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**By: Chairman, Commerce and Government Matters Committee (Departmental - Human Relations Commission)**

Introduced and read first time: January 29, 1996

Assigned to: Commerce and Government Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Human Relations Commission - Jurisdiction - Sexual Orientation**

3 FOR the purpose of prohibiting discrimination based on sexual orientation with regard to  
4 public accommodations, housing, and employment; making certain remedies and  
5 procedures regarding discrimination applicable to discrimination based on sexual  
6 orientation; defining "sexual orientation"; making certain technical changes; and  
7 generally relating to discrimination on the basis of sexual orientation.

8 BY repealing and reenacting, with amendments,  
9 Article 49B - Human Relations Commission  
10 Section 5(a) and (b), 8(a), 14, 16, 19(a), 20(t), 22(a), 23, and 37(a)  
11 Annotated Code of Maryland  
12 (1994 Replacement Volume and 1995 Supplement)

13 BY adding to  
14 Article 49B - Human Relations Commission  
15 Section 15(h) and 20(u)  
16 Annotated Code of Maryland  
17 (1994 Replacement Volume and 1995 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article 49B - Human Relations Commission**

21 5.

22 (a) It is unlawful for an owner or operator of a place of public accommodation or  
23 an agent or employee of the owner or operator, because of the race, creed, sex, age, color,  
24 national origin, marital status, SEXUAL ORIENTATION, or physical or mental handicap,  
25 of any person, to refuse, withhold from, or deny to such person any of the  
26 accommodations, advantages, facilities and privileges of such place of public  
27 accommodation.

28 (b) Nothing in this section shall be construed or interpreted to prohibit the  
29 proprietor of any establishment, or the employees of the establishment, from the right to

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1 deny service to any person for failure to conform to the usual and regular requirements,  
2 standards and regulations for the establishment so long as the denial is not based upon  
3 discrimination on the grounds of race, sex, age, color, creed, national origin, marital  
4 status, SEXUAL ORIENTATION, or physical or mental handicap.

5 8.

6 (a) It is unlawful for any person, business, corporation, partnership, copartnership  
7 or association or any other individual, agent, employee, group or firm which is licensed or  
8 regulated by a unit in the Department of Labor, Licensing, and Regulation as set out in  
9 § 2-108 of the Business Regulation Article to refuse, withhold from, deny or discriminate  
10 against any person the accommodations, advantages, facilities, privileges, sales, or  
11 services because of the race, sex, creed, color, national origin, marital status, SEXUAL  
12 ORIENTATION, or physical or mental handicap of any person. Nothing in this section  
13 shall be construed or interpreted to prohibit any person, business, corporation,  
14 partnership, copartnership, association or any other individual, agent, employee, group or  
15 firm which is licensed or regulated by the Department of Labor, Licensing, and  
16 Regulation from the right to refuse, withhold from, or deny any person for failure to  
17 conform to the usual and regular requirements, standards, and regulations of any person,  
18 business, corporation, partnership, copartnership, or association contemplated by this  
19 section so long as the denial is not based upon discrimination on the grounds of race, sex,  
20 color, creed, or national origin, marital status, SEXUAL ORIENTATION, or physical or  
21 mental handicap.

22 14.

23 It is hereby declared to be the policy of the State of Maryland, in the exercise of its  
24 police power for the protection of the public safety, public health and general welfare, for  
25 the maintenance of business and good government and for the promotion of the State's  
26 trade, commerce and manufacturers to assure all persons equal opportunity in receiving  
27 employment and in all labor management-union relations regardless of race, color,  
28 religion, ancestry or national origin, sex, age, marital status, SEXUAL ORIENTATION, or  
29 physical or mental handicap unrelated in nature and extent so as to reasonably preclude  
30 the performance of the employment, and to that end to prohibit discrimination in  
31 employment by any person, group, labor organization, organization or any employer or his  
32 agents.

33 15.

34 For the purpose of this subtitle:

35 (H) "SEXUAL ORIENTATION" MEANS THE IDENTIFICATION OR PRACTICE OF  
36 AN INDIVIDUAL AS TO MALE OR FEMALE HOMOSEXUALITY, HETEROSEXUALITY, OR  
37 BISEXUALITY.

38 16.

39 (a) It shall be an unlawful employment practice for an employer:

40 (1) To fail or refuse to hire or to discharge any individual, or otherwise to  
41 discriminate against any individual with respect to his compensation, terms, conditions, or  
42 privileges of employment, because of such individual's race, color, religion, sex, age,  
43 national origin, marital status, SEXUAL ORIENTATION, or physical or mental handicap

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1 unrelated in nature and extent so as to reasonably preclude the performance of the  
2 employment; or

3 (2) To limit, segregate, or classify his employees or applicants for  
4 employment in any way which would deprive or tend to deprive any individual of  
5 employment opportunities or otherwise adversely affect his status as an employee,  
6 because of the individual's race, color, religion, sex, age, national origin, marital status,  
7 SEXUAL ORIENTATION, or physical or mental handicap unrelated in nature and extent  
8 so as to reasonably preclude the performance of the employment[;].

9 (b) It shall be an unlawful employment practice for an employment agency to fail  
10 or refuse to refer for employment, or otherwise to discriminate against, any individual  
11 because of his race, color, religion, sex, age, national origin, marital status, SEXUAL  
12 ORIENTATION, or physical or mental handicap unrelated in nature and extent so as to  
13 reasonably preclude the performance of the employment, or to classify or refer for  
14 employment any individual on the basis of his race, color, religion, sex, age, national  
15 origin, marital status, SEXUAL ORIENTATION, or physical or mental handicap unrelated  
16 in nature and extent so as to reasonably preclude the performance of the employment[;].

17 (c) It shall be an unlawful employment practice for a labor organization: (1) to  
18 exclude or to expel from its membership, or otherwise to discriminate against, any  
19 individual because of his race, color, religion, sex, age, national origin, marital status,  
20 SEXUAL ORIENTATION, or physical or mental handicap unrelated in nature and extent  
21 so as to reasonably preclude the performance of the employment; (2) to limit, segregate  
22 or classify its membership, or to classify or fail or refuse to refer for employment any  
23 individual, in any way which would deprive or tend to deprive any individual of  
24 employment opportunities, or would limit such employment opportunities or otherwise  
25 adversely affect his status as an employee or as an applicant for employment, because of  
26 such individual's race, color, religion, sex, age, national origin, marital status, SEXUAL  
27 ORIENTATION, or physical or mental handicap unrelated in nature and extent so as to  
28 reasonably preclude the performance of the employment; or (3) to cause or attempt to  
29 cause an employer to discriminate against an individual in violation of this section[;].

30 (d) It shall be an unlawful employment practice for any employer, labor  
31 organization, or joint labor-management committee controlling apprenticeship or other  
32 training or retraining, including on-the-job training programs to discriminate against any  
33 individual because of his race, color, religion, sex, age, national origin, marital status,  
34 SEXUAL ORIENTATION, or physical or mental handicap unrelated in nature or extent so  
35 as to reasonably preclude the performance of the employment in admission to, or  
36 employment in, any program established to provide apprenticeship or other training[;].

37 (e) It is an unlawful employment practice for an employer, labor organization, or  
38 employment agency to print or cause to be printed or published any notice or  
39 advertisement relating to employment by the employer or membership in or any  
40 classification or referral for employment by the labor organization, or relating to any  
41 classification or referral for employment by the agency, indicating any preference,  
42 limitation, specification, or discrimination, based on race, color, religion, sex, age,  
43 national origin, SEXUAL ORIENTATION, or on the basis of a physical or mental  
44 qualification. However, a notice or advertisement may indicate a preference, limitation,  
45 specification, or discrimination based on religion, sex, age, national origin or physical or

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1 mental qualification when religion, sex, age, national origin or physical or mental  
2 qualification is a bona fide occupational qualification for employment[;].

3 (f) It is an unlawful employment practice for an employer to discriminate against  
4 any of his employees or applicants for employment, for an employment agency to  
5 discriminate against any individual, or for a labor organization to discriminate against any  
6 member thereof or applicant for membership, because he has opposed any practice made  
7 an unlawful employment practice by this subtitle or because he has made a charge,  
8 testified, assisted, or participated in any manner in an investigation, proceeding, or  
9 hearing under this subtitle[;].

10 (g) Notwithstanding any other provision of this subtitle, (1) it is not an unlawful  
11 employment practice for an employer to hire and employ employees, for an employment  
12 agency to classify, or refer for employment any individual, for a labor organization to  
13 classify its membership or to classify or refer for employment any individual, or for an  
14 employer, labor organization or joint labor-management committee controlling  
15 apprenticeship or other training or retraining programs to admit or employ any individual  
16 in any such program, on the basis of his religion, national origin or physical or mental  
17 qualification in those instances where sex, age, religion, national origin or physical or  
18 mental qualification is a bona fide occupational qualification reasonably necessary to the  
19 normal operation of that particular business or enterprise; (2) it is not an unlawful  
20 employment practice for an employer to establish standards concerning an employee's  
21 dress and grooming if the standards are directly related to the nature of the employment  
22 of the employee; (3) it is not an unlawful employment practice for a school, college,  
23 university, or other educational institution or institution of learning to hire and employ  
24 employees of a particular religion if the school, college, university, or other educational  
25 institution or institution of learning is, in whole or in substantial part, owned, supported,  
26 controlled, or managed by a particular religion or by a particular religious corporation,  
27 association, or society or if the curriculum of the school, college, university, or other  
28 educational institution or institution of learning is directed toward the propagation of a  
29 particular religion; and (4) it is not unlawful for an employer, employment agency or labor  
30 organization to observe the terms of a bona fide seniority system or any bona fide  
31 employee benefit plan such as a retirement, pension or insurance plan, which is not a  
32 subterfuge to evade the purposes of this subtitle; however, no employee benefit plan shall  
33 excuse the failure to hire any individual[;].

34 (h) Nothing contained in this subtitle shall be interpreted to require any  
35 employer, employment agency, labor organization, or joint labor-management committee  
36 subject to this subtitle to grant preferential treatment to any individual or to any group  
37 because of the race, color, religion, sex, age, national origin, SEXUAL ORIENTATION, or  
38 physical or mental handicap of the individual or group on account of an imbalance which  
39 may exist with respect to the total number or percentage of persons of any race, color,  
40 religion, sex, age, national origin, SEXUAL ORIENTATION, or physically or mentally  
41 handicapped persons employed by any employer, referred or classified for employment by  
42 any employment agency or labor organization, admitted to membership or classified by  
43 any labor agency or labor organization, admitted to membership or classified by any labor  
44 organization, or admitted to, or employed in, any apprenticeship or other training  
45 program, in comparison with the total number or percentage of persons of such race,  
46 color, religion, sex, age, national origin, SEXUAL ORIENTATION, or physically or mentally

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1 handicapped persons in any community, State, section, or other area, or in the available  
2 work force in any community, State, section, or other area.

3 19.

4 (a) It is the policy of the State of Maryland to provide for fair housing throughout  
5 the State of Maryland, to all its citizens, regardless of race, color, religion, sex, familial  
6 status, national origin, marital status, SEXUAL ORIENTATION, or handicap; and to that  
7 end to prohibit discriminatory practices with respect to residential housing by any person  
8 or group of persons, in order that the peace, health, safety, prosperity and general welfare  
9 of all the inhabitants of the State may be protected and insured.

10 20.

11 (t) "Restrictive covenants" means any specification limiting the transfer, rental,  
12 or lease of any dwelling because of race, color, religion, marital status, SEXUAL  
13 ORIENTATION, sex, familial status, handicap, or national origin.

14 (U) "SEXUAL ORIENTATION" MEANS THE IDENTIFICATION OR PRACTICE OF  
15 AN INDIVIDUAL AS TO MALE OR FEMALE HOMOSEXUALITY, HETEROSEXUALITY, OR  
16 BISEXUALITY.

17 22.

18 (a) Except as provided in § 21 of this subtitle, it is unlawful:

19 (1) To refuse to sell or rent after the making of a bona fide offer, or to  
20 refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a  
21 dwelling to any person because of race, color, religion, sex, handicap, marital status,  
22 familial status, SEXUAL ORIENTATION, or national origin;

23 (2) To discriminate against any person in the terms, conditions, or privileges  
24 of sale or rental of a dwelling, or in the provision of services or facilities in connection  
25 with the sale or rental of a dwelling, because of race, color, religion, sex, handicap,  
26 marital status, familial status, SEXUAL ORIENTATION, or national origin;

27 (3) To make, print, or publish, or cause to be made, printed, or published  
28 any notice, statement, or advertisement, with respect to the sale or rental of a dwelling  
29 that indicates any preference, limitation, or discrimination based on race, color, religion,  
30 sex, handicap, marital status, familial status, SEXUAL ORIENTATION, or national origin,  
31 or an intention to make any preference, limitation, or discrimination;

32 (4) To represent to any person because of race, color, religion, sex,  
33 handicap, marital status, familial status, SEXUAL ORIENTATION, or national origin that  
34 any dwelling is not available for inspection, sale, or rental when the dwelling is in fact  
35 available;

36 (5) For profit, to induce or attempt to induce any person to sell or rent any  
37 dwelling by representations regarding the entry or prospective entry into the  
38 neighborhood of a person or persons of a particular race, color, religion, sex, handicap,  
39 marital status, familial status, SEXUAL ORIENTATION, or national origin;

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1 (6) To discriminate in the sale or rental, or otherwise make unavailable or  
2 deny, a dwelling to any buyer or renter because of a handicap of:

3 (i) The buyer or renter; or

4 (ii) A person residing in or intending to reside in the dwelling after it  
5 is so sold, rented, or made available;

6 (7) To discriminate against any person in the terms, conditions, or privileges  
7 of sale or rental of a dwelling, or in the provision of services or facilities in connection  
8 with the dwelling, because of a handicap of:

9 (i) The person; or

10 (ii) A person residing in or intending to reside in the dwelling after it  
11 is so sold, rented, or made available;

12 (8) To refuse to permit, at the expense of the handicapped person,  
13 reasonable modifications of existing premises occupied or to be occupied by the  
14 individual if:

15 (i) The modifications may be necessary to afford the handicapped  
16 person full enjoyment of the dwelling; and

17 (ii) For a rental dwelling, the tenant agrees, at the tenant's expense, to  
18 restore, reasonable wear and tear excepted, the interior of the dwelling to the condition  
19 that existed before the modification on vacating the dwelling;

20 (9) To refuse to make reasonable accommodations in rules, policies,  
21 practices, or services when the accommodations may be necessary to afford a  
22 handicapped individual equal opportunity to use and enjoy a dwelling; or

23 (10) To fail to design or construct a covered multifamily dwelling for first  
24 occupancy as required under subsection (b) of this section.

25 23.

26 (a) (1) It is unlawful for any person or other entity whose business includes  
27 engaging in residential real estate related transactions to discriminate against any person  
28 in making available a transaction, or in the terms or conditions of a transaction, because  
29 of race, color, religion, sex, handicap, marital status, familial status, SEXUAL  
30 ORIENTATION, or national origin.

31 (2) Nothing in paragraph (1) of this subsection prohibits a person engaged  
32 in the business of furnishing appraisals of real property to take into consideration factors  
33 other than race, color, religion, national origin, sex, handicap, marital status, SEXUAL  
34 ORIENTATION, or familial status.

35 (b) It is unlawful, because of race, color, religion, sex, handicap, marital status,  
36 familial status, SEXUAL ORIENTATION, or national origin, to deny a person access to or  
37 membership or participation in a multiple-listing service, real estate brokers'  
38 organization or other service, organization, or facility relating to the business of selling or  
39 renting dwellings, or to discriminate against a person in the terms or conditions of  
40 membership or participation.

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1 37.

2 (a) Whether or not acting under color of law it is unlawful for any person, by force  
3 or threat of force, to willfully injure, intimidate, interfere with, or attempt to injure,  
4 intimidate, or interfere with:

5 (1) Any person because of race, color, religion, sex, handicap, marital status,  
6 familial status, SEXUAL ORIENTATION, or national origin and because the person is or  
7 has been:

8 (i) Selling, purchasing, renting, financing, occupying, or contracting or  
9 negotiating for the sale, purchase, rental, financing, or occupation of any dwelling; or

10 (ii) Applying for or participating in any service, organization, or  
11 facility relating to the business of selling or renting dwellings; or

12 (2) Any person because the person is or has been, or in order to intimidate  
13 the person or any other person or any class of persons from:

14 (i) Participating without discrimination on account of race, color,  
15 religion, sex, handicap, marital status, familial status, SEXUAL ORIENTATION, or  
16 national origin in any of the activities, services, organizations, or facilities described in  
17 paragraph (1) of this subsection; or

18 (ii) Affording another person or class of persons the opportunity or  
19 protection to participate in any of the activities, services, organizations or facilities  
20 described in paragraph (1) of this subsection; or

21 (3) Any person because the person is or has been, or in order to discourage  
22 the person or any other person from:

23 (i) Lawfully aiding or encouraging other persons to participate,  
24 without discrimination on account of race, color, religion, sex, handicap, marital status,  
25 familial status, SEXUAL ORIENTATION, or national origin, in any of the activities,  
26 services, organizations, or facilities described in paragraph (1) of this subsection; or

27 (ii) Participating lawfully in speech or peaceful assembly opposing any  
28 denial of the opportunity to participate in any of the activities, services, organizations or  
29 facilities described in paragraph (1) of this subsection.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
31 October 1, 1996.