

No. 1986-186

AN ACT

HB 141

Amending the act of October 27, 1955 (P.L.744, No.222), entitled, as amended, "An act prohibiting certain practices of discrimination because of race, color, religious creed, ancestry, age or national origin by employers, employment agencies, labor organizations and others as herein defined; creating the Pennsylvania Human Relations Commission in the Department of Labor and Industry; defining its functions, powers and duties; providing for procedure and enforcement; providing for formulation of an educational program to prevent prejudice; providing for judicial review and enforcement and imposing penalties," further providing for definitions; prohibiting certain discriminatory acts and practices; prohibiting the imposition of certain quotas; and reestablishing the commission and providing for its composition and compensation.

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

Section 1. Sections 2 and 3 of the act of October 27, 1955 (P.L.744, No.222), known as the Pennsylvania Human Relations Act, amended April 8, 1982 (P.L.284, No.80), are amended to read:

Section 2. Findings and Declaration of Policy.—

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

(b) It is hereby declared to be the public policy of this Commonwealth to foster the employment of all individuals in accordance with their fullest capacities regardless of their race, color, religious creed, ancestry, handicap or disability, use of guide dogs because of blindness or deafness of the user,

use of support animals because of a physical handicap of the user or because the user is a handler or trainer of support or guide animals, age, sex, or national origin, and to safeguard their right to obtain and hold employment without such discrimination, to assure equal opportunities to all individuals and to safeguard their rights [at places of] to public accommodation and to secure [commercial housing] housing accommodation and commercial property regardless of race, color, religious creed, ancestry, sex, handicap or disability, use of guide [dogs] animals because of blindness or deafness of the user or national origin.

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

Section 3. Right to Freedom from Discrimination in Employment, Housing and [Places of] Public Accommodation.—The opportunity for an individual to obtain employment for which he is qualified, and to obtain all the accommodations, advantages, facilities and privileges of any [place of] public accommodation and of [commercial housing] housing accommodation and commercial property without discrimination because of race, color, religious creed, ancestry, handicap or disability, age, sex [or], national origin [are], *the use of a guide or support animal because of blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals* is hereby recognized as and declared to be [civil rights] a civil right which shall be enforceable as set forth in this act.

[The opportunity of an individual to obtain all the accommodations, advantages, facilities and privileges of commercial housing without discrimination due to the sex of an individual or to the use of a guide dog because of blindness or deafness of the user is hereby recognized as and declared to be a civil right which shall be enforceable as set forth in this act.]

Section 2. Section 4(c), (i), (j), (l) and (q) of the act, amended February 28, 1961 (P.L.47, No.19), November 27, 1967 (P.L.622, No.284), November 29, 1967 (P.L.632, No.291), December 10, 1970 (P.L.882, No.278) and December 9, 1982 (P.L.1053, No.247), are amended and the section is amended by adding a clause to read:

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

* * *

(c) The term “employe” does not include (1) any individual employed in agriculture or in the domestic service of any person, (2) any [individual] individuals who, as a part of [his] their employment, [resides] reside in the personal residence of the employer, (3) any individual employed by said individual’s parents, spouse or child.

* * *

(i) The term “housing accommodations” includes (1) any building [or], 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 [or], lease [for commercial housing] 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 housing" means housing accommodations held or offered for sale or rent (1) by a real estate broker, salesman or agent, or by any other person pursuant to authorization of the owner; (2) by the owner himself; or (3) by legal representatives, but shall not include any personal residence offered for rent by the owner or lessee thereof, or by his broker, salesman, agent or employe.] 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.

* * *

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

* * *

(q) The term "permanent hearing examiner" shall mean a full-time employe who is an attorney [or other person knowledgeable in human relations matters designated by the Commission to conduct hearings required to be held under this act. The person knowledgeable in human relations matters

must demonstrate such knowledge through a written examination created, developed and administered by the Commission].

* * *

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

Section 3. Section 5 of the act, reenacted, amended or added February 28, 1961 (P.L.47, No.19), December 27, 1965 (P.L.1224, No.497), November 29, 1967 (P.L.632, No.291), July 9, 1969 (P.L.133, No.56), June 9, 1972 (P.L.368, No.102), December 19, 1974 (P.L.966, No.318), January 10, 1980 (P.L.1, No.1), December 9, 1980 (P.L.1122, No.198) and April 8, 1982 (P.L.284, No.80), is amended to read:

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

(a) For any employer because of the race, color, religious creed, ancestry, age, sex, national origin or non-job related handicap or disability of any individual to refuse to hire or employ, or to bar or to discharge from employment such individual, or to otherwise discriminate against such individual with respect to compensation, hire, tenure, terms, conditions or privileges of employment, if the individual is the best able and most competent to perform the services required. The provision of this paragraph shall not apply, to (1) termination of employment because of the terms or conditions of any bona fide retirement or pension plan, (2) operation of the terms or conditions of any bona fide retirement or pension plan which have the effect of a minimum service requirement, (3) operation of the terms or conditions of any bona fide group or employe insurance plan, (4) age limitations placed upon entry into bona fide apprenticeship programs of two years or more approved by the State Apprenticeship and Training Council of the Department of Labor and Industry, established by the act of July 14, 1961 (P.L.604, No.304), known as "The Apprenticeship and Training Act." Notwithstanding any provision of this clause, it shall not be an unlawful employment practice for a religious corporation or association to hire or employ on the basis of sex in those certain instances where sex is a bona fide occupational qualification because of the religious beliefs, practices, or observances of the corporation, or association.

(b) For any employer, employment agency or labor organization, prior to the employment 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 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 employ-

ment 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.

(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.

(3) Deny or limit, through a quota system, employment or membership because of race, color, religious creed, ancestry, age, sex, national origin, non-job related handicap or disability or place of birth.

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

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

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

(c) For any labor organization because of the race, color, religious creed, ancestry, age, sex **[or]**, national origin *or non-job related handicap or disability* of any individual to deny full and equal membership rights to any individual or otherwise to discriminate against such individuals with respect to hire, tenure, terms, conditions or privileges of employment or any other matter, directly or indirectly, related to employment.

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

(e) For any person, **[whether or not an]** employer, employment agency, labor organization or employe, to aid, abet, incite, compel or coerce the doing of any act declared by this section to be an unlawful discriminatory practice, or to obstruct or prevent any person from complying with the provisions of this act or any order issued thereunder, or to attempt, directly or indirectly, to commit any act declared by this section to be *an* unlawful discriminatory practice.

(f) For any employment agency to fail or refuse to classify properly, refer for employment or otherwise to discriminate against any individual because of his race, color, religious creed, ancestry, age, sex, national origin or non-job related handicap or disability.

(g) For any individual seeking employment to publish or cause to be published any advertisement which **[specifies or in any manner expresses his race, color, religious creed, ancestry, age, sex or national origin, or]** in any manner expresses a limitation or preference as to the race, color, religious creed, ancestry, age, sex **[or]**, national origin *or non-job related handicap or disability* of any prospective employer.

(h) For any person to:

(1) Refuse to sell, lease, finance or otherwise to deny or withhold **[commercial housing] any housing accommodation or commercial property** from any person because of the race, color, religious creed, ancestry, sex, national origin or handicap or disability of any prospective owner, occupant or user of such **[commercial housing,] housing accommodation or commercial property**, or to refuse to lease **[commercial housing] any housing accommodation or commercial property** to any person due to use of a guide **[dog] animal** because of the blindness or deafness of the user, *or use of a support animal because of a physical handicap of the user or because the user is a handler or trainer of support or guide animals.*

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

(2) Refuse to lend money, whether or not secured by mortgage or otherwise for the acquisition, construction, rehabilitation, repair or maintenance of **[commercial housing] any housing accommodation or commercial property** or otherwise withhold financing of **[commercial housing] any housing accommodation or commercial property** from any person because of the race, color, religious creed, ancestry, sex, national origin **[or]**, handicap or disability *or the use of a guide or support animal because of the blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals*, of any present or prospective owner, occupant or user of such **[commercial housing] housing accommodation or commercial property**.

(3) Discriminate against any person in the terms or conditions of selling or leasing any **[commercial housing] housing accommodation or commercial property** or in furnishing facilities, services or privileges in connection with the ownership, occupancy or use of any **[commercial housing] housing accommodation or commercial property** because of the race, color, religious creed, ancestry, sex, national origin **[or]**, handicap or disability *or the use of a guide or support animal because of the blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals*, of any present or prospective owner, occupant or user of such **[commercial housing or to discriminate against any person in the terms of leasing any commercial housing or in furnishing facilities, services or privileges in connection with the occupancy or use of any commercial housing due to use of a guide dog because of the blindness or deafness of the user] housing accommodation or commercial property**.

(4) Discriminate against any person in the terms or conditions of any loan of money, whether or not secured by mortgage or otherwise for the acquisition, construction, rehabilitation, repair or maintenance of **[commercial housing] housing accommodation or commercial property** because of the race, color, religious creed, ancestry, sex, national origin or handicap or disability of any present or prospective owner, occupant or user of **[such commercial housing] any housing accommodation or commercial property**.

(5) Print, publish or circulate any statement or advertisement: (i) relating to the sale, lease or acquisition of any **[commercial housing] housing accommodation or commercial property** or the loan of money, whether or not secured by mortgage, or otherwise for the acquisition, construction, rehabilitation, repair or maintenance of **[commercial housing] any housing accommodation or commercial property** which indicates any preference, limitation, specification, or discrimination based upon race, color, religious creed, ancestry, sex, national origin or handicap or disability, or **[to print, publish or circulate any statement or advertisement relating to]** (ii) relating to the lease of any **[commercial dwelling] housing accommodation or commercial property** which indicates any preference, limitation, specification or discrimination based upon use of a guide **[dog] or support animal** because of the blindness **[or]**, deafness **or physical handicap** of the user **or because the user is a handler or trainer of support or guide animals.**

(6) Make any inquiry, elicit any information, make or keep any record or use any form of application, containing questions or entries concerning race, color, religious creed, ancestry, sex, national origin or handicap or disability in connection with the sale or lease of any **[commercial housing] housing accommodation or commercial property** or loan of any money, whether or not secured by mortgage or otherwise for the acquisition, construction, rehabilitation, repair or maintenance of **[commercial housing] any housing accommodation or commercial property**, or to make any inquiry, elicit any information, make or keep any record or use any form of application, containing questions or entries concerning the use of a guide **[dog] or support animal** because of the blindness **[or]**, deafness **or physical handicap** of the user **or because the user is a handler or trainer of support or guide animals**, in connection with the lease of any **[commercial housing] housing accommodation or commercial property.**

(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 **[dog] or support animal** because of the blindness **[or]**, deafness **or physical handicap** of the user **or because the user is a handler or trainer of support or guide animals**, either directly or indirectly, any of the accommodations, advantages, facilities or privileges of such place of public accommodation, resort or amusement.

(2) Publish, circulate, issue, display, post or mail, either directly or indirectly, any written or printed communication, notice or advertisement to the effect that any of the accommodations, advantages, facilities and privileges of any such place shall be refused, withheld from or denied to any person on account of race, color, religious creed, **sex**, ancestry, national origin or handicap or disability, or to any person due to use of a guide **[dog] or support animal** because of the blindness **[or]**, deafness **or physical handicap** of the user, or that the patronage or custom thereof of any person, belonging to or purporting to be of any particular race, color, religious creed, ancestry,

national origin or handicap or disability, or to any person due to use of a guide **[dog]** or *support animal* because of the blindness **[or]**, deafness or *physical handicap* of the user or *because the user is a handler or trainer of support or guide animals*, is unwelcome, objectionable or not acceptable, desired or solicited.

Nothing in 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 or fraternal principles for which it is established or maintained. Nor shall it apply to the rental of rooms or apartments in a landlord occupied rooming house with a common entrance.

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

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

This section of the act **[as amended]** shall not be construed to prohibit the refusal to hire or the dismissal of a person who is not able to function properly in the job applied for or engaged in.

Section 4. Section 5.1 of the act, added July 20, 1968 (P.L.454, No.213), is amended to read:

Section 5.1. Religious Observance; Public Employes.—(a) It shall be an unlawful discriminatory practice for any officer, agency or department of the State or any of its political subdivisions, to prohibit, prevent or disqualify any person from, or otherwise to discriminate against any person in, obtaining or holding employment by the State or by any such subdivision, because of **[his]** *such person's* observance of any particular day or days or any portion thereof as a sabbath or other holy day in accordance with the requirements of **[his]** *the person's* religion.

(b) Except as may be required in an emergency or where **[his]** personal presence is indispensable to the orderly transaction of public business, no person employed by the State or any of its political subdivisions shall be required to remain at **[his]** *the* place of employment during any day or days or portion thereof that, as a *religious* requirement **[of his religion, he]**, *the person* observes as **[his]** *the* sabbath or other holy day, including a reasonable time prior and subsequent thereto for travel between **[his]** *the* place of employment and **[his]** home, provided however, that any such absence from work shall, wherever practicable in the judgment of the employer, be made up by an equivalent amount of time and work at some other mutually conve-

nient time, or shall be charged against any leave with pay ordinarily granted, other than sick leave, provided further, however, that any such absence not so made up or charged, may be treated by the employer of such person as leave taken without pay.

(c) This section shall not be construed to apply to any position dealing with the public health or safety where the person holding such position must be available for duty whenever needed, or to any position or class of positions the nature and quality of the duties of which are such that the personal presence of the holder of such position is regularly essential on any particular day or days or portion thereof for the normal performance of such duties with respect to any applicant therefor or holder thereof who, as a *religious* requirement [of his religion], observes such day or days or portion thereof as [his] the sabbath or other holy day.

Section 5. Section 5.2(a) of the act, added October 10, 1973 (P.L.278, No.78), is amended to read:

Section 5.2. Abortion and Sterilization; Immunity from Requirement to Perform; Unlawful Discriminatory Practices.—(a) No hospital or other health care facility shall be required to, or held liable for refusal to, perform or permit the performance of abortion or sterilization contrary to its stated ethical policy. No physician, nurse, staff member or employe of a hospital or other health care facility, who shall state in writing to such hospital or health care facility [his] an objection to performing, participating in, or cooperating in, abortion or sterilization on moral, religious or professional grounds, shall be required to, or held liable for refusal to, perform, participate in, or cooperate in such abortion or sterilization.

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Section 6. The act is amended by adding a section to read:

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

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

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

(c) Misrepresent, create or distort a circumstance, condition or incident for the purpose of fostering the impression or belief, on the part of any owner, occupant or prospective owner or occupant of any housing accom-

modation or commercial property, that such housing accommodation or commercial property is within any neighborhood, community or area adjacent to any other area which would be adversely impacted by the residence, or future increased or decreased residence, of persons of a particular race, color, religious creed, ancestry, sex, national origin, handicap or disability, or who are guide or support animal dependent within such neighborhood, community or area.

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

Section 7. Section 6 of the act, amended August 4, 1961 (P.L.922, No.402), is amended to read:

Section 6. Pennsylvania Human Relations Commission.—There shall be, and there is hereby established in the [Department of Labor and Industry] *Governor's Office* a non-partisan, departmental administrative commission for the administration of this act, which shall be known as the "Pennsylvania Human Relations Commission," and which is hereinafter referred to as the "Commission."

Said Commission shall consist of eleven members, to be known as Commissioners, who shall be appointed by the Governor by and with the advice and consent of [two thirds of all] *a majority of* the members of the Senate, not more than six of such Commissioners to be from the same political party, and each of whom shall hold office for a term of five years or until his successor shall have been duly appointed and qualified]: **Provided, however, That in making the first appointments to said Commission one member shall be appointed for a term of one year, two for a term of two years, two for a term of three years, two for a term of four years and two for a term of five years. The two members added to the Commission hereby shall be appointed for terms to run concurrently with the term of the member or his successor who was appointed for a one year term when the Commission was first established].** Vacancies occurring in an office of a member of the Commission by expiration of term, death, resignation, removal or for any other reason shall be filled in the manner aforesaid for the balance of that term. *Commission members failing to attend meetings for three consecutive months shall forfeit their seats unless the chairperson of the commission receives written notification from the member involved that the absence was due to personal illness or the death or illness of an immediate family member.*

Subject to the provisions of this act, the Commission shall have all the powers and shall perform the duties generally vested in and imposed upon

departmental administrative boards and commissions by the act, approved the ninth day of April, one thousand nine hundred twenty-nine (Pamphlet Laws 177), known as "The Administrative Code of one thousand nine hundred twenty-nine," and its amendments, and shall be subject to all the provisions of such code which apply generally to departmental administrative boards and commissions.

The Governor shall designate one of the members of the Commission to be its chairman who shall preside at all meetings of the Commission and perform all the duties and functions of the chairman thereof. The Commission may designate one of its members to act as chairman during the absence or incapacity of the chairman and, when so acting, the member so designated shall have and perform all the powers and duties of the chairman of the Commission.

Six members of the Commission *or a majority of those duly appointed and qualified* shall constitute a quorum for transacting business, and a majority vote of those present at any meeting shall be sufficient for any official action taken by the Commission.

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

The Commission shall adopt an official seal by which its acts and proceedings shall be authenticated, and of which the courts shall take judicial notice. The certificate of the chairman of the Commission, under the seal of the Commission and attested by the secretary, shall be accepted in evidence in any judicial proceeding in any court of this Commonwealth as adequate and sufficient proof of the acts and proceedings of the Commission therein certified to.

Section 8. Section 7(i), (j) and (k) of the act, amended July 9, 1969 (P.L.133, No.56) and November 26, 1978 (P.L.1292, No.309), are amended and the section is amended by adding clauses to read:

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

* * *

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

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

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

* * *

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

(j) To issue such publications and such results of investigations and research as, in its judgment, will tend to promote good will and minimize or eliminate discrimination because of race, color, religious creed, ancestry, age, sex [or], national origin *or handicap or disability*.

(k) From time to time but not less than once a year, to report to the [Legislature] *General Assembly* and the Governor describing in detail the investigations, proceedings and hearings it has conducted and their outcome, the decisions it has rendered and the other work performed by it, and make recommendations for such further legislation concerning abuses and discrimination because of race, color, religious creed, ancestry, age, sex [or], national origin *or handicap or disability* as may be desirable.

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

(n) *To notify local human relations commissions of complaints received by the Pennsylvania Human Relations Commission involving persons within a commission's jurisdiction.*

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

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

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

Section 9. Section 8 of the act is amended to read:

Section 8. Educational Program.—

[In order to eliminate prejudice among the various racial, religious and nationality groups in this Commonwealth and to further good will among such groups, the] *The Commission*, in cooperation with the [Department of Public Instruction] *Department of Education*, is authorized to prepare a comprehensive educational program, designed for the students of the schools

in this Commonwealth and for all other residents thereof, in order to eliminate prejudice **[against such groups] against and to further good will among all persons, without regard to race, religious creed, ancestry, age, sex, national origin, handicap or disability.**

Section 10. Section 9(a), (b), (f) and (g) of the act, amended December 9, 1982 (P.L.1053, No.247), are amended to read:

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

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

(2) **The Commission shall send a copy of the complaint to the named respondent within thirty days from the date of docketing the complaint.**

(3) **A respondent shall file a written, verified answer to the complaint within thirty days of service of the complaint. The Commission, upon request of the respondent, may grant an extension of not more than thirty additional days.**

* * *

(f) 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 this act, the Commission shall state its findings of fact, and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such unlawful discriminatory practice and to take such affirmative action, including, but not limited to, **reimbursement of certifiable travel expenses in matters involving the complaint, not to exceed fifty dollars (\$50), compensation for loss of work in matters involving the complaint, not to exceed two hundred dollars (\$200),** hiring, reinstatement or upgrading of employes, with or without back pay, admission or restoration to membership in any respondent labor organization, **the making of reasonable accommodations,** or selling or leasing specified **[commercial housing] housing accommodations or commercial property** upon such equal terms and conditions and with such equal facilities, services and privileges or lending money, whether or not secured by mortgage or otherwise for the acquisition, construction, rehabilitation, repair or mainte-

nance of [commercial housing] *housing accommodations or commercial property*, upon such equal terms and conditions to any person discriminated against or all persons as, in the judgment of the Commission, will effectuate the purposes of this act, and including a requirement for report of the manner of compliance. 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. 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.

(g) The Commission shall establish rules or practice to govern, expedite and effectuate the foregoing procedure and its own actions thereunder. Three or more members of the Commission or a permanent hearing examiner designated by the Commission shall constitute the Commission for any hearing required to be held by the Commission under this act. The recommended findings, conclusions and order made by said members or permanent hearing examiner shall be reviewed and approved or reversed by the Commission before such order may be served upon the parties to the complaint. The recommended findings, conclusions and order made by said members or permanent hearing examiner shall become a part of the permanent record of the proceeding and shall accompany any order served upon the parties to the complaint. Any complaint filed pursuant to this section must be so filed within [ninety] *one hundred eighty* days after the alleged act of discrimination. Any complaint may be withdrawn at any time by the party filing the complaint.

Section 11. Section 12(b) of the act, amended December 19, 1974 (P.L.966, No.318), is amended and the section is amended by adding a subsection to read:

Section 12. Construction and Exclusiveness of Remedy.—

* * *

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

in any municipal ordinance, the interpretation of the provision in this act shall apply to such municipal ordinance.

* * *

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

* * *

Section 12. Section 12.1 of the act is amended by adding a clause to read:

Section 12.1. Local Human Relations Commissions.—* * *

(e) The local human relations commission shall notify the Pennsylvania Human Relations Commission of complaints received involving discriminatory acts within that commission's jurisdiction.

Section 13. This act, with respect to the Pennsylvania Human Relations Commission, constitutes the legislation required to reestablish an agency under the act of December 22, 1981 (P.L.508, No.142), known as the Sunset Act.

Section 14. The Pennsylvania Human Relations Commission shall continue together with its statutory functions and duties until December 31, 1991, when it shall terminate and go out of existence unless reestablished or continued by the General Assembly for an additional ten years. Evaluation and review, termination, reestablishment and continuation of the agency beyond December 31, 1991, and every tenth year thereafter, shall be conducted pursuant to the act of December 22, 1981 (P.L.508, No.142), known as the Sunset Act.

Section 15. The presently confirmed members of the existing Pennsylvania Human Relations Commission, as of December 31, 1986, shall continue to serve as members until their present terms of office expire and until their successors are appointed and qualified.

Section 16. Each rule and regulation of the Pennsylvania Human Relations Commission in effect on December 31, 1986, shall remain in effect until repealed or amended by the Pennsylvania Human Relations Commission.

Section 17. This act shall be retroactive to December 31, 1986, if enacted after that date.

Section 18. This act shall take effect immediately.

APPROVED—The 16th day of December, A. D. 1986.

DICK THORNBURGH