, BENNINGTON, CALTAGIRONE, CARROLL, CLYMER, DALEY, DePASQUALE, FREEMAN, GEORGE, GERGELY, JAMES, JOSEPHS, KOTIK, McGEEHAN, McILHATTAN, MELIO, MENSCH, PALLONE, RAMALEY, SAYLOR, SOLOBAY, STABACK, STURLA, THOMAS, WALKO, WOJNAROSKI AND FRANKEL, FEBRUARY 26, 2007

REFERRED TO COMMITTEE ON STATE GOVERNMENT, FEBRUARY 26, 2007

AN ACT

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

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

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

AN ACT

20 Prohibiting certain practices of discrimination because of
 21 genetic information, race, color, religious creed, ancestry,

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

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

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

1 thereby threatening the peace, health, safety and general
2 welfare of the Commonwealth and its inhabitants.

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

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

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

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

7 Section 2. Sections 4 and 5 of the act, amended December 20,
8 1991 (P.L.414, No.51), July 12, 1996 (P.L.684, No.117) and June
9 25, 1997 (P.L.326, No.34), are amended to read:

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

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

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

1 sectarian corporations and associations employing four or more
2 persons within the Commonwealth.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (p) The term "non-job related handicap or disability" means
29 any handicap or disability which does not substantially
30 interfere with the ability to perform the essential functions of

1 the employment which a handicapped person applies for, is
2 engaged in or has been engaged in. Uninsurability or increased
3 cost of insurance under a group or employe insurance plan does
4 not render a handicap or disability job related.

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

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

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

10 (3) being regarded as having such an impairment,

11 but such term does not include current, illegal use of or

12 addiction to a controlled substance, as defined in section 102

13 of the Controlled Substances Act (Public Law 91-513, 21 U.S.C. §

14 802).

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

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

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

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

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

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

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

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

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

9 (1) the Fair Housing Act (Public Law 90-284, 42 U.S.C. §
10 3601 et seq.);

11 (2) the Americans with Disabilities Act of 1990 (Public Law
12 101-336, 42 U.S.C. § 12101 et seq.); and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (1) The making or purchasing of loans or providing other

1 financial assistance for purchasing, constructing, improving,
2 repairing or maintaining a housing accommodation or commercial
3 property.

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

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

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

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

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

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

30 (a) For any employer because of the genetic information,

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

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

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

13 (2) Print or publish or cause to be printed or published any
14 notice or advertisement relating to employment or membership
15 indicating any preference, limitation, specification or
16 discrimination based upon genetic information, race, color,
17 religious creed, ancestry, age, sex, national origin, non-job
18 related 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 (3) Deny or limit, through a quota system, employment or
22 membership because of genetic information, race, color,
23 religious creed, ancestry, age, sex, national origin, non-job
24 related handicap or disability, the use of a guide or support
25 animal because of the blindness, deafness or physical handicap
26 of the user or place of birth.

27 (4) Substantially confine or limit recruitment or hiring of
28 individuals, with intent to circumvent the spirit and purpose of
29 this act, to any employment agency, employment service, labor
30 organization, training school or training center or any other

1 employe-referring source which services individuals who are
2 predominantly of the same genetic information, race, color,
3 religious creed, ancestry, age, sex, national origin or non-job
4 related handicap or disability.

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

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

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

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

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

1 issued thereunder, or to attempt, directly or indirectly, to
2 commit any act declared by this section to be an unlawful
3 discriminatory practice.

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

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

18 (h) For any person to:

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

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

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

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

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

1 or association.

2 (3.1) Refuse to permit, at the expense of a person with a
3 handicap, reasonable modifications of existing premises occupied
4 or to be occupied by such person if such modifications may be
5 necessary to afford such person full enjoyment of the premises,
6 except that, in the case of a rental, the landlord may, where it
7 is reasonable to do so, grant permission for a modification if
8 the renter agrees to restore the interior of the premises to the
9 condition that existed before the modification, with reasonable
10 wear and tear excepted.

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

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

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

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

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

1 animals, in connection with the lease of any housing
2 accommodation or commercial property.

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

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

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

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

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

1 at the time of the act complained of all of the following
2 applied:

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

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

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

23 (11) Nothing in this act limits the applicability of the
24 Fair Housing Act and reasonable State or local restrictions on
25 the maximum number of occupants permitted to occupy a dwelling
26 or a reasonable restriction relating to health or safety
27 standards or business necessity. Owners and managers of
28 dwellings may develop and implement reasonable occupancy and
29 safety standards based on factors such as the number and size of
30 sleeping areas or bedrooms and the overall size of a dwelling

1 unit so long as the standards do not violate the Fair Housing
2 Act or State or local restrictions.

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

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

15 (2) Publish, circulate, issue, display, post or mail, either
16 directly or indirectly, any written or printed communication,
17 notice or advertisement to the effect that any of the
18 accommodations, advantages, facilities and privileges of any
19 such place shall be refused, withheld from or denied to any
20 person on account of genetic information, race, color, religious
21 creed, sex, ancestry, national origin or handicap or disability,
22 or to any person due to use of a guide or support animal because
23 of the blindness, deafness or physical handicap of the user, or
24 because the user is a handler or trainer of support or guide
25 animals, or that the patronage or custom thereat of any person,
26 belonging to or purporting to be of any particular genetic
27 information, race, color, religious creed, sex, ancestry,
28 national origin or handicap or disability, or to any person due
29 to use of a guide or support animal because of the blindness,
30 deafness or physical handicap of the user or because the user is

1 a handler or trainer of support or guide animals, is unwelcome,
2 objectionable or not acceptable, desired or solicited.

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

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

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

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

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

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

29 Section 3. Sections 5.3 and 7 of the act, amended December
30 20, 1991 (P.L.414, No.51), are amended to read:

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

2 It shall be an unlawful discriminatory practice for any person
3 to:

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

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

23 (c) Misrepresent, create or distort a circumstance,
24 condition or incident for the purpose of fostering the
25 impression or belief, on the part of any owner, occupant or
26 prospective owner or occupant of any housing accommodation or
27 commercial property, that such housing accommodation or
28 commercial property is within any neighborhood, community or
29 area adjacent to any other area which would be adversely
30 impacted by the residence, or future increased or decreased

1 residence, of persons of a particular genetic information, race,
2 color, familial status, age, religious creed, ancestry, sex,
3 national origin, handicap or disability, or who are guide or
4 support animal dependent within such neighborhood, community or
5 area.

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

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

22 (a) To establish and maintain a central office in the City
23 of Harrisburg.

24 (b) To meet and function at any place within the
25 Commonwealth.

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

1 and responsibilities as permanent hearing examiners.

2 (c.1) To conduct mandatory training seminars on the
3 Pennsylvania Human Relations Act and other applicable Federal
4 and State law, procedures and rules for all investigative
5 personnel.

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

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

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

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

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

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

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

1 activities.

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

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

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

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

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

28 (k) To submit an annual report for each fiscal year by the
29 following March 31 to the General Assembly, the Labor and
30 Industry Committee of the Senate and the State Government

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

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

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

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

25 (p) To give public access to the commission's compliance
26 manual.

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

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

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

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

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

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

18 (b) Except as provided in subsection (c), nothing contained
19 in this act shall be deemed to repeal or supersede any of the
20 provisions of any existing or hereafter adopted municipal
21 ordinance, municipal charter or of any law of this Commonwealth
22 relating to discrimination because of genetic information,
23 race, color, familial status, religious creed, ancestry, age,
24 sex, national origin or handicap or disability, but as to acts
25 declared unlawful by section five of this act the procedure
26 herein provided shall, when invoked, be exclusive and the final
27 determination therein shall exclude any other action, civil or
28 criminal, based on the same grievance of the complainant
29 concerned. If the complainant institutes any action based on
30 such grievance without resorting to the procedure provided in

1 this act, such complainant may not subsequently resort to the
2 procedure herein. In the event of a conflict between the
3 interpretation of a provision of this act and the interpretation
4 of a similar provision contained in any municipal ordinance, the
5 interpretation of the provision in this act shall apply to such
6 municipal ordinance.

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

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

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

1 more than three years prior to the filing of a complaint
2 charging violations of this act.

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

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

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

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

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

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

1 (f) Nothing in this act shall be constructed as superseding
2 any provision of the act of October 15, 1980 (P.L.950, No.164),
3 known as the "Commonwealth Attorneys Act." All court actions
4 commenced by or against the Commission shall be subject to the
5 provisions of that act.

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