

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1977

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ENROLLED

HOUSE BILL No. 848

(By Mr. Louis)

— ● —

PASSED March 23, 1977

In Effect ninety days from Passage

ENROLLED

H. B. 848

(By MR. SONIS)

[Passed March 23, 1977; in effect ninety days from passage.]

AN ACT to amend and reenact sections two, four, eight and nine, article eleven, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the prohibition of discrimination because of sex in the sale, rental or leasing of housing accommodations or real property, or in granting financial assistance therefor; and allowing certain exemptions.

Be it enacted by the Legislature of West Virginia:

That sections two, four, eight and nine, article eleven, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted 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
2 to provide all of its citizens equal opportunity for em-
3 ployment, 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 property.
6 Equal opportunity in the areas of employment and public
7 accommodations is hereby declared to be a human right or
8 civil right of all persons without regard to race, religion,
9 color, national origin, ancestry, sex, age or blindness. Equal
10 opportunity in housing accommodations or real property is
11 hereby declared to be a human right or civil right of all

12 persons without regard to race, religion, color, national
13 origin, ancestry, sex or blindness.

14 The denial of these rights to properly qualified persons
15 by reason of race, religion, color, national origin, ancestry,
16 sex, age or blindness is contrary to the principles of freedom
17 and equality of opportunity and is destructive to a free and
18 democratic society.

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

1 The West Virginia human rights commission, heretofore
2 created, is hereby continued. The commission shall have the
3 power and authority and shall perform the functions and
4 services as in this article prescribed and as otherwise pro-
5 vided by law. The commission shall encourage and endeavor
6 to bring about mutual understanding and respect among all
7 racial, religious and ethnic groups within the state and shall
8 strive to eliminate all discrimination in employment and places
9 of public accommodations by virtue of race, religion, color,
10 national origin, ancestry, sex, age or blindness and shall strive to
11 eliminate all discrimination in the sale, purchase, lease, rental
12 or financing of housing and other real property by virtue of
13 race, religion, color, national origin, ancestry, sex or blindness.

§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 local
3 government officers, units, activities and agencies in the pro-
4 motion and attainment of more harmonious understanding
5 and greater equality of rights between and among all racial,
6 religious and ethnic groups in this state;

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

13 (c) To receive, investigate and pass upon complaints al-
14 leging discrimination in employment or places of public accom-

15 modations, because of race, religion, color, national origin,
16 ancestry, sex, age or blindness, and complaints alleging dis-
17 crimination in the sale, purchase, lease, rental and financing
18 of housing accommodations or real property because of race,
19 religion, color, national origin, ancestry, sex or blindness
20 and to initiate its own consideration of any situations,
21 circumstances or problems, including therein any racial, re-
22 ligious or ethnic group tensions, prejudice, disorder or dis-
23 crimination reported or existing within the state relating to
24 employment, places of public accommodations, housing accom-
25 modations and real property;

26 (d) To hold and conduct public and private hearings at
27 such times and places around the state as may be practical on
28 complaints, matters and questions before the commission and,
29 in connection therewith, relating to discrimination in em-
30 ployment, or places of public accommodations, housing ac-
31 commodatons or real property and during the investigation
32 of any formal complaint before the commission relating to
33 employment, places of public accommodations, housing ac-
34 commodatons or real property to:

35 (1) Issue subpoenas and subpoenas duces tecum upon the
36 concurrence of at least five members of the commission, ad-
37 minister oaths, take the testimony of any person under oath,
38 and make reimbursement for travel and other reasonable and
39 necessary expenses in connection with such attendance;

40 (2) Furnish copies of public hearing records to parties
41 involved therein upon their payment of the reasonable costs
42 thereof to the commission;

43 (3) Delegate to a panel of one commission member ap-
44 pointed by the chairman and a hearing examiner who shall
45 be an attorney, duly licensed to practice law in West Vir-
46 ginia, the power and authority to hold and conduct the hear-
47 ings, as herein provided, but all decisions and actions growing
48 out of or upon any such hearings shall be reserved for
49 determination by the commission;

50 (4) To enter into concilation agreements and consent orders;

51 (5) To apply to the circuit court of the county where
52 the respondent resides or transacts business for enforcement

53 of any conciliation agreement or consent order by seeking
54 specific performance of such agreement or consent order;

55 (6) To issue cease and desist orders against any person
56 found, after a public hearing, to have violated the provisions
57 of this article or the rules and regulations of the commission;

58 (7) To apply to the circuit court of the county where
59 the respondent resides or transacts business for an order
60 enforcing any lawful cease and desist order issued by the
61 commission;

62 (e) To recommend to the governor and Legislature poli-
63 cies, procedures, practices and legislation in matters and
64 questions affecting human rights;

65 (f) To delegate to its executive director such powers,
66 duties and functions as may be necessary and expedient in
67 carrying out the objectives and purposes of this article;

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

72 (h) To do all other acts and deeds necessary and proper
73 to carry out and accomplish effectively the objects, functions
74 and services contemplated by the provisions of this article,
75 including the promulgation of rules and regulations in accor-
76 dance with the provisions of article three, chapter twenty-
77 nine-a of this code, implementing the powers and authority
78 hereby vested in the commission;

79 (i) To create such advisory agencies and conciliation
80 councils, local, regional or statewide, as in its judgment will
81 aid in effectuating the purposes of this article, to study the
82 problems of discrimination in all or specific fields or instances
83 of discrimination because of race, religion, color, national
84 origin, ancestry, sex, age or blindness; to foster, through
85 community effort or otherwise, goodwill, cooperation and con-
86 ciliation among the groups and elements of the population of
87 this state, and to make recommendations to the commission
88 for the development of policies and procedures, and for pro-
89 grams of formal and informal education, which the commission

90 may recommend to the appropriate state agency. Such advisory
91 agencies and conciliation councils shall be composed of repre-
92 sentative citizens serving without pay. The commission may
93 itself make the studies and perform the acts authorized by this
94 subdivision. It may, by voluntary conferences with parties in
95 interest, endeavor by conciliation and persuasion to eliminate
96 discrimination in all the stated fields and to foster goodwill
97 and cooperation among all elements of the population of the
98 state;

99 (j) To accept contributions from any person to assist in
100 the effectuation of the purposes of this section and to seek and
101 enlist the cooperation of private, charitable, religious, labor,
102 civic and benevolent organizations for the purposes of this
103 section;

104 (k) To issue such publications and such results of investi-
105 gation and research as in its judgment will tend to promote
106 goodwill and minimize or eliminate discrimination: *Provided*,
107 That the identity of the parties involved 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 except
3 where based upon applicable security regulations established
4 by the United States or the state of West Virginia or its
5 agencies or political subdivisions:

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

16 (b) For any employer, employment agency or labor or-
17 ganization, prior to the employment or admission to member-
18 ship, to (1) elicit any information or make or keep a record

19 of or use any form of application or application blank con-
20 taining questions or entries concerning the race, religion,
21 color, national origin, ancestry, sex or age of any applicant
22 for employment or membership; (2) print or publish or
23 cause to be printed or published any notice or advertisement
24 relating to employment or membership indicating any prefer-
25 ence, limitation, specifications or discrimination based upon
26 race, religion, color, national origin, ancestry, sex or age;
27 or (3) deny or limit, through a quota system, employment or
28 membership because of race, religion, color, national origin,
29 ancestry, sex, age or blindness;

30 (c) For any labor organization because of race, religion,
31 color, national origin, ancestry, sex, age or blindness of
32 any 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, conditions or
35 privileges of employment or any other matter, directly or
36 indirectly, related to employment;

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

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

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

48 (3) Discriminate against any individual in his pursuit of
49 such programs or to discriminate against such a person in the
50 terms, conditions or privileges of such programs;

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

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

61 (f) For any person being the owner, lessee, proprietor,
62 manager, superintendent, agent or employee of any place of
63 public accommodations to:

64 (1) Refuse, withhold from or deny to any individual be-
65 cause of his race, religion, color, national origin, ancestry,
66 sex, age or blindness, either directly or indirectly, any of the
67 accommodations, advantages, facilities, privileges or services
68 of such place of public accommodations;

69 (2) Publish, circulate, issue, display, post or mail, either
70 directly or indirectly, any written or printed communication,
71 notice or advertisement to the effect that any of the accom-
72 modations, advantages, facilities, privileges or services of any
73 such place shall be refused, withheld from or denied to any
74 individual on account of race, religion, color, national origin,
75 ancestry, sex, age or blindness, or that the patronage or custom
76 thereat of any individual, belonging to or purporting to be of
77 any particular race, religion, color, national origin, ancestry,
78 sex or age or who is blind is unwelcome, objectionable, not
79 acceptable, undesired or not solicited;

80 (g) For the owner, lessee, sublessee, assignee or managing
81 agent of, or other person having the right of ownership or
82 possession of or the right to sell, rent, lease, assign, or sub-
83 lease any housing accommodations or real property or part or
84 portion thereof, or any agent, or employee of any of them;
85 or for any real estate broker, real estate salesman, or employee
86 or agent thereof:

87 (1) To refuse to sell, rent, lease, assign or sublease or
88 otherwise to deny to or withhold from any person or group
89 of persons any housing accommodations or real property, or
90 part or portion thereof, because of race, religion, color,
91 national origin, ancestry, sex or blindness of such person or
92 group of persons: *Provided*, That this provision shall not
93 require any person named herein to rent, lease, assign or
94 sublease any housing accommodations or real property, or

95 any portion thereof to both sexes where the facilities of
96 such housing accommodations or real property, or any portion
97 thereof, are suitable for only one sex;

98 (2) To discriminate against any person or group of per-
99 sons because of the race, religion, color, national origin,
100 ancestry, sex or blindness 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 property,
103 or part or portion thereof, or in the furnishing of facilities
104 or services in connection therewith;

105 (3) To print, publish, circulate, issue, display, post or
106 mail, or cause to be printed, published, circulated, issued,
107 displayed, posted or mailed any statement, advertisement,
108 publication, or sign or to use any form of application for
109 the purchase, rental, lease, assignment or sublease of any
110 housing accommodations or real property, or part or portion
111 thereof, or to make any record or inquiry in connection
112 with the prospective purchase, rental, lease, assignment or
113 sublease of any housing accommodations or real property or
114 part or portion thereof, which expresses, directly or indirectly,
115 any discrimination as to race, religion, color, national origin,
116 ancestry, sex or blindness or any intent to make any such
117 discrimination and the production of any statement, advertise-
118 ment, publicity, sign, form of application, record or inquiry
119 purporting to be made by any such person shall be prima
120 facie evidence in any action that the same was authorized
121 by such person: *Provided*, That with respect to sex discrimina-
122 tion, this provision shall not apply to any person named herein
123 whose housing accommodations or real property, or any por-
124 tion thereof, have facilities which are suitable for only one sex;

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

131 (1) Discriminate against any person or group of persons
132 because of race, religion, color, national origin, ancestry,
133 sex or blindness, of such person or group of persons or of

134 the prospective occupants or tenants of such housing accom-
135 modations or real property, or part or portion thereof, in the
136 granting, withholding, extending, modifying or renewing,
137 or in the fixing of the rates, terms, conditions or provisions
138 of any such financial assistance or in the extension of services
139 in connection therewith;

140 (2) Use any form of application for such financial assist-
141 ance or to make any record of inquiry in connection with
142 applications for such financial assistance which expresses,
143 directly or indirectly, any discrimination as to race, religion,
144 color, national origin, ancestry, sex or blindness or any intent
145 to make any such discrimination;

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

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

156 (2) Willfully obstruct or prevent any person from comply-
157 ing with the provisions of this article, or to resist, prevent,
158 impede or interfere with the commission or any of its
159 members or representatives in the performance of duty under
160 this article;

161 (3) Engage in any form of reprisal or otherwise discrimi-
162 nate against any person because he has opposed any practices
163 or acts forbidden under this article or because he has filed
164 a complaint, testified or assisted in any proceeding under
165 this article;

166 (4) Induce or attempt to induce for profit any person
167 to sell or rent or to not sell or rent any housing accommoda-
168 tions or real property by representations regarding the entry
169 or prospective entry into the neighborhood of a person or
170 persons who are blind or who are of a particular race, religion,
171 color, national origin, ancestry or sex.

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

James L. Davis
Chairman Senate Committee

Florence C. Churston
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

J. Willoughby
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

W. T. Burtch
President of the Senate

Donald L. Hopp
Speaker House of Delegates

The within is approved this the 28
day of March, 1977.

John I. Ralston
Governor



RECEIVED

MAR 26 10 35 AM '77

OFFICE OF THE GOVERNOR

APPROVED AND SIGNED BY THE GOVERNOR

Date March 28, 1977

Time 1:45 p.m.

RECEIVED

77 MAR 29 P 4: 06

OFFICE
SECY. OF STATE