WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1977

ENROLLED

HOUSE BILL No. 848

(By Mr. Sonis)

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 to provide all of its citizens equal opportunity for employment, equal access to places of public accommodations, and equal opportunity in the sale, purchase, lease, rental and financing of housing accommodations or real property.

2. Equal opportunity in the areas of employment and public accommodations is hereby declared to be a human right or civil right of all persons without regard to race, religion, color, national origin, ancestry, sex, age or blindness. Equal opportunity in housing accommodations or real property is hereby declared to be a human right or civil right of all
persons without regard to race, religion, color, national
origin, ancestry, sex or blindness.

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

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

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

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

The commission is hereby authorized and empowered:
(a) To cooperate and work with federal, state and local
government officers, units, activities and agencies in the pro-
motion and attainment of more harmonious understanding
and greater equality of rights between and among all racial,
religious and ethnic groups in this state;

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

(c) To receive, investigate and pass upon complaints al-
leging discrimination in employment or places of public accom-
modations, because of race, religion, color, national origin, ancestry, sex, age or blindness, and complaints alleging discrimination in the sale, purchase, lease, rental and financing of housing accommodations or real property because of race, religion, color, national origin, ancestry, sex or blindness and to initiate its own consideration of any situations, circumstances or problems, including therein any racial, religious or ethnic group tensions, prejudice, disorder or discrimination reported or existing within the state relating to employment, places of public accommodations, housing accommodations and real property;

(d) To hold and conduct public and private hearings at such times and places around the state as may be practical on complaints, matters and questions before the commission and, in connection therewith, relating to discrimination in employment, or places of public accommodations, housing accommodations or real property and during the investigation of any formal complaint before the commission relating to employment, places of public accommodations, housing accommodations or real property to:

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

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

(3) Delegate to a panel of one commission member appointed by the chairman and a hearing examiner who shall be an attorney, duly licensed to practice law in West Virginia, the power and authority to hold and conduct the hearings, as herein provided, but all decisions and actions growing out of or upon any such hearings shall be reserved for determination by the commission;

(4) To enter into conciliation agreements and consent orders;

(5) To apply to the circuit court of the county where the respondent resides or transacts business for enforcement
of any conciliation agreement or consent order by seeking
specific performance of such agreement or consent order;

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

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

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

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

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

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

(i) To create such advisory agencies and conciliation
councils, local, regional or statewide, as in its judgment will
aid in effectuating the purposes of this article, to study the
problems of discrimination in all or specific fields or instances
of discrimination because of race, religion, color, national
origin, ancestry, sex, age or blindness; to foster, through
community effort or otherwise, goodwill, cooperation and con-
ciliation among the groups and elements of the population of
this state, and to make recommendations to the commission
for the development of policies and procedures, and for pro-
grams of formal and informal education, which the commission
may recommend to the appropriate state agency. Such advisory agencies and conciliation councils shall be composed of representative citizens serving without pay. The commission may itself make the studies and perform the acts authorized by this subdivision. It may, by voluntary conferences with parties in interest, endeavor by conciliation and persuasion to eliminate discrimination in all the stated fields and to foster goodwill and cooperation among all elements of the population of the state;

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

(k) To issue such publications and such results of investigation and research as in its judgment will tend to promote goodwill and minimize or eliminate discrimination: Provided, That the identity of the parties involved shall not be disclosed.


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

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

(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, religion, color, national origin, ancestry, sex or age of any applicant for employment or membership; (2) print or publish or cause to be printed or published any notice or advertisement relating to employment or membership indicating any preference, limitation, specifications or discrimination based upon race, religion, color, national origin, ancestry, sex or age; or (3) deny or limit, through a quota system, employment or membership because of race, religion, color, national origin, ancestry, sex, age or blindness;

(c) For any labor organization because of race, religion, color, national origin, ancestry, sex, age or blindness 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 an employer, labor organization, employment agency or any joint labor-management committee controlling apprentice training programs to:

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

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

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

(4) Print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for such programs or to make any inquiry in connection with such program which expresses, directly or indirectly, discrimination or any intent to discriminate, unless based upon a bona fide occupational qualification;
(e) 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, religion, color, national origin, ancestry, sex, age or blindness;

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

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

   (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, privileges or services of any such place shall be refused, withheld from or denied to any individual on account of race, religion, color, national origin, ancestry, sex, age or blindness, or that the patronage or custom thereat of any individual, belonging to or purporting to be of any particular race, religion, color, national origin, ancestry, sex or age or who is blind is unwelcome, objectionable, not acceptable, undesired or not solicited;

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

   (1) To refuse to sell, rent, lease, assign or sublease or otherwise to deny to or withhold from any person or group of persons any housing accommodations or real property, or part or portion thereof, because of race, religion, color, national origin, ancestry, sex or blindness of such person or group of persons: Provided, That this provision shall not require any person named herein to rent, lease, assign or sublease any housing accommodations or real property, or
any portion thereof to both sexes where the facilities of
such housing accommodations or real property, or any portion
thereof, are suitable for only one sex;

(2) To discriminate against any person or group of per-
sons because of the race, religion, color, national origin,
ancestry, sex or blindness of such person or group of persons
in the terms, conditions, or privileges of the sale, rental,
or lease of any housing accommodations or real property,
or part or portion thereof, or in the furnishing of facilities
or services in connection therewith;

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

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

(1) Discriminate against any person or group of persons
because of race, religion, color, national origin, ancestry,
sex or blindness, of such person or group of persons or of
the prospective occupants or tenants of such housing accommodations or real property, or part or portion thereof, in the
granting, withholding, extending, modifying or renewing, or in the fixing of the rates, terms, conditions or provisions
of any such financial assistance or in the extension of services in connection therewith;

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

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

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

(2) Willfully obstruct or prevent any person from complying with the provisions of this article, or to resist, prevent, impede or interfere with the commission or any of its members or representatives in the performance of duty under this article;

(3) Engage in any form of reprisal or otherwise discriminate against any person because he has opposed any practices or acts forbidden under this article or because he has filed a complaint, testified or assisted in any proceeding under this article;

(4) Induce or attempt to induce for profit any person to sell or rent or to not sell or rent any housing accommodations or real property by representations regarding the entry or prospective entry into the neighborhood of a person or persons who are blind or who are of a particular race, religion, 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

Glenn J. Beacham
Chairman House Committee

Originated in the House.
Takes effect ninety days from passage.

J. W. Malone
Clerk of the Senate

C.A. Blankenship
Clerk of the House of Delegates

W.T. Britton
President of the Senate

Donald L. Hopp
Speaker House of Delegates

The within is approved this the 20th day of March, 1977.

Governor