

WEST VIRGINIA LEGISLATURE  
REGULAR SESSION, 1971



**ENROLLED**

COMMITTEE SUBSTITUTE FOR

HOUSE BILL No. 589

ORIGINATING IN THE COMMITTEE ON THE JUDICIARY

(By Mr. \_\_\_\_\_)



PASSED MARCH 4, 1971

In Effect NINETY DAYS FROM Passage



589

3-15-71

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FOR  
**House Bill No. 589**

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(Originating in the Committee on the Judiciary)

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[Passed March 4, 1971; in effect ninety days from passage.]

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AN ACT to amend and reenact sections two, three, four, six, eight, nine, ten and thirteen, article eleven, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto three new sections, designated sections seventeen, eighteen and nineteen, prohibiting discrimination in the sale, purchase, lease, rental or financing of housing accommodations and other real property by virtue of race, religion, color, national origin or ancestry; extending the prohibition of employment discrimination to cover employers of twelve or more persons; extending the

jurisdiction of article eleven to discrimination by employers, labor organizations, employment agencies and places of public accommodations based upon age or sex; defining the terms age, housing accommodations, real property, real estate broker, real estate salesman and purchaser and owner of housing accommodations or real property; relating to hearings by human rights commission; relating to consent orders; authorizing the human rights commission to hire a hearing examiner and to maintain one branch office; requiring employers, labor organizations, employment agencies and persons operating places of public accommodations to post notices of the human rights commission; extending the statute of limitation to ninety days; providing for injunctive relief in certain housing complaints or cases; and providing exemptions relating to ~~religious organizations and~~ private clubs.

*At  
Catharine  
Lay  
6-28-58*

*Be it enacted by the Legislature of West Virginia:*

That sections two, three, four, six, eight, nine, ten and thirteen, article eleven, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further

amended by adding thereto three new sections, designated sections seventeen, eighteen and nineteen, all to read as follows:

**ARTICLE 11. HUMAN RIGHTS COMMISSION.**

**§5-11-2. Declaration of policy.**

1 It is the public policy of the state of West Virginia to  
2 provide all of its citizens equal opportunity for employ-  
3 ment, equal access to places of public accommodations,  
4 and equal opportunity in the sale, purchase, lease, rental  
5 and financing of housing accommodations or real prop-  
6 erty. Equal opportunity in the areas of employment and  
7 public accommodations is hereby declared to be a human  
8 right or civil right of all persons without regard to race,  
9 religion, color, national origin, ancestry, sex or age.  
10 Equal opportunity in housing accommodations or real  
11 property is hereby declared to be a human right or  
12 civil right of all persons without regard to race, re-  
13 ligion, color, national origin, or ancestry.

14 **The denial of these rights to properly qualified persons**  
15 **by reason of race, religion, color, national origin, an-**  
16 **cestry, sex or age, is contrary to the principles of free-**

17 dom and equality of opportunity and is destructive to  
18 a free and democratic society.

**§5-11-3. Definitions.**

1 When used in this article:

2 (a) The term "person" means one or more individ-  
3 uals, partnerships, associations, organizations, corpora-  
4 tions, labor organizations, cooperatives, legal representa-  
5 tives, trustees, trustees in bankruptcy, receivers and other  
6 organized groups of persons;

7 (b) The term "commission" means the West Virginia  
8 human rights commission;

9 (c) The term "director" means the executive director  
10 of the commission;

11 (d) The term "employer" means the state, or any  
12 political subdivision thereof, and any person employing  
13 twelve or more persons within the state: *Provided*, That  
14 such term shall not be taken, understood or construed to  
15 include a private club;

16 (e) The term "employee" shall not include any indi-  
17 vidual employed by his parents, spouse, or child, or in the  
18 domestic service of any person;

19 (f) The term "labor organization" includes any or-  
20 ganization which exists for the purpose, in whole or in  
21 part, for collective bargaining or for dealing with em-  
22 ployers concerning grievances, terms or conditions of  
23 employment, or for other mutual aid or protection in  
24 relation to employment;

25 (g) The term "employment agency" includes any per-  
26 son undertaking with or without compensation to pro-  
27 cure, recruit, refer or place employees. A newspaper en-  
28 gaged in the activity of advertising in the normal course  
29 of its business shall not be deemed to be an employment  
30 agency;

31 (h) The term "discriminate" or "discrimination"  
32 means to exclude from, or fail or refuse to extend to, a  
33 person equal opportunities because of race, religion, color,  
34 national origin, ancestry, sex or age, and includes to  
35 separate or segregate;

36 (i) The term "unlawful discriminatory practices" in-  
37 cludes only those practices specified in section nine of  
38 this article;

39 (j) The term "place of public accommodations" means  
40 any establishment or person, as defined herein, including

41 the state, or any political or civil subdivision thereof,  
42 which offers its services, goods, facilities or accommoda-  
43 tions to the general public, but shall not include any  
44 accommodations which are in their nature private;

45 (k) The term "housing accommodations" means any  
46 building or portion thereof, which is used or intended  
47 for use as the residence or sleeping place of one or more  
48 persons. Nothing contained in this definition or this  
49 article shall apply to the rental of a room or rooms in  
50 a rooming house occupied by the owner as a place of  
51 residence and containing no more than four rented  
52 rooms, or rooms to be rented;

53 (l) The term "real property" includes real estate,  
54 lands, leaseholds, commercial or industrial buildings and  
55 any vacant land offered for sale or rent on which the  
56 construction of a housing accommodation, commercial  
57 or industrial building is intended, and any land operated  
58 as a trailer camp or rented or leased for the use, parking  
59 or storage of mobile homes or house trailers;

60 (m) The term "real estate broker" includes any per-  
61 son, firm or corporation who, for a fee, commission or

62 other valuable consideration, or by reason of a promise  
63 or reasonable expectation thereof, lists for sale, sells,  
64 exchanges, buys or rents, or offers or attempts to nego-  
65 tiate a sale, exchange, purchase, or rental of real estate  
66 or an interest therein, or collects or offers or attempts to  
67 collect rent for the use of real estate or solicits for pros-  
68 pective purchaser or assists or directs in the procuring  
69 of prospects or the negotiation or closing of any trans-  
70 action which does or is contemplated to result in the sale,  
71 exchange, leasing, renting or auctioning of any real  
72 estate or negotiates, offers or attempts or agrees to nego-  
73 tiate a loan secured or to be secured by mortgage or other  
74 encumbrance upon or transfer of any real estate for  
75 others, or any person who, for pecuniary gain or expect-  
76 tation of pecuniary gain, conducts a public or private  
77 competitive sale of lands or any interest in lands. In the  
78 sale of lots, the term "real estate broker" shall also  
79 include any person, partnership, association or corpora-  
80 tion employed by or on behalf of the owner or owners  
81 of lots or other parcels of real estate, at a stated salary,  
82 or upon a commission, or upon a salary and commission,



83 or otherwise to sell such real estate, or any parts thereof,  
84 in lots or other parcels, and who shall sell or exchange,  
85 or offer or attempt or agree to negotiate the sale or  
86 exchange, of any such lot or parcel of real estate. A  
87 newspaper engaged in the activity of advertising in the  
88 normal course of its business shall not be deemed to be  
89 a real estate broker;

90 (n) The term "real estate salesman" includes any  
91 person who, for compensation, valuable consideration or  
92 commission, or other thing of value, or by reason of a  
93 promise or reasonable expectation thereof, is employed  
94 by and operates under the supervision of a real estate  
95 broker to sell, buy or offer to buy or negotiate the pur-  
96 chase, sale or exchange of real estate, offers or attempts  
97 to negotiate a loan secured or to be secured by a mort-  
98 gage or other encumbrance upon or transfer of real es-  
99 tate for others, or to collect rents for the use of real  
100 estate, or to solicit for prospective purchasers or lessees  
101 of real estate, or who is employed by a licensed real  
102 estate broker to sell or offer to sell lots or other parcels  
103 of real estate, at a stated salary, or upon a commission,

104 or upon a salary and commission, or otherwise to sell  
104 real estate, or any parts thereof, in lots or other parcels;

106 (o) The term "purchaser" includes any occupant,  
107 prospective occupant, lessee, prospective lessee, renter,  
108 prospective renter, buyer or prospective buyer;

109 (p) The term "owner" shall include the owner, lessee,  
110 sublessee, assignee, manager, agent, or other person,  
111 firm or corporation having the right to sell, rent or lease  
112 any housing accommodation or real property within the  
113 state of West Virginia or any agent of any of these;

114 (q) The term "age" means ages forty through sixty-  
115 five, both inclusive;

116 (r) The term "rooming house" means a house or  
117 building where there are one or more bedrooms which  
118 the proprietor can spare for the purpose of giving lodg-  
119 ings to such persons as he chooses to receive.

**§5-11-4. Human rights commission continued; status, powers  
and objects.**

1 The West Virginia human rights commission, hereto-  
2 fore created, is hereby continued. The commission shall  
3 have the power and authority and shall perform the

4 functions and services as in this article prescribed and  
5 as otherwise provided by law. The commission shall en-  
6 courage and endeavor to bring about mutual understand-  
7 ing and respect among all racial, religious and ethnic  
8 groups within the state and shall strive to eliminate all  
9 discrimination in employment and places of public ac-  
10 commodations by virtue of race, religion, color, national  
11 origin, ancestry, sex or age and shall strive to eliminate  
12 all discrimination in the sale, purchase, lease, rental  
13 or financing of housing and other real property by virtue  
14 of race, religion, color, national origin or ancestry.

**§5-11-6. Commission organization and personnel.**

1 As soon as practical after the first day of July of each  
2 year, the governor shall call a meeting of the commis-  
3 sion to be convened at the state capitol. The commission  
4 shall at such meeting organize by electing one of its  
5 members as chairman of the commission and one as  
6 vice chairman thereof for a term of one year or until  
7 their successors are elected and qualified. At such meet-  
8 ing the commission shall also elect from its membership  
9 such other officers as may be found necessary and  
10 proper for its effective organization.

11 The governor shall, by and with the advice and con-  
12 sent of the Senate, appoint an executive director to  
13 serve at his will and pleasure. The executive director  
14 shall serve as secretary of the commission. The execu-  
15 tive director shall have a college degree. He shall be  
16 selected with particular reference to his training, ex-  
17 perience and qualifications for the position and shall be  
18 paid an annual salary, payable in monthly installments,  
19 from any appropriations made therefor. The commission,  
20 upon recommendation of the executive director and in  
21 accordance with the requirements of the civil service  
22 law, may employ such personnel as may be necessary  
23 for the effective and orderly performance of the functions  
24 and services of the commission. The commission shall  
25 employ a hearing examiner who shall be an attorney,  
26 duly licensed to practice law in the state of West Vir-  
27 ginia, for the conduct of the public hearings authorized  
28 in subdivision (d) (3), section eight of this article.

29 The commission shall equip and maintain its offices at  
30 the state capitol and shall hold its annual organizational  
31 meeting there. The commission may hold other meetings

32 during the year at such times and places within the state  
33 as may be found necessary, and likewise may maintain  
34 one branch office within the state as determined by the  
35 commission to be necessary for the effective and orderly  
36 performance of the functions and services of the commis-  
37 sion. Any five members of the commission shall consti-  
38 tute a quorum for the transaction of business. Minutes  
39 of its meetings shall be kept by its secretary.

40 The executive director and other commission personnel  
41 shall be reimbursed for necessary and reasonable travel  
42 and subsistence expenses actually incurred in the per-  
43 formance of commission services upon presentation of  
44 properly verified expense accounts as prescribed by law.

**§5-11-8. Commission powers; functions; services.**

1 The commission is hereby authorized and empowered:  
2 (a) To cooperate and work with federal, state and  
3 local government officers, units, activities and agencies  
4 in the promotion and attainment of more harmonious  
5 understanding and greater equality of rights between  
6 and among all racial, religious and ethnic groups in this  
7 state;

8 (b) To enlist the cooperation of racial, religious and  
9 ethnic units, community and civic organizations, indus-  
10 trial and labor organizations and other identifiable groups  
11 of the state in programs and campaigns devoted to the  
12 advancement of tolerance, understanding and the equal  
13 protection of the laws of all groups and peoples;

14 (c) To receive, investigate and pass upon complaints  
15 alleging discrimination in employment or places of pub-  
16 lic accommodations, because of race, religion, color, nat-  
17 ional origin, ancestry, sex or age, and complaints alleg-  
18 ing discrimination in the sale, purchase, lease, rental  
19 and financing of housing accommodations or real prop-  
20 erty because of race, religion, color, national origin  
21 or ancestry and to initiate its own consideration  
22 of any situations, circumstances or problems, in-  
23 cluding therein any racial, religious or ethnic group  
24 tensions, prejudice, disorder or discrimination reported  
25 or existing within the state relating to employment,  
26 places of public accommodations, housing accommoda-  
27 tions and real property;

28 (d) To hold and conduct public and private hearings  
29 on complaints, matters and questions before the com-

30 mission and, in connection therewith, relating to dis-  
31 crimination in employment, or places of public accom-  
32 modations, housing accommodations or real property  
33 and during the investigation of any formal complaint  
34 before the commission relating to employment, places of  
35 public accommodations, housing accommodations or real  
36 property to:

37 (1) Issue subpoenas and subpoenas duces tecum upon  
38 the concurrence of at least five members of the com-  
39 mission, administer oaths, take the testimony of any  
40 person under oath, and make reimbursement for travel  
41 and other reasonable and necessary expenses in connec-  
42 tion with such attendance;

43 (2) Furnish copies of public hearing records to parties  
44 involved therein upon their payment of the reasonable  
45 costs thereof to the commission;

46 (3) Delegate to a panel of one commission member  
47 appointed by the chairman and a hearing examiner who  
48 shall be an attorney, duly licensed to practice law in  
49 West Virginia, the power and authority to hold and con-  
50 duct the hearings, as herein provided, but all decisions

51 and action growing out of or upon any such hearings

52 shall be reserved for determination by the commission;

53 (4) To enter into conciliation agreements and con-  
54 sent orders;

55 (5) To apply to the circuit court of the county where  
56 the respondent resides or transacts business for enforce-  
57 ment of any conciliation agreement or consent order by  
58 seeking specific performance of such agreement or con-  
59 sent order;

60 (6) To issue cease and desist orders against any per-  
61 son found, after a public hearing, to have violated the  
62 provisions of this article or the rules and regulations of  
63 the commission;

64 (7) To apply to the circuit court of the county where  
65 the respondent resides or transacts business for an order  
66 enforcing any lawful cease and desist order issued by  
67 the commission.

68 (e) To recommend to the governor and Legislature  
69 policies, procedures, practices and legislation in matters  
70 and questions affecting human rights;

71 (f) To delegate to its executive director such powers,



72 duties and functions as may be necessary and expedient  
73 in carrying out the objectives and purposes of this article;

74 (g) To prepare a written report on its work, functions  
75 and services for each year ending on the thirtieth day of  
76 June and to deliver copies thereof to the governor on or  
77 before the first day of December next thereafter;

78 (h) To do all other acts and deeds necessary and  
79 proper to carry out and accomplish effectively the ob-  
80 jects, functions and services contemplated by the pro-  
81 visions of this article, including the promulgation of  
82 rules and regulations in accordance with the provisions  
83 of article three, chapter twenty-nine-a of this code, im-  
84 plementing the powers and authority hereby vested in  
85 the commission;

86 (i) To create such advisory agencies and conciliation  
87 councils, local, regional or statewide, as in its judgment  
88 will aid in effectuating the purposes of this article, to  
89 study the problem of discrimination in all or specific  
90 fields or instances of discrimination because of race,  
91 religion, color, national origin, ancestry, sex or age; to  
92 foster, through community effort or otherwise, good will,

93 cooperation and conciliation among the groups and ele-  
94 ments of the population of this state, and to make recom-  
95 mendations to the commission for the development of  
96 policies and procedures, and for programs of formal and  
97 informal education, which the commission may recom-  
98 mend to the appropriate state agency. Such advisory  
99 agencies and conciliation councils shall be composed of  
100 representative citizens serving without pay. The com-  
101 mission may itself make the studies and perform the  
102 acts authorized by this subdivision. It may, by voluntary  
103 conferences with parties in interest, endeavor by con-  
104 ciliation and persuasion to eliminate discrimination in  
105 all the stated fields and to foster good will and coopera-  
106 tion among all elements of the population of the state;

107 (j) To accept contributions from any person to assist  
108 in the effectuation of the purposes of this section and to  
109 seek and enlist the cooperation of private, charitable,  
110 religious, labor, civic and benevolent organizations for  
111 the purposes of this section;

112 (k) To issue such publications and such results of  
113 investigation and research as in its judgment will tend

114 to promote good will and minimize or eliminate discrimi-  
115 nation: *Provided*, That the identity of the parties in-  
116 volved shall not be disclosed.

**§5-11-9. Unlawful discriminatory practices.**

1 It shall be an unlawful discriminatory practice, unless  
2 based upon a bona fide occupational qualification, or  
3 except where based upon applicable security regulations  
4 established by the United States or the state of West  
5 Virginia or its agencies or political subdivisions:

6 (a) For any employer to discriminate against an  
7 individual with respect to compensation, hire, tenure,  
8 terms, conditions or privileges of employment if the  
9 individual is able and competent to perform the services  
10 required: *Provided, however*, That it shall not be un-  
11 lawful discriminatory practice for an employer to ob-  
12 serve the provisions of any bona fide pension, retirement,  
13 group or employee insurance, or welfare benefit plan or  
14 system not adopted as a subterfuge to evade the pro-  
15 visions of this subsection;

16 (b) For any employer, employment agency or labor  
17 organization, prior to the employment or admission to

18 membership, to (1) elicit any information or make or keep  
19 a record of or use any form of application or application  
20 blank containing questions or entries concerning the race,  
21 religion, color, national origin, ancestry, sex or age of any  
22 applicant for employment or membership; (2) print or  
23 publish or cause to be printed or published any notice or  
24 advertisement relating to employment or membership in-  
25 dicating any preference, limitation, specification or dis-  
26 crimination based upon race, religion, color, national ori-  
27 gin, ancestry, sex or age; or (3) deny or limit, through a  
28 quota system, employment or membership because of race,  
29 religion, color, national origin, ancestry, sex or age;

30 (c) For any labor organization because of race, re-  
31 ligion, color, national origin, ancestry, sex or age of any  
32 individual to deny full and equal membership rights to  
33 any individual or otherwise to discriminate against such  
34 individuals with respect to hire, tenure, terms, condi-  
35 tions or privileges of employment or any other matter,  
36 directly or indirectly, related to employment;

37 (d) For an employer, labor organization, employ-  
38 ment agency or any joint labor-management committee  
39 controlling apprentice training programs to:

40 (1) Select individuals for an apprentice training pro-  
41 gram registered with the state of West Virginia on any  
42 basis other than their qualifications as determined by  
43 objective criteria which permit review;

44 (2) Discriminate against any individual with respect  
45 to his right to be admitted to or participate in a guidance  
46 program, an apprenticeship training program, on-the-job  
47 training program, or other occupational training or re-  
48 training program;

49 (3) Discriminate against any individual in his pur-  
50 suit of such programs or to discriminate against such a  
51 person in the terms, conditions or privileges of such  
52 programs;

53 (4) Print or circulate or cause to be printed or circu-  
54 lated any statement, advertisement or publication, or  
55 to use any form of application for such programs or  
56 to make any inquiry in connection with such program  
57 which expresses, directly or indirectly, discrimination  
58 or any intent to discriminate, unless based upon a bona  
59 fide occupational qualification;

60 (e) For any employment agency to fail or refuse  
61 to classify properly, refer for employment or otherwise  
62 to discriminate against any individual because of his  
63 race, religion, color, national origin, ancestry, sex or age;

64 (f) For any person being the owner, lessee, pro-  
65 prietor, manager, superintendent, agent or employee of  
66 any place of public accommodations to:

67 (1) Refuse, withhold from or deny to any individual  
68 because of his race, religion, color, national origin, ances-  
69 try, sex or age, either directly or indirectly, any of the  
70 accommodations, advantages, facilities, privileges or ser-  
71 vices of such place of public accommodations;

72 (2) Publish, circulate, issue, display, post or mail,  
73 either directly or indirectly, any written or printed  
74 communication, notice or advertisement to the effect that  
75 any of the accommodations, advantages, facilities, priv-  
76 ileges or services of any such place shall be refused, with-  
77 held from or denied to any individual on account of race,  
78 religion, color, national origin, ancestry, sex or age, or that  
79 the patronage or custom thereat of any individual, belong-  
80 ing to or purporting to be of any particular race, re-

81 ligin, color, national origin, ancestry, sex or age is un-  
82 welcome, objectionable, not acceptable, undesired or not  
83 solicited;

84 (g) For the owner, lessee, sublessee, assignee or  
85 managing agent of, or other person having the right of  
86 ownership or possession of or the right to sell, rent,  
87 lease, assign, or sublease any housing accommodations  
88 or real property or part or portion thereof, or any agent,  
89 or employee of any of them; or for any real estate  
90 broker, real estate salesman, or employee or agent  
91 thereof:

92 (1) To refuse to sell, rent, lease, assign or sublease  
93 or otherwise to deny to or withhold from any person  
94 or group of persons any housing accommodations or  
95 real property, or part or portion thereof, because of race,  
96 religion, color, national origin or ancestry of such person  
97 or group of persons;

98 (2) To discriminate against any person or group of  
99 persons because of the race, religion, color, national ori-  
100 gin or ancestry of such person or group of persons  
101 in the terms, conditions, or privileges of the sale, rental,

102 or lease of any housing accommodations or real prop-  
103 erty, or part or portion thereof, or in the furnishing  
104 of facilities or services in connection therewith;

105 (3) To print, publish, circulate, issue, display, post  
106 or mail, or cause to be printed, published, circulated,  
107 issued, displayed, posted or mailed any statement, ad-  
108 vertisement, publication, or sign or to use any form  
109 of application for the purchase, rental, lease, assignment  
110 or sublease of any housing accommodations or real prop-  
111 erty, or part or portion thereof, or to make any record  
112 or inquiry in connection with the prospective purchase,  
113 rental, lease, assignment or sublease of any housing ac-  
114 commodations or real property or part or portion thereof,  
115 which expresses, directly or indirectly, any limitation,  
116 specification, or discrimination as to race, religion, color,  
117 national origin or ancestry or any intent to make  
118 any such limitation, specification, or discrimination and  
119 the production of any statement, advertisement, pub-  
120 licity, sign, form of application, record or inquiry pur-  
121 porting to be made by any such person shall be prima



122 facie evidence in any action that the same was autho-  
123 rized by such person;

124 (h) For any person or financial institution or lender  
125 to whom application is made for financial assistance  
126 for the purchase, acquisition, construction, rehabilitation,  
127 repair or maintenance of any housing accommodations  
128 or real property, or part or portion thereof, or any agent  
129 or employee thereof to:

130 (1) Discriminate against any person or group of per-  
131 sons because of race, religion, color, national origin or  
132 ancestry, of such person or group of persons or of the  
133 prospective occupants or tenants of such housing ac-  
134 commodations or real property, or part or portion thereof,  
135 in the granting, withholding, extending, modifying or  
136 renewing, or in the fixing of the rates, terms, conditions  
137 or provisions of any such financial assistance or in the  
138 extension of services in connection therewith;

139 (2) Use any form of application for such financial  
140 assistance or to make any record of inquiry in connec-  
141 tion with applications for such financial assistance which  
142 expresses, directly or indirectly, any limitation, specif-

143 cation or discrimination as to race, religion, color, na-  
144 tional origin or ancestry, or any intent to make  
145 any such limitation, specification or discrimination;

146 (i) For any person, employer, employment agency,  
147 labor organization, owner, real estate broker, real estate  
148 salesman or financial institution to:

149 (1) Engage in any form of threats or reprisal, or to  
150 engage in, or hire, or conspire with others to commit  
151 acts or activities of any nature, the purpose of which  
152 is to harass, degrade, embarrass, or cause physical harm  
153 or economic loss or to aid, abet, incite, compel or coerce  
154 any person to engage in any of the unlawful discrimi-  
155 natory practices defined in this section;

156 (2) Wilfully obstruct or prevent any person from  
157 complying with the provisions of this article, or to re-  
158 sist, prevent, impede or interfere with the commission  
159 or any of its members or representatives in the per-  
160 formance of duty under this article;

161 (3) Engage in any form of reprisal or otherwise dis-  
162 criminate against any person because he has opposed  
163 any practices or acts forbidden under this article or

164 because he has filed a complaint, testified or assisted  
165 in any proceeding under this article;

166 (4) For profit to induce or attempt to induce any  
167 person to sell or rent or to not sell or rent any housing  
168 accommodations or real property by representations re-  
169 garding the entry or prospective entry into the neighbor-  
170 hood of a person or persons of a particular race, religion,  
171 color, national origin or ancestry.

**§5-11-10. Discriminatory practices; investigations, hearings,  
procedures and orders.**

1 Any individual claiming to be aggrieved by an alleged  
2 unlawful discriminatory practice shall make, sign and  
3 file with the commission a verified complaint, which shall  
4 state the name and address of the person, employer, labor  
5 organization, employment agency, owner, real estate  
6 broker, real estate salesman or financial institution al-  
7 leged to have committed the unlawful discriminatory  
8 practice complained of, and which shall set forth the  
9 particulars thereof and contain such other information  
10 as may be required by the commission's rules and regu-  
11 tions. The commission upon its own initiative, or the

12 attorney general, shall, in like manner, make, sign and  
13 file such complaint. Any employer, whose employees, or  
14 some of them hinder or threaten to hinder compliance  
15 with the provisions of this article, shall file with the  
16 commission a verified complaint, asking for assistance  
17 by conciliation or other remedial action and, during  
18 such period of conciliation or other remedial action,  
19 no hearings, orders or other actions shall be held,  
20 made or taken by the commission against such employer.  
21 Any complaint filed pursuant to this article must be  
22 filed within ninety days after the alleged act of dis-  
23 crimination.

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

28 If it shall be determined after such investigation that  
29 no probable cause exists for substantiating the allega-  
30 tions of the complaint, the commission shall, within ten  
31 days from such determination, cause to be issued and  
32 served upon the complainant written notice of such

33 determination, and the said complainant or his attorney  
34 may, within ten days after such service, file with the  
35 commission a written request for a meeting with the  
36 commission to show probable cause for substantiating  
37 the allegations of the complaint. If it shall be deter-  
38 mined after such investigation or meeting that probable  
39 cause exists for substantiating the allegations of the  
40 complaint, the commission shall immediately endeavor  
41 to eliminate the unlawful discriminatory practices com-  
42 plained of by conference, conciliation and persuasion.  
43 The members of the commission and its staff shall not  
44 disclose what has transpired in the course of such en-  
45 deavors: *Provided*, That the commission may publish  
46 the facts in the case of any complaint which has been  
47 dismissed, and the terms of conciliation when the com-  
48 plaint has been adjusted, without disclosing the identity  
49 of the parties involved.

50 In case of failure so to eliminate such practice or in  
51 advance thereof, if in the judgment of the commission  
52 circumstances so warrant, the commission shall cause  
53 to be issued and served a written notice, together with

54 a copy of such complaint as the same may have been  
55 amended, in the manner provided by law for the service  
56 of summons in civil actions, requiring the person, em-  
57 ployer, labor organization, employment agency, owner,  
58 real estate broker, real estate salesman or financial in-  
59 stitution named in such complaint, hereinafter referred  
60 to as respondent, to answer the charges of such com-  
61 plaint at a hearing before the commission in the county  
62 where the respondent resides or transacts business at  
63 a time and place to be specified in such notice: *Provided,*  
64 *however,* That said written notice be served at least  
65 thirty days prior to the time set for the hearing.

66 The case in support of the complaint shall be pre-  
67 sented before the commission by one of its attorneys  
68 or agents. The respondent may file a written, verified  
69 answer to the complaint and appear at such hearing in  
70 person or otherwise, with or without counsel, and sub-  
71 mit testimony and evidence. Except as provided in the  
72 immediately preceding proviso, all of the pertinent pro-  
73 visions of article five, chapter twenty-nine-a of this  
74 code shall apply to and govern the hearing and the ad-

75 ministrative procedures in connection with and follow-  
76 ing such hearing, with like effect as if the provisions  
77 of said article five were set forth in extenso in this sec-  
78 tion.

79 If, after such hearing and consideration of all of the  
80 testimony, evidence and record in the case, the com-  
81 mission shall find that a respondent has engaged in  
82 or is engaging in any unlawful discriminatory practice  
83 as defined in this article, the commission shall issue  
84 and cause to be served on such respondent an order  
85 to cease and desist from such unlawful discriminatory  
86 practice and to take such affirmative action, including,  
87 but not limited to, hiring, reinstatement or upgrading  
88 of employees, with or without back pay, admission or  
89 restoration to membership in any respondent labor or-  
90 ganization, or the admission to full and equal enjoy-  
91 ment of the services, goods, facilities, or accommodations  
92 offered by any respondent place of public accommoda-  
93 tion, and the sale, purchase, lease, rental or financial  
94 assistance to any complainant otherwise qualified for  
95 the housing accommodation or real property, denied in

96 violation of this article, as in the judgment of the com-  
97 mission, will effectuate the purposes of this article, and  
98 including a requirement for report of the manner of  
99 compliance. Such order shall be accompanied by find-  
100 ings of fact and conclusions of law as specified in sec-  
101 tion three, article five, chapter twenty-nine-a of this  
102 code.

103 If, after such hearing and consideration of all of the  
104 testimony, evidence and record in the case, the com-  
105 mission shall find that a respondent has not engaged  
106 in such unlawful discriminatory practice, the commis-  
107 sion shall state its findings of fact and conclusions of  
108 law as aforesaid and shall issue and cause to be served  
109 on the complainant an order dismissing the said com-  
110 plaint as to such respondent.

111 A copy of its order shall be delivered in all cases by  
112 the commission to the complainant, the respondent, the  
113 attorney general and to such other public officers as the  
114 commission may deem proper. Any such order shall not  
115 be enforceable except as provided in section eleven of  
116 this article.



**§5-11-13. Exclusiveness of remedy.**

1 Nothing contained in this article shall be deemed to  
2 repeal or supersede any of the provisions of any existing  
3 or hereafter adopted municipal ordinance, municipal  
4 charter or of any law of this state relating to discrimina-  
5 tion because of race, religion, color, national origin, ances-  
6 try, sex or age, but as to acts declared unlawful by section  
7 nine of this article the procedure herein provided shall,  
8 when invoked, be exclusive and the final determination  
9 therein shall exclude any other action, civil or crim-  
10 inal, based on the same grievance of the complainant  
11 concerned. If such complainant institutes any action  
12 based on such grievance without resorting to the pro-  
13 cedure provided in this article, he may not subsequently  
14 resort to the procedure herein. In the event of a con-  
15 flict between the interpretation of a provision of this  
16 article and the interpretation of a similar provision con-  
17 tained in any municipal ordinance authorized by charter,  
18 the interpretation of the provision in this article shall  
19 apply to such municipal ordinance.

**§5-11-17. Posting of law and information.**

1 Every employer, labor organization, employment agency  
2 and person operating a place of public accommodations,  
3 as defined herein, subject to this article, shall keep posted  
4 in a conspicuous place or places on his premises a notice  
5 or notices to be prepared or approved by the commission,  
6 which shall set forth excerpts of this article and such other  
7 relevant information which the commission shall deem  
8 necessary.

**§5-11-18. Injunctions in certain housing complaints.**

1 When it appears that a housing unit or units described  
2 in a complaint may be sold, rented or otherwise disposed  
3 of before a determination of the complaint or case has  
4 been made by the commission or during judicial review  
5 of any final order of the commission, the circuit court of  
6 the county in which such housing unit or units are located  
7 may, upon the joint petition of the commission and the  
8 complainant, or if there be more than one complainant,  
9 all such complainants, issue a prohibitive injunction re-  
10 straining the sale, rental or other disposition of such  
11 housing unit or units except in compliance with the

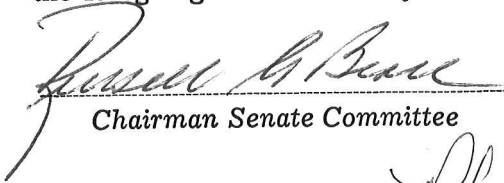
12 order of the court. No such injunction shall be issued  
13 by the court until the complainant or complainants shall  
14 have posted bond, with good security therefor, in such  
15 penalty as the court or judge awarding it may direct.  
16 The court may include in any such injunction granted  
17 such other conditions as it deems proper and just. Such  
18 injunction, if granted, shall be of no more than thirty  
19 days duration. If at the end of such thirty day period  
20 the commission notifies the court that additional time  
21 is needed for the disposal or determination of the com-  
22 plaint or case or the conclusion of such judicial re-  
23 view, the court, for good cause shown, may extend the  
24 period of the injunction for such additional time as the  
25 court deems proper. No such extension shall be granted  
26 except upon the continuation or reposting of the bond  
27 required for the original injunction and any such exten-  
28 sion of the injunction may be granted upon such additional  
29 terms and conditions as to the court seem proper and just.

**§5-11-19. Religious ~~organization or~~ private club exemption.**

1 Nothing in this article shall prohibit a private club not  
2 in fact open to the public, which as an incident to its

3 primary purpose or purposes provides lodgings which  
4 it owns or operates for other than a commercial pur-  
5 pose, from limiting the rental or occupancy of such lodg-  
6 ings to its members or guests of members or from  
7 giving preference to its members or guests of members:  
8 *Provided*, That this exemption shall not apply to any  
9 private club not in fact open to the public which owns or  
10 operates residential subdivisions providing lodgings for  
11 rental, occupancy or sale, or which provides real estate  
12 for sale for the construction of single or multi-unit dwell-  
13 ings.

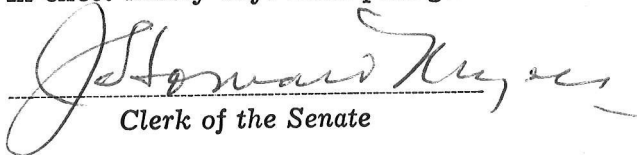
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
Chairman Senate Committee


  
Chairman House Committee

Originated in the House.

In effect ninety days from passage.

  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker House of Delegates

The within approved this the 13th  
day of March, 1971.

  
Governor



PRESENTED TO THE  
GOVERNOR

Date 3/9/71

Time 1:45 p.m.