

HOUSE BILL 199

D5, L2

71r1056

By: **Frederick County Delegation**

Introduced and read first time: January 26, 2007

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Frederick County – Board of County Commissioners – Prohibition of**
3 **Discriminatory Housing Practices**

4 FOR the purpose of authorizing the Frederick County Board of County Commissioners
5 to adopt an ordinance to make discriminatory housing practices unlawful;
6 authorizing the Board to make provisions for the filing, submitting, processing,
7 investigating, conciliating, and certifying of complaints alleging discriminatory
8 housing practices; allowing the Board to authorize the Human Relations
9 Commission to issue subpoenas and order discovery to aid in the investigation
10 and hearing of complaints alleging discriminatory housing practices; allowing
11 the Board to authorize civil actions on a complaint alleging a discriminatory
12 housing practice under certain circumstances; authorizing the adoption of
13 administrative procedures by the Commission and the Human Relations
14 Department with certain provisions; authorizing the Commission to initiate a
15 civil action or to intervene in a civil action alleging a discriminatory housing
16 practice under certain circumstances; allowing the Board to authorize
17 intervention in a civil action initiated by the Commission under certain
18 circumstances; authorizing the Commission to adopt regulations to implement
19 any ordinance adopted by the Board under this Act; allowing the Board to
20 authorize the Commission and the Department to enter into a cooperative
21 agreement with the State Commission on Human Relations; allowing the Board
22 to authorize the Commission to grant appropriate relief for housing complaints
23 under certain circumstances; specifying the relief that may be granted by the
24 court in civil actions; making stylistic changes; defining a certain term; and
25 generally relating to discriminatory housing practices in Frederick County.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 The Public Local Laws of Frederick County
3 Section 2-2-68
4 Article 11 – Public Local Laws of Maryland
5 (2004 Edition and June 2006 Supplement, as amended)

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

8 **Article 11 – Frederick County**

9 2-2-68.

10 (a) (1) The board of county commissioners may establish both a human
11 relations commission and a human relations department.

12 (2) The functions and duties of the commission and the department
13 shall be set by resolution by the board of county commissioners.

14 (b) The human relations commission shall provide a forum for the
15 presentation of problems concerning discrimination in the county.

16 (c) (1) **THE BOARD OF COUNTY COMMISSIONERS MAY ADOPT AN**
17 **ORDINANCE MAKING DISCRIMINATORY HOUSING PRACTICES UNLAWFUL.**

18 (2) (i) **EXCEPT AS PROVIDED IN SUBPARAGRAPHS (II), (III),**
19 **AND (IV) OF THIS PARAGRAPH, “DISCRIMINATORY HOUSING PRACTICE” MEANS**
20 **AN ACT PROHIBITED UNDER ARTICLE 49B, §§ 22, 23, 24, AND 37 OF THE CODE.**

21 (ii) **“DISCRIMINATORY HOUSING PRACTICE” DOES NOT**
22 **INCLUDE A PRACTICE DESCRIBED IN THE EXCEPTIONS FOUND IN ARTICLE 49B,**
23 **§ 21 OF THE CODE.**

24 (iii) **A DISCRIMINATORY HOUSING PRACTICE BASED ON**
25 **SOURCE OF INCOME OR AGE MAY ALSO BE PROHIBITED.**

26 (iv) **“DISCRIMINATORY HOUSING PRACTICE” DOES NOT**
27 **INCLUDE AN ACTION TAKEN BECAUSE OF THE SEXUAL ORIENTATION OF A**
28 **PERSON.**

1 **(3) AS PART OF AN ORDINANCE PROHIBITING DISCRIMINATORY**
2 **HOUSING PRACTICES, THE BOARD OF COUNTY COMMISSIONERS MAY ALSO**
3 **PROVIDE FOR:**

4 **(I) THE FILING OF A COMPLAINT BY AN AGGRIEVED**
5 **PERSON, NOT LATER THAN 1 YEAR AFTER AN ALLEGED DISCRIMINATORY**
6 **HOUSING PRACTICE, WITH THE HUMAN RELATIONS DEPARTMENT;**

7 **(II) THE FILING OF A COMPLAINT BY THE HUMAN**
8 **RELATIONS COMMISSION OR HUMAN RELATIONS DEPARTMENT ON ITS OWN**
9 **INITIATIVE; AND**

10 **(III) REQUIREMENTS FOR SUBMITTING, PROCESSING,**
11 **INVESTIGATING, CONCILIATING, AND CERTIFYING COMPLAINTS THAT**
12 **RESEMBLE THE REQUIREMENTS FOUND IN ARTICLE 49B, §§ 27, 28, AND 30 OF**
13 **THE CODE.**

14 **[(c)] (D) (1)** The human relations department shall investigate
15 complaints alleging discrimination as to race, color, religion, national origin, sex, age,
16 marital status, or [physical or mental handicap] **DISABILITY** in:

17 (i) Housing;

18 (ii) Public accommodations; and

19 (iii) Employment.

20 (2) (i) 1. In this paragraph, “familial status” means, with
21 reference to one or more individuals who are under the age of 18 years, being
22 domiciled with the individual and being:

23 a. A parent or other person having legal custody
24 of the individual; or

25 b. The designee of a parent or other person having
26 legal custody of the individual, with the written permission of the parent or other
27 person having legal custody.

28 2. In this paragraph, “familial status” includes the
29 status of being:

1 a. A pregnant woman; or

2 b. An individual who is in the process of securing
3 legal custody of an individual under the age of 18 years.

4 (ii) The Human Relations Department shall investigate
5 complaints alleging discrimination as to familial status in housing and employment.

6 (iii) This paragraph does not apply to housing for older persons
7 as defined in article 49B, § 20 of the code.

8 (3) (i) In this paragraph, “source of income” means any lawful,
9 verifiable source of money paid directly or indirectly to a renter or buyer of housing
10 including:

11 1. Income received through any lawful profession or
12 occupation;

13 2. The condition of being a recipient of federal, state, or
14 local government assistance including medical assistance subsidies, rental assistance,
15 or rent supplements;

16 3. Any gift, inheritance, pension, annuity, alimony, child
17 support, trust or investment accounts, or other consideration or benefit; and

18 4. Any sale or pledge of property or interest in property.

19 (ii) The Human Relations Department shall investigate
20 complaints alleging discrimination as to source of income in housing.

21 (iii) Discrimination as to source of income does not include:

22 1. A commercially reasonable verification of source and
23 amount of income;

24 2. A commercially reasonable evaluation of the stability,
25 security, and creditworthiness of any source of income;

26 3. The eviction of any person for violation of the terms of
27 a lease agreement; or

28 4. The refusal to consider income derived from criminal
29 or unlawful activity.

1 (4) The department shall make determinations of discrimination or
2 lack of discrimination.

3 [(d)] (E) (1) (i) Except as provided in [subsections]
4 **SUBPARAGRAPHS** (ii), (iii) and (iv) of this paragraph, the board of county
5 commissioners by ordinance may authorize the human relations commission to
6 provide remedial relief, including equitable relief and monetary damages.

7 (ii) [The] **EXCEPT AS PROVIDED IN THIS SUBSECTION FOR**
8 **HOUSING COMPLAINTS, THE** board of **COUNTY** commissioners may not authorize the
9 human relations commission to:

- 10 1. Award attorney’s fees;
- 11 2. Assess penalties or fines;
- 12 3. Create a private cause of action; or
- 13 4. Award damages for humiliation or pain and suffering.

14 (iii) In employment cases, the board of county commissioners
15 may grant the human relations commission powers or jurisdiction over only employers
16 with 15 or more employees.

17 (iv) In public accommodations cases [and housing cases], the
18 board of county commissioners may not grant the human relations commission powers
19 or jurisdiction in excess of or in conflict with the powers and jurisdiction described in
20 article 49B of the code.

21 (2) The board of county commissioners by ordinance may provide for
22 the enforcement of subpoenas, decisions, and orders of the human relations
23 commission in the circuit court [for Frederick County].

24 (3) The board of county commissioners by ordinance may authorize:

25 **(I) THE HUMAN RELATIONS COMMISSION TO ISSUE**
26 **SUBPOENAS AND ORDER DISCOVERY IN AID OF INVESTIGATIONS AND HEARINGS**
27 **ON DISCRIMINATORY HOUSING PRACTICES AND TO ADOPT PROVISIONS**
28 **RESEMBLING THOSE FOUND IN ARTICLE 49B, § 31 OF THE CODE RELATING TO**
29 **TESTIMONIAL AND DOCUMENTARY EVIDENCE AND RECORDS;**

1 **(II) A CIVIL ACTION IN THE CIRCUIT COURT FOR**
2 **TEMPORARY OR PRELIMINARY RELIEF PENDING FINAL DISPOSITION OF A**
3 **COMPLAINT ALLEGING A DISCRIMINATORY HOUSING PRACTICE;**

4 **(III) A CIVIL ACTION BY THE HUMAN RELATIONS**
5 **COMMISSION OR HUMAN RELATIONS DEPARTMENT ON A COMPLAINT ALLEGING**
6 **A DISCRIMINATORY HOUSING PRACTICE AND ADOPTION OF ADMINISTRATIVE**
7 **PROCEDURES BY THE HUMAN RELATIONS COMMISSION AND HUMAN**
8 **RELATIONS DEPARTMENT WITH PROVISIONS RESEMBLING THOSE FOUND IN**
9 **ARTICLE 49B, § 32 OF THE CODE, EXCEPT FOR THE PROVISIONS AUTHORIZING**
10 **DELEGATION TO AN ADMINISTRATIVE LAW JUDGE;**

11 **(IV) A CIVIL ACTION BY AN AGGRIEVED PERSON ON A**
12 **COMPLAINT ALLEGING A DISCRIMINATORY HOUSING PRACTICE UNDER**
13 **CIRCUMSTANCES AND CONDITIONS RESEMBLING THOSE SET FORTH IN ARTICLE**
14 **49B, § 33 OF THE CODE.**

15 **[(i)] (V)** The human relations department or other party to
16 appeal a decision or order of the human relations commission to the circuit court for
17 Frederick County in accordance with Title 7, Chapter 200 of the Maryland Rules;
18 **[and]**

19 **[(ii)] (VI)** The human relations commission to be a party to an
20 appeal made to the circuit court **[for Frederick County.];**

21 **(VII) THE HUMAN RELATIONS COMMISSION TO INTERVENE IN**
22 **HOUSING CASES IN A CIVIL ACTION AUTHORIZED IN ITEM (IV) OF THIS**
23 **PARAGRAPH AND TO AUTHORIZE RELIEF AS WOULD BE AVAILABLE UNDER**
24 **ARTICLE 49B, §§ 33 AND 34 OF THE CODE;**

25 **(VIII) A CIVIL ACTION BY THE HUMAN RELATIONS**
26 **COMMISSION ON ITS OWN INITIATIVE IN THE CIRCUIT COURT IN HOUSING CASES**
27 **WHENEVER THE HUMAN RELATIONS COMMISSION HAS PROBABLE CAUSE TO**
28 **BELIEVE THAT A PERSON OR GROUP OF PERSONS IS ENGAGED IN A PATTERN OR**
29 **PRACTICE OF RESISTANCE TO THE FULL ENJOYMENT OF ANY OF THE RIGHTS**
30 **GRANTED BY THIS SECTION AND THAT THE DENIAL OR RESISTANCE RAISES AN**
31 **ISSUE OF GENERAL PUBLIC IMPORTANCE;**

1 **(IX) INTERVENTION BY A PERSON IN A CIVIL ACTION**
2 **AUTHORIZED BY ITEM (VIII) OF THIS PARAGRAPH OR IN A CIVIL ACTION**
3 **BROUGHT TO ENFORCE A SUBPOENA, IF THE ACTION INVOLVES:**

4 **1. AN ALLEGED DISCRIMINATORY HOUSING**
5 **PRACTICE TO WHICH THE PERSON IS AN AGGRIEVED PERSON; OR**

6 **2. A CONCILIATION AGREEMENT TO WHICH THE**
7 **PERSON IS A PARTY RELATED TO A DISCRIMINATORY HOUSING PRACTICE;**

8 **(X) THE HUMAN RELATIONS COMMISSION TO ADOPT**
9 **REGULATIONS TO IMPLEMENT ANY ORDINANCE ADOPTED UNDER THIS SECTION;**
10 **AND**

11 **(XI) THE HUMAN RELATIONS COMMISSION AND HUMAN**
12 **RELATIONS DEPARTMENT TO ENTER INTO A COOPERATIVE AGREEMENT WITH**
13 **THE STATE OF MARYLAND COMMISSION ON HUMAN RELATIONS, AS PROVIDED**
14 **IN ARTICLE 49B, § 36 OF THE CODE.**

15 (4) (i) In employment cases, an award of monetary damages:

16 1. May not exceed a 36-month period; and

17 2. Shall be reduced by any earnings received during that
18 period or any amounts earnable during that period with reasonable diligence by the
19 employee discriminated against.

20 (ii) In public accommodations cases [and housing cases], an
21 award or relief is restricted to actual monetary damages and equitable relief.

22 **(III) IN HOUSING CASES, THE BOARD OF COUNTY**
23 **COMMISSIONERS BY ORDINANCE MAY AUTHORIZE:**

24 **1. IF THE HUMAN RELATIONS COMMISSION FINDS**
25 **THAT THE RESPONDENT HAS ENGAGED IN OR IS ABOUT TO ENGAGE IN A**
26 **DISCRIMINATORY HOUSING PRACTICE, THE HUMAN RELATIONS COMMISSION TO**
27 **PROMPTLY ISSUE AN ORDER FOR APPROPRIATE RELIEF THAT MAY INCLUDE:**

28 **A. ACTUAL DAMAGES SUFFERED BY THE**
29 **AGGRIEVED PERSON;**

