

CHAPTER 120

(House Bill 51)

AN ACT concerning

Human Relations

FOR the purpose of adding a new title to the State Government Article of the Annotated Code of Maryland, to be designated and known as “Title 20. Human Relations”; revising, restating, and recodifying certain laws relating to the Commission on Human Relations, including laws concerning the members and staff of the Commission and the powers and duties of the Commission; revising, restating, and recodifying certain laws relating to discrimination in places of public accommodation, commercial leasing, employment, and housing; revising, restating, and recodifying certain laws relating to discrimination by certain licensed or regulated persons and by governmental units, officers, and employees; revising, restating, and recodifying certain laws relating to aiding, abetting, or attempting certain discriminatory acts and obstructing compliance with certain laws or orders; revising, restating, and recodifying certain laws relating to enforcement of certain discrimination laws; revising, restating, and recodifying certain laws relating to criminal penalties for violations of certain laws; revising, restating, and recodifying certain laws relating to civil actions for violations of certain county discrimination laws; defining certain terms; providing for the construction and application of this Act; providing for the continuity of certain units and the terms of certain officials; providing for the continuity of the status of certain transactions, employees, rights, duties, titles, interests, licenses, registrations, certifications, and permits; and generally relating to the laws of the State concerning human relations.

BY repealing

Article 49B – Human Relations Commission
Section 1 through 43 and the various subtitles
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

BY adding to

Article – State Government
Section 20–101 through 20–1203, inclusive, and the various subtitles to be
under the new title “Title 20. Human Relations”
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 1 through 43 and the various subtitles of Article 49B – Human Relations Commission of the Annotated Code of Maryland be repealed.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – State Government

TITLE 20. HUMAN RELATIONS.

SUBTITLE 1. DEFINITIONS.

20–101. DEFINITIONS.

(A) IN GENERAL.

IN SUBTITLES 1 THROUGH 11 OF THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language added as the standard introductory language to a definition section.

(B) COMMISSION.

“COMMISSION” MEANS THE COMMISSION ON HUMAN RELATIONS.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full reference to the “Commission on Human Relations”.

(C) COMPLAINANT.

“COMPLAINANT” MEANS A PERSON THAT FILES A COMPLAINT ALLEGING A DISCRIMINATORY ACT UNDER THIS TITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 49B, § 20(c).

The definition of the term “complainant” in former Art. 49B, § 20(c) was applicable only to former Art. 49B, §§ 19 through 39, which are revised in Subtitle 7 and Subtitle 10, Part II of this title. However, the term “complainant” was also used in former provisions of Article 49B that are revised in other subtitles in this title. In this revision, the definition of “complainant” in former Art. 49B, § 20(c) is made applicable to this title.

Accordingly, the reference to a “discriminatory act” is substituted for the former reference to a “discriminatory housing practice”. No substantive change is intended.

Defined terms: “Discriminatory act” § 20–101

“Person” § 1–101

(D) DISCRIMINATORY ACT.

“DISCRIMINATORY ACT” MEANS AN ACT PROHIBITED UNDER:

(1) SUBTITLE 3 OF THIS TITLE (DISCRIMINATION IN PLACES OF PUBLIC ACCOMMODATION);

(2) SUBTITLE 4 OF THIS TITLE (DISCRIMINATION BY PERSONS LICENSED OR REGULATED BY DEPARTMENT OF LABOR, LICENSING, AND REGULATION);

(3) SUBTITLE 5 OF THIS TITLE (DISCRIMINATION IN LEASING OF COMMERCIAL PROPERTY);

(4) SUBTITLE 6 OF THIS TITLE (DISCRIMINATION IN EMPLOYMENT);

(5) SUBTITLE 7 OF THIS TITLE (DISCRIMINATION IN HOUSING);
OR

(6) SUBTITLE 8 OF THIS TITLE (AIDING, ABETTING, OR ATTEMPTING DISCRIMINATORY ACT; OBSTRUCTING COMPLIANCE).

REVISOR’S NOTE: This subsection is new language added for brevity and consistency throughout this title.

Defined term: “Person” § 1–101

(E) RESPONDENT.

(1) “RESPONDENT” MEANS A PERSON ACCUSED IN A COMPLAINT OF A DISCRIMINATORY ACT.

(2) “RESPONDENT” INCLUDES A PERSON IDENTIFIED DURING AN INVESTIGATION OF A COMPLAINT AND JOINED AS AN ADDITIONAL OR SUBSTITUTE RESPONDENT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 49B, § 20(s) and, as it related to a description of the respondent, § 10(a).

The definition of the term "respondent" in former Art. 49B, § 20(s)(2), which included "a person identified during an investigation of a complaint and joined as an additional or substitute respondent" was applicable only to former Art. 49B, §§ 19 through 39, which are revised in Subtitle 7 and Subtitle 10, Part II of this title. However, the Commission on Human Relations advises that it is current practice to join additional or substitute respondents identified during the investigation of a complaint alleging any discriminatory act. In this revision, the definition of "respondent" in former Art. 49B, § 20(s)(2) is made applicable to this title. No substantive change is intended.

Defined terms: "Discriminatory act" § 20-101

"Includes" § 1-101

"Person" § 1-101

(F) SEXUAL ORIENTATION.

"SEXUAL ORIENTATION" MEANS THE IDENTIFICATION OF AN INDIVIDUAL AS TO MALE OR FEMALE HOMOSEXUALITY, HETEROSEXUALITY, OR BISEXUALITY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 49B, §§ 5(a), 15(j), and 20(u).

SUBTITLE 2. COMMISSION ON HUMAN RELATIONS.

20-201. ESTABLISHED.

THERE IS A COMMISSION ON HUMAN RELATIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 49B, § 1(a), as it related to the creation of the Commission on Human Relations.

It is set forth as a separate section for emphasis.

20-202. MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT OF MEMBERS.

(1) THE COMMISSION CONSISTS OF NINE MEMBERS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.

(2) IN APPOINTING COMMISSION MEMBERS, THE GOVERNOR SHALL CONSIDER REPRESENTATION FROM ALL AREAS OF THE STATE.

(B) TENURE; VACANCIES.

(1) THE TERM OF A MEMBER IS 6 YEARS.

(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE COMMISSION ON OCTOBER 1, 2009.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

REVISOR'S NOTE: This section is new language derived without substantive change from the second, fourth, and fifth sentences and, except as it related to the creation of the Commission, the first sentence of former Art. 49B, § 1(a).

In subsection (a)(2) of this section, the requirement that the "Governor shall consider" representation from all areas of the State is substituted for the former requirement that "consideration shall be given to" such representation for clarity and brevity.

In subsection (b)(2) of this section, the reference to terms being "staggered as required by the terms provided for members of the Commission on October 1, 2009" is substituted as standard language for the former obsolete references to the "initial terms" of the members. This substitution is not intended to alter the term of any member of the Commission. *See* § 5 of Ch. 120, Acts of 2009. The terms of the members serving on October 1, 2009, end as follows: three in 2011, three in 2013, and three in 2015.

Subsection (b)(3) of this section is standard language added to avoid gaps in membership by indicating that a member serves until a successor takes office.

Subsection (b)(4) of this section is revised in standard language.

Defined term: "Commission" § 20-101

20-203. CHAIR.

THE COMMISSION SHALL DESIGNATE A CHAIR FROM AMONG ITS MEMBERS.

REVISOR'S NOTE: This section is new language derived without substantive change from the third sentence of former Art. 49B, § 1(a).

The reference to a "chair" is substituted for the former reference to a "Chairman" because SG § 2-1238 requires the use of terms that are neutral as to gender to the extent practicable.

Defined term: "Commission" § 20-101

20-204. COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

A MEMBER OF THE COMMISSION:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COMMISSION; BUT

(2) IS ENTITLED TO:

(I) A PER DIEM AS PROVIDED IN THE STATE BUDGET FOR ATTENDING SCHEDULED MEETINGS OF THE COMMISSION, INCLUDING PARTICIPATION IN ANY HEARINGS REQUIRED BY THE ADMINISTRATIVE APPEAL PROCESS; AND

(II) REIMBURSEMENT FOR EXPENSES IN ACCORDANCE WITH THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 1(b).

In item (2)(i) of this section and throughout this subtitle, the reference to the "State" budget is added for clarity and accuracy.

In item (2)(ii) of this section, the phrase "as provided in the State budget" is standard language added for consistency with similar provisions in other revised articles of the Code.

Also in item (2)(ii) of this section, the former reference to expenses “while engaged in the discharge of their official duties” is deleted as included in the reference to reimbursement “in accordance with the Standard State Travel Regulations”.

Defined terms: “Commission” § 20–101
“Including” § 1–101

20–205. EXECUTIVE DIRECTOR AND DEPUTY DIRECTOR.

(A) APPOINTMENT AND REMOVAL OF EXECUTIVE DIRECTOR.

THE GOVERNOR SHALL:

(1) APPOINT AN EXECUTIVE DIRECTOR OF THE COMMISSION FROM A LIST OF FIVE NAMES SUBMITTED BY THE COMMISSION; AND

(2) REMOVE THE EXECUTIVE DIRECTOR ON THE RECOMMENDATION OF TWO–THIRDS OF THE MEMBERS OF THE COMMISSION.

(B) APPOINTMENT AND REMOVAL OF DEPUTY DIRECTOR.

THE EXECUTIVE DIRECTOR:

(1) SHALL APPOINT A DEPUTY DIRECTOR WITH THE APPROVAL OF A MAJORITY OF THE MEMBERS OF THE COMMISSION; AND

(2) MAY REMOVE THE DEPUTY DIRECTOR WITH THE APPROVAL OF A MAJORITY OF THE MEMBERS OF THE COMMISSION.

(C) DUTIES.

(1) THE EXECUTIVE DIRECTOR AND DEPUTY DIRECTOR SHALL PERFORM THE DUTIES PRESCRIBED BY THE COMMISSION.

(2) IN THE ABSENCE OF THE EXECUTIVE DIRECTOR, THE DEPUTY DIRECTOR SHALL PERFORM THE FUNCTIONS AND EXERCISE THE AUTHORITY OF THE EXECUTIVE DIRECTOR.

(D) COMPENSATION.

THE EXECUTIVE DIRECTOR AND DEPUTY DIRECTOR ARE ENTITLED TO THE COMPENSATION PROVIDED IN THE STATE BUDGET.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 2(a).

Defined term: "Commission" § 20-101

20-206. GENERAL COUNSEL; OUTSIDE COUNSEL.

(A) APPOINTMENT OF GENERAL COUNSEL.

(1) THE COMMISSION MAY EMPLOY ITS OWN ATTORNEY.

(2) THE EXECUTIVE DIRECTOR SHALL APPOINT AND REMOVE THE ATTORNEY WITH THE APPROVAL OF THE COMMISSION.

(B) DUTIES OF GENERAL COUNSEL.

THE ATTORNEY SHALL:

(1) ACT AS GENERAL COUNSEL AND LEGAL ADVISER TO THE COMMISSION; AND

(2) REPRESENT THE COMMISSION AT ALL HEARINGS AND JUDICIAL PROCEEDINGS IN WHICH THE COMMISSION IS A PARTY.

(C) COMPENSATION.

THE GENERAL COUNSEL IS ENTITLED TO THE COMPENSATION PROVIDED IN THE STATE BUDGET.

(D) ADDITIONAL PERSONNEL.

THE OFFICE OF THE GENERAL COUNSEL SHALL INCLUDE ADDITIONAL PERSONNEL AS PROVIDED IN THE STATE BUDGET.

(E) EMPLOYMENT CATEGORY.

THE GENERAL COUNSEL AND ANY ASSISTANT GENERAL COUNSEL ARE SPECIAL APPOINTMENTS IN THE STATE PERSONNEL MANAGEMENT SYSTEM.

(F) OUTSIDE COUNSEL.

(1) THE COMMISSION MAY RETAIN LEGAL ASSISTANCE TO ADVISE THE COMMISSIONERS IN LEGAL MATTERS.

(2) LEGAL ADVISERS RETAINED UNDER THIS SUBSECTION SHALL BE COMPENSATED AS PROVIDED IN THE STATE BUDGET.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 2(c) and (d).

In subsection (f)(2) of this section, the phrase "under this subsection" is substituted for the former phrase "for the purpose" for clarity.

Defined term: "Commission" § 20-101

20-207. HEARING EXAMINERS.

(A) APPOINTMENT.

THE COMMISSION SHALL APPOINT THE NUMBER OF HEARING EXAMINERS PROVIDED IN THE STATE BUDGET.

(B) QUALIFICATIONS.

A HEARING EXAMINER SHALL BE AN ATTORNEY WHO IS QUALIFIED BY EXPERIENCE TO HANDLE DISCRIMINATION CASES OF THE TYPE ARISING UNDER THIS TITLE.

(C) COMPENSATION.

A HEARING EXAMINER IS ENTITLED TO THE COMPENSATION PROVIDED IN THE STATE BUDGET.

(D) DUTIES.

IN A DISCRIMINATION CASE ASSIGNED TO A HEARING EXAMINER, THE HEARING EXAMINER SHALL:

- (1) CONDUCT A HEARING;**
- (2) MAKE FINDINGS OF FACT;**
- (3) DRAW CONCLUSIONS OF LAW; AND**
- (4) PREPARE A PROVISIONAL ORDER.**

(E) PROVISIONAL ORDER.

A PROVISIONAL ORDER PREPARED BY A HEARING EXAMINER SHALL BECOME THE FINAL ORDER OF THE COMMISSION UNLESS AN APPEAL FROM THE PROVISIONAL ORDER IS TAKEN TO THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 2(b).

The Human Relations Commission Law Article Review Committee notes, for consideration by the General Assembly, that the General Assembly may wish to repeal this section as obsolete. Currently, all administrative hearings in discrimination cases are conducted by administrative law judges employed by the Office of Administrative Hearings.

Defined term: "Commission" § 20-101

20-208. GENERAL POWERS AND DUTIES.

(A) STUDIES AND SURVEYS.

(1) THE COMMISSION MAY:

(I) CONDUCT STUDIES AND SURVEYS CONCERNING HUMAN RELATIONS, CONDITIONS, AND PROBLEMS; AND

(II) PROMOTE IN EVERY WAY POSSIBLE THE IMPROVEMENT OF HUMAN RELATIONS.

(2) IN CONDUCTING STUDIES AND SURVEYS, THE COMMISSION MAY EXPEND ANY FUNDS PROVIDED IN THE STATE BUDGET OR OTHERWISE MADE AVAILABLE.

(3) ON THE BASIS OF STUDIES OR SURVEYS, THE COMMISSION MAY RECOMMEND LEGISLATION TO THE GOVERNOR.

(B) ACCEPTANCE OF GRANTS.

THE COMMISSION MAY APPLY FOR AND ACCEPT GRANTS FROM STATE, FEDERAL, AND PRIVATE NONPROFIT ORGANIZATIONS IN FURTHERANCE OF ITS MISSION.

(C) ANNUAL REPORT.

ON OR BEFORE JANUARY 1 OF EACH YEAR, THE COMMISSION SHALL SUBMIT A REPORT ON THE WORK OF THE COMMISSION TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THIS ARTICLE, TO THE GENERAL ASSEMBLY.

(D) INVESTIGATORY HEARINGS.

(1) WHENEVER ANY PROBLEM OF RACIAL DISCRIMINATION ARISES, THE COMMISSION IMMEDIATELY MAY HOLD AN INVESTIGATORY HEARING.

(2) THE PURPOSE OF THE HEARING SHALL BE TO RESOLVE THE PROBLEM PROMPTLY BY GATHERING ALL OF THE FACTS FROM EACH INTERESTED PARTY AND MAKING RECOMMENDATIONS AS NECESSARY.

(3) THE HEARING SHALL BE HELD IN THE GEOGRAPHIC AREA WHERE THE PROBLEM EXISTS.

(E) MEETINGS.

(1) THE COMMISSION SHALL MEET AT LEAST ONCE EACH MONTH.

(2) (I) IN ADDITION TO ITS REGULAR MONTHLY MEETINGS, THE CHAIR OR A MAJORITY OF THE MEMBERS OF THE COMMISSION MAY, AT ANY TIME, CALL A SPECIAL MEETING OF THE COMMISSION.

(II) AT LEAST 5 DAYS' NOTICE OF A SPECIAL MEETING SHALL BE GIVEN TO THE MEMBERS.

(3) THE COMMISSION SHALL ESTABLISH PROCEDURES FOR THE CONDUCT OF ITS MEETINGS.

(F) APPEAL BOARD.

(1) IN ADDITION TO THEIR OTHER DUTIES, THE COMMISSIONERS SHALL SERVE ON APPEAL BOARDS TO REVIEW DECISIONS OF THE ADMINISTRATIVE LAW JUDGES.

(2) AS DETERMINED BY THE COMMISSION'S RULES OF PROCEDURE, AN APPEAL BOARD MAY ALLOW ANY PARTY AFFECTED BY AN ADMINISTRATIVE LAW JUDGE'S DECISION TO INTRODUCE ADDITIONAL RELEVANT TESTIMONY OR EVIDENCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, §§ 3 and 9A(c).

In subsection (a)(3) of this section, the reference to "legislation" is substituted for the former reference to "additional legislation or changes in existing legislation" for brevity.

In subsection (c) of this section, the former reference to an "annual" report is deleted as redundant in light of the requirement that a report be submitted "each year".

In subsection (d)(3) of this section, the reference to the "geographic" area is added for clarity.

In subsection (e)(2)(i) of this section, the reference to "its regular monthly meetings" is added for clarity.

Also in subsection (e)(2)(i) of this section, the reference to the "Chair" is substituted for the former reference to the "Chairman" because SG § 2-1238 requires the use of terms that are neutral as to gender to the extent practicable.

Also in subsection (e)(2)(i) of this section, the reference to a majority "of the members" of the Commission is added for clarity.

In subsection (e)(2)(ii) of this section, the reference to "[a]t least" 5 days' notice is added for clarity.

In subsection (f)(1) of this section, the reference to serving "on appeal boards" is substituted for the former reference to serving "as an appeal board" for accuracy. Commissioners currently serve on appeal boards consisting of three members appointed by the Chair of the Commission.

In subsection (f)(1) and (2) of this section, the references to "administrative law judges" and "administrative law judge's" are substituted for the former obsolete references to the "hearing examiner" and "examiner's", respectively.

In subsection (f)(2) of this section, the reference to an "appeal board" is substituted for the former reference to the "appellate panel of commissioners" for consistency with subsection (f)(1) of this section.

Also in subsection (f)(2) of this section, the former phrase "at the time of an appeal from the hearing examiner" is deleted as implicit.

Defined term: "Commission" § 20-101

SUBTITLE 3. DISCRIMINATION IN PLACES OF PUBLIC ACCOMMODATION.

20-301. "PLACE OF PUBLIC ACCOMMODATION" DEFINED.

IN THIS SUBTITLE, "PLACE OF PUBLIC ACCOMMODATION" MEANS:

(1) AN INN, HOTEL, MOTEL, OR OTHER ESTABLISHMENT THAT PROVIDES LODGING TO TRANSIENT GUESTS;

(2) A RESTAURANT, CAFETERIA, LUNCHROOM, LUNCH COUNTER, SODA FOUNTAIN, OR OTHER FACILITY PRINCIPALLY ENGAGED IN SELLING FOOD OR ALCOHOLIC BEVERAGES FOR CONSUMPTION ON OR OFF THE PREMISES, INCLUDING A FACILITY LOCATED ON THE PREMISES OF A RETAIL ESTABLISHMENT OR GASOLINE STATION;

(3) A MOTION PICTURE HOUSE, THEATER, CONCERT HALL, SPORTS ARENA, STADIUM, OR OTHER PLACE OF EXHIBITION OR ENTERTAINMENT;

(4) A RETAIL ESTABLISHMENT THAT:

(I) IS OPERATED BY A PUBLIC OR PRIVATE ENTITY; AND

(II) OFFERS GOODS, SERVICES, ENTERTAINMENT, RECREATION, OR TRANSPORTATION; AND

(5) AN ESTABLISHMENT:

(I) 1. THAT IS PHYSICALLY LOCATED WITHIN THE PREMISES OF ANY OTHER ESTABLISHMENT COVERED BY THIS SUBTITLE; OR

2. WITHIN THE PREMISES OF WHICH ANY OTHER ESTABLISHMENT COVERED BY THIS SUBTITLE IS PHYSICALLY LOCATED; AND

(II) THAT HOLDS ITSELF OUT AS SERVING PATRONS OF THE COVERED ESTABLISHMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 5(e)(1) and (d)(2), (3), (4), and the first clause of (1).

In item (2) of this section, the former phrase “but not limited to” is deleted as unnecessary in light of § 1–101(c) of this article, which provides that the term “including” means “by way of illustration and not by way of limitation”.

In item (4) of this section, the reference to a “retail” establishment is added to the introductory language and the former reference to a “retail establishment” is deleted in item (ii) of that item for brevity and clarity.

Also in item (4) of this section, the former reference to an establishment that “[i]s not included in subsection (d) of this section” is deleted as unnecessary in light of the reorganization of former Art. 49B, § 5(d) and (e) in this section.

Defined term: “Including” § 1–101

20–302. CONSTRUCTION OF SUBTITLE.

THIS SUBTITLE DOES NOT PROHIBIT THE PROPRIETOR OR EMPLOYEES OF ANY ESTABLISHMENT FROM DENYING SERVICE TO ANY PERSON FOR FAILURE TO CONFORM TO THE USUAL AND REGULAR REQUIREMENTS, STANDARDS, AND REGULATIONS OF THE ESTABLISHMENT, PROVIDED THAT THE DENIAL IS NOT BASED ON DISCRIMINATION ON THE GROUNDS OF RACE, SEX, AGE, COLOR, CREED, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, OR DISABILITY.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 49B, § 5(c).

Defined terms: “Person” § 1–101
“Sexual orientation” § 20–101

20–303. SCOPE OF SUBTITLE.

THIS SUBTITLE DOES NOT APPLY:

(1) TO A PRIVATE CLUB OR OTHER ESTABLISHMENT THAT IS NOT OPEN TO THE PUBLIC, EXCEPT TO THE EXTENT THAT THE FACILITIES OF THE PRIVATE CLUB OR OTHER ESTABLISHMENT ARE MADE AVAILABLE TO THE CUSTOMERS OR PATRONS OF AN ESTABLISHMENT WITHIN THE SCOPE OF THIS SUBTITLE;

(2) WITH RESPECT TO SEX DISCRIMINATION, TO A FACILITY THAT IS:

- (I) **UNIQUELY PRIVATE AND PERSONAL IN NATURE; AND**
 - (II) **DESIGNED TO ACCOMMODATE ONLY A PARTICULAR SEX;**
- AND**
- (3) **TO AN ESTABLISHMENT PROVIDING LODGING TO TRANSIENT GUESTS LOCATED WITHIN A BUILDING THAT:**
- (I) **CONTAINS NOT MORE THAN FIVE ROOMS FOR RENT OR HIRE; AND**
 - (II) **IS OCCUPIED BY THE PROPRIETOR OF THE ESTABLISHMENT AS THE PROPRIETOR'S RESIDENCE.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 5(f), (g), and the second clause of (d)(1).

In item (1) of this section, the former phrase "in fact" is deleted as surplusage. Similarly, in item (3)(ii) of this section, the former word "actually" is deleted.

20-304. PROHIBITED ACT.

AN OWNER OR OPERATOR OF A PLACE OF PUBLIC ACCOMMODATION OR AN AGENT OR EMPLOYEE OF THE OWNER OR OPERATOR MAY NOT REFUSE, WITHHOLD FROM, OR DENY TO ANY PERSON ANY OF THE ACCOMMODATIONS, ADVANTAGES, FACILITIES, OR PRIVILEGES OF THE PLACE OF PUBLIC ACCOMMODATION BECAUSE OF THE PERSON'S RACE, SEX, AGE, COLOR, CREED, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, OR DISABILITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 5(b).

Defined terms: "Person" § 1-101
"Place of public accommodation" § 20-301
"Sexual orientation" § 20-101

20-305. REASONABLE ACCOMMODATIONS.

- (A) **"REASONABLE ACCOMMODATION" DEFINED.**

IN THIS SECTION, "REASONABLE ACCOMMODATION" MEANS TO MAKE A PLACE OF PUBLIC ACCOMMODATION SUITABLE FOR ACCESS, USE, AND PATRONAGE BY AN INDIVIDUAL WITH A DISABILITY WITHOUT:

(1) DANGER TO THE INDIVIDUAL'S HEALTH OR SAFETY; AND

(2) UNDUE HARDSHIP OR EXPENSE TO THE PERSON MAKING THE ACCOMMODATION.

(B) APPLICATION OF SUBTITLE.

(1) THIS SUBTITLE DOES NOT REQUIRE STRUCTURAL CHANGES, MODIFICATIONS, OR ADDITIONS TO BUILDINGS OR VEHICLES, EXCEPT AS REQUIRED BY THIS SECTION OR AS OTHERWISE REQUIRED BY LAW.

(2) ANY BUILDING CONSTRUCTED, MODIFIED, OR ALTERED IN COMPLIANCE WITH, OR IN ACCORDANCE WITH A WAIVER FROM, THE MARYLAND ACCESSIBILITY CODE UNDER § 12-202 OF THE PUBLIC SAFETY ARTICLE IS NOT SUBJECT TO THIS SUBTITLE.

(C) REASONABLE ACCOMMODATION REQUIRED.

IF A STRUCTURAL CHANGE OR MODIFICATION OR THE PROVISION OF SPECIAL EQUIPMENT IS NECESSARY TO ACCOMMODATE AN INDIVIDUAL WITH A DISABILITY, THE ACCOMMODATION SHALL BE A REASONABLE ACCOMMODATION.

(D) PRIVATE MOTOR COACH TRANSPORTATION CARRIER.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PRIVATE MOTOR COACH TRANSPORTATION CARRIER MAY NOT BE REQUIRED TO EXPEND MORE THAN \$2,500 PER OPERATING VEHICLE TO MAKE A REASONABLE ACCOMMODATION TO COMPLY WITH THIS TITLE.

(2) AT LEAST 10% OF THE TOTAL OPERATING FLEET OF ANY PRIVATE MOTOR COACH TRANSPORTATION CARRIER DOING BUSINESS IN THE STATE SHALL COMPLY WITH THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 5(e)(2)(i) and (ii)1 and 2 and the first two sentences of § 5(e)(2).

In the introductory language of subsection (a) of this section, the defined term “place of public accommodation” is substituted for the former reference to a “public accommodation” for consistency throughout this subtitle.

Also in the introductory language of subsection (a) of this section, the reference to an “individual with a disability” is substituted for the former reference to a “person” for clarity and consistency with subsection (c) of this section. Correspondingly, in subsection (a)(1) of this section, the word “individual’s” is substituted for the former word “person’s”.

In subsection (a)(2) of this section, the defined term “person” is substituted for the former reference to a “business or other activity” for brevity and consistency within this title.

In subsections (c) and (e)(1) of this section, the defined term “reasonable accommodation” is substituted for the former references to an accommodation being “reasonable” for consistency within this section.

In subsection (d)(1) of this section, the phrase “a private motor coach transportation carrier may not be required to expend more than \$2,500 ... to comply with this title” is substituted for the former phrase “[w]ith respect to a private motor coach transportation carrier, for the purposes of this subsection, “reasonable accommodation” means that any requirement to satisfy the provisions of this article will not exceed a maximum expense of \$2,500” for brevity and clarity.

In subsection (d)(2) of this section, the former phrase “beginning January 1, 1990” is deleted as obsolete.

Defined terms: “Person” § 1–101

“Place of public accommodation” § 20–301

SUBTITLE 4. DISCRIMINATION BY PERSONS LICENSED OR REGULATED BY DEPARTMENT OF LABOR, LICENSING, AND REGULATION.

20–401. CONSTRUCTION OF SUBTITLE.

THIS SUBTITLE DOES NOT PROHIBIT ANY PERSON THAT IS LICENSED OR REGULATED BY THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION FROM REFUSING, WITHHOLDING FROM, OR DENYING ACCOMMODATIONS, ADVANTAGES, FACILITIES, PRIVILEGES, SALES, OR SERVICES TO ANY PERSON FOR FAILURE TO CONFORM TO THE USUAL AND REGULAR REQUIREMENTS, STANDARDS, AND REGULATIONS OF THE LICENSED OR REGULATED PERSON, PROVIDED THAT THE DENIAL IS NOT BASED ON DISCRIMINATION ON THE

GROUND OF RACE, SEX, COLOR, CREED, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, OR DISABILITY.

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence of former Art. 49B, § 8(a).

The reference to "accommodations, advantages, facilities, privileges, sales, or services" is added for clarity and consistency with § 20-402 of this subtitle.

The reference to the "licensed or regulated" person is substituted for the former reference to the person "contemplated by this section" for clarity.

The former reference to a "business, corporation, partnership, copartnership, association or any other individual, agent, employee, group or firm" is deleted as included in the definition of the term "person" in § 1-101 of this article. Similarly, the former reference to a "business, corporation, partnership, copartnership, or association" is deleted.

Defined terms: "Person" § 1-101
"Sexual orientation" § 20-101

20-402. PROHIBITED ACT.

A PERSON THAT IS LICENSED OR REGULATED BY A UNIT IN THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION LISTED IN § 2-108 OF THE BUSINESS REGULATION ARTICLE MAY NOT REFUSE, WITHHOLD FROM, OR DENY ANY PERSON ANY OF THE ACCOMMODATIONS, ADVANTAGES, FACILITIES, PRIVILEGES, SALES, OR SERVICES OF THE LICENSED OR REGULATED PERSON OR DISCRIMINATE AGAINST ANY PERSON BECAUSE OF THE PERSON'S RACE, SEX, CREED, COLOR, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, OR DISABILITY.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 49B, § 8(a).

The phrase "of the licensed or regulated person" is added for clarity.

The former reference to a "business, corporation, partnership, copartnership or association or any other individual, agent, employee, group or firm" is deleted as included in the definition of the term "person" in § 1-101 of this article.

The Human Relations Commission Law Article Review Committee notes, for consideration by the General Assembly, that age is not a protected

class under this section. The General Assembly may wish to add age for consistency throughout this title.

Defined terms: “Person” § 1–101

“Sexual orientation” § 20–101

SUBTITLE 5. DISCRIMINATION IN LEASING OF COMMERCIAL PROPERTY.

20–501. PROHIBITED ACT.

AN OWNER OR OPERATOR OF COMMERCIAL PROPERTY, AN AGENT OR EMPLOYEE OF THE OWNER OR OPERATOR OF COMMERCIAL PROPERTY, OR A PERSON THAT IS LICENSED OR REGULATED BY THE STATE MAY NOT DISCRIMINATE AGAINST AN INDIVIDUAL IN THE TERMS, CONDITIONS, OR PRIVILEGES OF THE LEASING OF PROPERTY FOR COMMERCIAL USE, OR IN THE PROVISION OF SERVICES OR FACILITIES IN CONNECTION WITH THE LEASING OF PROPERTY FOR COMMERCIAL USE, BECAUSE OF THE INDIVIDUAL’S RACE, COLOR, RELIGION, SEX, AGE, DISABILITY, MARITAL STATUS, OR NATIONAL ORIGIN.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 49B, § 8A.

The reference to a “disability” is substituted for the former obsolete reference to a “handicap”.

The former reference to “businesses” is deleted as included in the definition of the term “person” in § 1–101 of this article.

The Human Relations Commission Law Article Review Committee notes, for consideration by the General Assembly, that sexual orientation is not a protected class under this section. The General Assembly may wish to add sexual orientation for consistency throughout this title.

The Human Relations Commission Law Article Review Committee also notes, for consideration by the General Assembly, that in other provisions in this title prohibiting discrimination, the object of discrimination is generally a “person”. The General Assembly may wish to change the reference to “an individual” in this section to “a person”.

Defined term: “Person” § 1–101

SUBTITLE 6. DISCRIMINATION IN EMPLOYMENT.

20–601. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is standard language substituted for the introductory phrase of former Art. 49B, § 15.

(B) DISABILITY.

(1) "DISABILITY" MEANS:

(I) A PHYSICAL DISABILITY, INFIRMITY, MALFORMATION, OR DISFIGUREMENT THAT IS CAUSED BY BODILY INJURY, BIRTH DEFECT, OR ILLNESS, INCLUDING EPILEPSY; OR

(II) A MENTAL IMPAIRMENT OR DEFICIENCY.

(2) "DISABILITY" INCLUDES:

(I) 1. ANY DEGREE OF PARALYSIS, AMPUTATION, OR LACK OF PHYSICAL COORDINATION;

2. BLINDNESS OR VISUAL IMPAIRMENT;

3. DEAFNESS OR HEARING IMPAIRMENT;

4. MUTENESS OR SPEECH IMPEDIMENT; AND

5. PHYSICAL RELIANCE ON A SERVICE ANIMAL, WHEELCHAIR, OR OTHER REMEDIAL APPLIANCE OR DEVICE; AND

(II) RETARDATION AND ANY OTHER MENTAL IMPAIRMENT OR DEFICIENCY THAT MAY HAVE NECESSITATED REMEDIAL OR SPECIAL EDUCATION AND RELATED SERVICES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 49B, § 15(g).

In the introductory language of paragraph (2) of this subsection, the former phrases "but not be limited to" and "but not limited to" are deleted as unnecessary in light of § 1-101(c) of this article, which provides that

the terms “includes” and “including” mean “by way of illustration and not by way of limitation”.

In paragraph (2)(i)5 of this subsection, the reference to a “service animal” is substituted for the former obsolete reference to a “seeing eye dog”.

Defined term: “Includes”, “including” § 1–101

(C) EMPLOYEE.

(1) “EMPLOYEE” MEANS AN INDIVIDUAL EMPLOYED BY AN EMPLOYER.

(2) UNLESS THE INDIVIDUAL IS SUBJECT TO THE STATE OR LOCAL CIVIL SERVICE LAWS, “EMPLOYEE” DOES NOT INCLUDE:

(I) AN INDIVIDUAL ELECTED TO PUBLIC OFFICE;

(II) AN INDIVIDUAL CHOSEN BY AN ELECTED OFFICER TO BE ON THE OFFICER’S PERSONAL STAFF;

(III) AN APPOINTEE ON THE POLICY MAKING LEVEL; OR

(IV) AN IMMEDIATE ADVISER WITH RESPECT TO THE EXERCISE OF THE CONSTITUTIONAL OR LEGAL POWERS OF AN ELECTED OFFICE.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 49B, § 15(e).

In paragraph (2)(i) and (ii) of this subsection, the references to an “individual” are substituted for the former references to a “person” for consistency with paragraph (1) of this subsection and because only a human being and not the other entities included in the definition of “person” can be elected to public office or on an elected officer’s staff.

In paragraph (2)(ii) and (iv) of this subsection, the references to an “elected” officer and an “elected” office, respectively, are added for clarity.

In paragraph (2)(ii) of this subsection, the reference to “personal” staff is substituted for the former incorrect reference to “personnel” staff.

Defined term: “Employer” § 20–601

(D) EMPLOYER.

(1) "EMPLOYER" MEANS:

(I) A PERSON THAT:

- 1. IS ENGAGED IN AN INDUSTRY OR BUSINESS; AND**
- 2. HAS 15 OR MORE EMPLOYEES FOR EACH WORKING DAY IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR; AND**

(II) AN AGENT OF A PERSON DESCRIBED IN ITEM (I) OF THIS PARAGRAPH.

(2) "EMPLOYER" INCLUDES THE STATE TO THE EXTENT PROVIDED IN THIS TITLE.

(3) EXCEPT FOR A LABOR ORGANIZATION, "EMPLOYER" DOES NOT INCLUDE A BONA FIDE PRIVATE MEMBERSHIP CLUB THAT IS EXEMPT FROM TAXATION UNDER § 501(C) OF THE INTERNAL REVENUE CODE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 49B, § 15(b).

Defined terms: "Employee" § 20-601

"Includes" § 1-101

"Labor organization" § 20-601

"Person" § 1-101

(E) EMPLOYMENT AGENCY.

(1) "EMPLOYMENT AGENCY" MEANS:

(I) A PERSON THAT REGULARLY UNDERTAKES WITH OR WITHOUT COMPENSATION TO PROCURE:

- 1. EMPLOYEES FOR AN EMPLOYER; OR**
- 2. OPPORTUNITIES FOR EMPLOYEES TO WORK FOR AN EMPLOYER; AND**

(II) AN AGENT OF A PERSON DESCRIBED IN ITEM (I) OF THIS PARAGRAPH.

(2) EXCEPT FOR THE UNITED STATES EMPLOYMENT SERVICE AND THE SYSTEM OF STATE AND LOCAL EMPLOYMENT SERVICES RECEIVING FEDERAL ASSISTANCE, “EMPLOYMENT AGENCY” DOES NOT INCLUDE A UNIT OF THE UNITED STATES, THE STATE, OR A POLITICAL SUBDIVISION OF THE STATE.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 49B, § 15(c).

As to the substitution of the reference to a “unit” for the former reference to an “agency”, *see* General Revisor’s Note to title.

Defined terms: “Employee” § 20–601
“Employer” § 20–601
“Person” § 1–101

(F) GENETIC INFORMATION.

“GENETIC INFORMATION” HAS THE MEANING STATED IN § 27–909(A)(3) OF THE INSURANCE ARTICLE.

REVISOR’S NOTE: This subsection formerly was Art. 49B, § 15(h).

No changes are made.

(G) GENETIC TEST.

“GENETIC TEST” HAS THE MEANING STATED IN § 27–909(A)(5) OF THE INSURANCE ARTICLE.

REVISOR’S NOTE: This subsection formerly was Art. 49B, § 15(i).

No changes are made.

(H) LABOR ORGANIZATION.

(1) “LABOR ORGANIZATION” MEANS:

(I) A LABOR ORGANIZATION ENGAGED IN AN INDUSTRY;
AND

(II) AN AGENT OF AN ORGANIZATION DESCRIBED IN ITEM (I) OF THIS PARAGRAPH.

(2) "LABOR ORGANIZATION" INCLUDES:

(I) AN ORGANIZATION OF ANY KIND, AN AGENCY, OR AN EMPLOYEE REPRESENTATION COMMITTEE, GROUP, ASSOCIATION, OR PLAN:

1. IN WHICH EMPLOYEES PARTICIPATE; AND

2. THAT EXISTS, WHOLLY OR PARTLY, FOR THE PURPOSE OF DEALING WITH EMPLOYERS CONCERNING GRIEVANCES, LABOR DISPUTES, WAGES, RATES OF PAY, HOURS, OR OTHER TERMS OR CONDITIONS OF EMPLOYMENT; AND

(II) A CONFERENCE, GENERAL COMMITTEE, JOINT OR SYSTEM BOARD, OR JOINT COUNCIL THAT IS SUBORDINATE TO A NATIONAL OR INTERNATIONAL LABOR ORGANIZATION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 49B, § 15(d).

In paragraph (2)(ii) and the introductory language of paragraph (2)(i) of this subsection, the former phrase "so engaged" is deleted as unnecessary in light of the reference to a labor organization "engaged in an industry" in paragraph (1)(i) of this subsection.

Defined terms: "Employee" § 20-601

"Employer" § 20-601

"Includes" § 1-101

(I) RELIGION.

"RELIGION" INCLUDES ALL ASPECTS OF RELIGIOUS OBSERVANCES, PRACTICE, AND BELIEF.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the first two clauses of former Art. 49B, § 15(f).

Defined term: "Includes" § 1-101

REVISOR'S NOTE TO SECTION:

Former Art. 49B, § 15(a), which defined "person", is deleted as unnecessary in light of the definition of "person" in § 1-101 of this article.

20-602. STATE POLICY.

IT IS THE POLICY OF THE STATE, IN THE EXERCISE OF ITS POLICE POWER FOR THE PROTECTION OF THE PUBLIC SAFETY, PUBLIC HEALTH, AND GENERAL WELFARE, FOR THE MAINTENANCE OF BUSINESS AND GOOD GOVERNMENT, AND FOR THE PROMOTION OF THE STATE'S TRADE, COMMERCE, AND MANUFACTURERS:

(1) TO ASSURE ALL PERSONS EQUAL OPPORTUNITY IN RECEIVING EMPLOYMENT AND IN ALL LABOR MANAGEMENT-UNION RELATIONS, REGARDLESS OF RACE, COLOR, RELIGION, ANCESTRY OR NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, SEXUAL ORIENTATION, OR DISABILITY UNRELATED IN NATURE AND EXTENT SO AS TO REASONABLY PRECLUDE THE PERFORMANCE OF THE EMPLOYMENT; AND

(2) TO THAT END, TO PROHIBIT DISCRIMINATION IN EMPLOYMENT BY ANY PERSON.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 14.

In item (2) of this section, the former reference to any "group, labor organization, organization or any employer or his agents" is deleted as included in the reference to any "person".

Defined terms: "Disability" § 20-601
"Person" § 1-101
"Religion" § 20-601
"Sexual orientation" § 20-101

20-603. CONSTRUCTION OF SUBTITLE.

THIS SUBTITLE DOES NOT REQUIRE:

(1) AN EMPLOYER, EMPLOYMENT AGENCY, LABOR ORGANIZATION, OR JOINT LABOR-MANAGEMENT COMMITTEE SUBJECT TO THIS SUBTITLE TO GRANT PREFERENTIAL TREATMENT TO ANY INDIVIDUAL OR GROUP ON THE BASIS OF THE RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, SEXUAL ORIENTATION, OR DISABILITY OF THE INDIVIDUAL OR GROUP BECAUSE AN IMBALANCE MAY EXIST WITH RESPECT TO THE TOTAL NUMBER OR PERCENTAGE OF INDIVIDUALS OF ANY RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, OR SEXUAL ORIENTATION OR INDIVIDUALS WITH DISABILITIES EMPLOYED BY THE EMPLOYER, REFERRED OR CLASSIFIED FOR EMPLOYMENT BY THE EMPLOYMENT AGENCY OR LABOR ORGANIZATION, ADMITTED TO MEMBERSHIP OR CLASSIFIED BY THE LABOR ORGANIZATION, OR

ADMITTED TO, OR EMPLOYED IN, ANY APPRENTICESHIP OR OTHER TRAINING PROGRAM, COMPARED TO THE TOTAL NUMBER OR PERCENTAGE OF INDIVIDUALS OF THAT RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, OR SEXUAL ORIENTATION OR INDIVIDUALS WITH DISABILITIES IN THE STATE OR ANY COMMUNITY, SECTION, OR OTHER AREA, OR IN THE AVAILABLE WORK FORCE IN THE STATE OR ANY COMMUNITY, SECTION, OR OTHER AREA; OR

(2) AN EMPLOYER TO REASONABLY ACCOMMODATE AN EMPLOYEE'S RELIGION IF THE ACCOMMODATION WOULD CAUSE UNDUE HARDSHIP ON THE CONDUCT OF THE EMPLOYER'S BUSINESS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 16(h) and the third clause of § 15(f).

In item (1) of this section, references to "individuals" are substituted for the former references to "persons" for consistency within that item.

Defined terms: "Disability" § 20-601

"Employee" § 20-601

"Employer" § 20-601

"Employment agency" § 20-601

"Labor organization" § 20-601

"Religion" § 20-601

"Sexual orientation" § 20-101

20-604. SCOPE OF SUBTITLE.

THIS SUBTITLE DOES NOT APPLY TO:

(1) AN EMPLOYER WITH RESPECT TO THE EMPLOYMENT OF ALIENS OUTSIDE OF THE STATE; OR

(2) A RELIGIOUS CORPORATION, ASSOCIATION, EDUCATIONAL INSTITUTION, OR SOCIETY WITH RESPECT TO THE EMPLOYMENT OF INDIVIDUALS OF A PARTICULAR RELIGION OR SEXUAL ORIENTATION TO PERFORM WORK CONNECTED WITH THE ACTIVITIES OF THE RELIGIOUS ENTITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 18.

In item (2) of this section, the reference to "the religious entity" is substituted for the former reference to "such corporation, association, educational institution or society" for brevity.

Defined terms: "Employer" § 20-601

"Religion" § 20-601

"Sexual orientation" § 20-101

20-605. EXCEPTIONS.

(A) IN GENERAL.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THIS SUBTITLE DOES NOT PROHIBIT:

(1) AN EMPLOYER FROM HIRING AND EMPLOYING EMPLOYEES, AN EMPLOYMENT AGENCY FROM CLASSIFYING OR REFERRING FOR EMPLOYMENT ANY INDIVIDUAL, A LABOR ORGANIZATION FROM CLASSIFYING ITS MEMBERSHIP OR CLASSIFYING OR REFERRING FOR EMPLOYMENT ANY INDIVIDUAL, OR AN EMPLOYER, LABOR ORGANIZATION, OR JOINT LABOR-MANAGEMENT COMMITTEE CONTROLLING APPRENTICESHIP OR OTHER TRAINING OR RETRAINING PROGRAMS FROM ADMITTING OR EMPLOYING ANY INDIVIDUAL IN A PROGRAM, ON THE BASIS OF THE INDIVIDUAL'S SEX, AGE, RELIGION, NATIONAL ORIGIN, OR DISABILITY, IF SEX, AGE, RELIGION, NATIONAL ORIGIN, OR DISABILITY IS A BONA FIDE OCCUPATIONAL QUALIFICATION REASONABLY NECESSARY TO THE NORMAL OPERATION OF THAT BUSINESS OR ENTERPRISE;

(2) AN EMPLOYER FROM ESTABLISHING STANDARDS CONCERNING AN EMPLOYEE'S DRESS AND GROOMING, IF THE STANDARDS ARE DIRECTLY RELATED TO THE NATURE OF THE EMPLOYMENT OF THE EMPLOYEE;

(3) A SCHOOL, COLLEGE, UNIVERSITY, OR OTHER EDUCATIONAL INSTITUTION FROM HIRING AND EMPLOYING EMPLOYEES OF A PARTICULAR RELIGION, IF:

(I) THE INSTITUTION IS WHOLLY OR SUBSTANTIALLY OWNED, SUPPORTED, CONTROLLED, OR MANAGED BY A PARTICULAR RELIGION OR BY A PARTICULAR RELIGIOUS CORPORATION, ASSOCIATION, OR SOCIETY; OR

(II) THE CURRICULUM OF THE INSTITUTION IS DIRECTED TOWARD THE PROPAGATION OF A PARTICULAR RELIGION; OR

(4) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AN EMPLOYER, EMPLOYMENT AGENCY, OR LABOR ORGANIZATION FROM OBSERVING THE TERMS OF A BONA FIDE SENIORITY SYSTEM OR ANY BONA FIDE EMPLOYEE BENEFIT PLAN, SUCH AS A RETIREMENT, PENSION, OR INSURANCE

PLAN, THAT IS NOT A SUBTERFUGE TO EVADE THE PURPOSES OF THIS SUBTITLE.

(B) EMPLOYEE BENEFIT PLAN.

AN EMPLOYEE BENEFIT PLAN MAY NOT EXCUSE THE FAILURE TO HIRE ANY INDIVIDUAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 16(g).

In subsection (a)(1) of this section, the reference to the individual's "sex, [and] age" is added for internal consistency.

In the introductory language of subsection (a)(3) of this section, the former reference to an "institution of learning" is deleted as included in the reference to an "educational institution".

In subsection (a)(3)(i) and (ii) of this section, the references to the "institution" are substituted for the former references to the "school, college, university, or other educational institution or institution of learning" for brevity.

Defined terms: "Disability" § 20-601

"Employee" § 20-601

"Employer" § 20-601

"Employment agency" § 20-601

"Labor organization" § 20-601

"Religion" § 20-601

20-606. UNLAWFUL EMPLOYMENT PRACTICES.

(A) EMPLOYERS.

AN EMPLOYER MAY NOT:

(1) FAIL OR REFUSE TO HIRE, DISCHARGE, OR OTHERWISE DISCRIMINATE AGAINST ANY INDIVIDUAL WITH RESPECT TO THE INDIVIDUAL'S COMPENSATION, TERMS, CONDITIONS, OR PRIVILEGES OF EMPLOYMENT BECAUSE OF:

(I) THE INDIVIDUAL'S RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, GENETIC

INFORMATION, OR DISABILITY UNRELATED IN NATURE AND EXTENT SO AS TO REASONABLY PRECLUDE THE PERFORMANCE OF THE EMPLOYMENT; OR

(II) THE INDIVIDUAL'S REFUSAL TO SUBMIT TO A GENETIC TEST OR MAKE AVAILABLE THE RESULTS OF A GENETIC TEST;

(2) LIMIT, SEGREGATE, OR CLASSIFY ITS EMPLOYEES OR APPLICANTS FOR EMPLOYMENT IN ANY WAY THAT WOULD DEPRIVE OR TEND TO DEPRIVE ANY INDIVIDUAL OF EMPLOYMENT OPPORTUNITIES OR OTHERWISE ADVERSELY AFFECT THE INDIVIDUAL'S STATUS AS AN EMPLOYEE BECAUSE OF:

(I) THE INDIVIDUAL'S RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, GENETIC INFORMATION, OR DISABILITY UNRELATED IN NATURE AND EXTENT SO AS TO REASONABLY PRECLUDE THE PERFORMANCE OF THE EMPLOYMENT; OR

(II) THE INDIVIDUAL'S REFUSAL TO SUBMIT TO A GENETIC TEST OR MAKE AVAILABLE THE RESULTS OF A GENETIC TEST; OR

(3) REQUEST OR REQUIRE GENETIC TESTS OR GENETIC INFORMATION AS A CONDITION OF HIRING OR DETERMINING BENEFITS.

(B) EMPLOYMENT AGENCIES.

AN EMPLOYMENT AGENCY MAY NOT:

(1) FAIL OR REFUSE TO REFER FOR EMPLOYMENT OR OTHERWISE DISCRIMINATE AGAINST ANY INDIVIDUAL BECAUSE OF THE INDIVIDUAL'S RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, OR DISABILITY UNRELATED IN NATURE AND EXTENT SO AS TO REASONABLY PRECLUDE THE PERFORMANCE OF THE EMPLOYMENT; OR

(2) CLASSIFY OR REFER FOR EMPLOYMENT ANY INDIVIDUAL ON THE BASIS OF THE INDIVIDUAL'S RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, OR DISABILITY UNRELATED IN NATURE AND EXTENT SO AS TO REASONABLY PRECLUDE THE PERFORMANCE OF THE EMPLOYMENT.

(C) LABOR ORGANIZATIONS.

A LABOR ORGANIZATION MAY NOT:

(1) EXCLUDE OR EXPEL FROM ITS MEMBERSHIP, OR OTHERWISE DISCRIMINATE AGAINST, ANY INDIVIDUAL BECAUSE OF THE INDIVIDUAL'S RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, OR DISABILITY UNRELATED IN NATURE AND EXTENT SO AS TO REASONABLY PRECLUDE THE PERFORMANCE OF THE EMPLOYMENT;

(2) LIMIT, SEGREGATE, OR CLASSIFY ITS MEMBERSHIP, OR CLASSIFY OR FAIL OR REFUSE TO REFER FOR EMPLOYMENT ANY INDIVIDUAL, IN ANY WAY THAT WOULD DEPRIVE OR TEND TO DEPRIVE THE INDIVIDUAL OF EMPLOYMENT OPPORTUNITIES, LIMIT THE INDIVIDUAL'S EMPLOYMENT OPPORTUNITIES, OR OTHERWISE ADVERSELY AFFECT THE INDIVIDUAL'S STATUS AS AN EMPLOYEE OR AS AN APPLICANT FOR EMPLOYMENT BECAUSE OF THE INDIVIDUAL'S RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, OR DISABILITY UNRELATED IN NATURE AND EXTENT SO AS TO REASONABLY PRECLUDE THE PERFORMANCE OF THE EMPLOYMENT; OR

(3) CAUSE OR ATTEMPT TO CAUSE AN EMPLOYER TO DISCRIMINATE AGAINST AN INDIVIDUAL IN VIOLATION OF THIS SECTION.

(D) TRAINING PROGRAMS.

AN EMPLOYER, LABOR ORGANIZATION, OR JOINT LABOR-MANAGEMENT COMMITTEE CONTROLLING APPRENTICESHIP OR OTHER TRAINING OR RETRAINING PROGRAMS, INCLUDING ON-THE-JOB TRAINING PROGRAMS, MAY NOT DISCRIMINATE AGAINST ANY INDIVIDUAL IN ADMISSION TO, OR EMPLOYMENT IN, ANY PROGRAM ESTABLISHED TO PROVIDE APPRENTICESHIP OR OTHER TRAINING OR RETRAINING BECAUSE OF THE INDIVIDUAL'S RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, OR DISABILITY UNRELATED IN NATURE AND EXTENT SO AS TO REASONABLY PRECLUDE THE PERFORMANCE OF THE EMPLOYMENT.

(E) NOTICE OR ADVERTISEMENT INDICATING PROHIBITED PREFERENCE, LIMITATION, SPECIFICATION, OR DISCRIMINATION; BONA FIDE OCCUPATIONAL QUALIFICATION.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN EMPLOYER, LABOR ORGANIZATION, OR EMPLOYMENT AGENCY MAY NOT PRINT OR CAUSE TO BE PRINTED OR PUBLISHED ANY NOTICE OR ADVERTISEMENT RELATING TO EMPLOYMENT BY THE EMPLOYER, MEMBERSHIP IN OR ANY CLASSIFICATION OR REFERRAL FOR EMPLOYMENT BY THE LABOR ORGANIZATION, OR ANY CLASSIFICATION OR REFERRAL FOR EMPLOYMENT BY THE EMPLOYMENT AGENCY THAT INDICATES ANY PREFERENCE, LIMITATION,

SPECIFICATION, OR DISCRIMINATION BASED ON RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, SEXUAL ORIENTATION, OR DISABILITY.

(2) A NOTICE OR ADVERTISEMENT MAY INDICATE A PREFERENCE, LIMITATION, SPECIFICATION, OR DISCRIMINATION BASED ON RELIGION, SEX, AGE, NATIONAL ORIGIN, OR DISABILITY IF RELIGION, SEX, AGE, NATIONAL ORIGIN, OR DISABILITY IS A BONA FIDE OCCUPATIONAL QUALIFICATION FOR EMPLOYMENT.

(F) OPPOSITION TO UNLAWFUL EMPLOYMENT PRACTICE; PARTICIPATION IN ENFORCEMENT PROCEEDING.

AN EMPLOYER MAY NOT DISCRIMINATE AGAINST ANY OF ITS EMPLOYEES OR APPLICANTS FOR EMPLOYMENT, AN EMPLOYMENT AGENCY MAY NOT DISCRIMINATE AGAINST ANY INDIVIDUAL, AND A LABOR ORGANIZATION MAY NOT DISCRIMINATE AGAINST ANY MEMBER OR APPLICANT FOR MEMBERSHIP BECAUSE THE INDIVIDUAL HAS:

(1) OPOSED ANY PRACTICE PROHIBITED BY THIS SUBTITLE; OR

(2) MADE A CHARGE, TESTIFIED, ASSISTED, OR PARTICIPATED IN ANY MANNER IN AN INVESTIGATION, PROCEEDING, OR HEARING UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 16(a) through (f).

In subsection (d) of this section, the reference to other training "or retraining" is added for internal consistency.

Also in subsection (d) of this section, the reference to a disability unrelated in nature "and" extent is substituted for the former reference to a disability unrelated in nature "or" extent for consistency throughout this subtitle.

The Human Relations Commission Law Article Review Committee notes, for consideration by the General Assembly, that marital status is not a protected class under subsection (e) of this section. The General Assembly may wish to add marital status for consistency throughout this title.

Defined terms: "Disability" § 20-601

"Employee" § 20-601

"Employer" § 20-601

"Employment agency" § 20-601

"Genetic information" § 20-601

- “Genetic test” § 20–601
- “Including” § 1–101
- “Labor organization” § 20–601
- “Religion” § 20–601
- “Sexual orientation” § 20–101

20–607. IMMUNITY.

AN EMPLOYER SHALL BE IMMUNE FROM LIABILITY UNDER THIS TITLE OR UNDER THE COMMON LAW ARISING OUT OF REASONABLE ACTS TAKEN BY THE EMPLOYER TO VERIFY THE SEXUAL ORIENTATION OF ANY EMPLOYEE OR APPLICANT IN RESPONSE TO A CHARGE FILED AGAINST THE EMPLOYER ON THE BASIS OF SEXUAL ORIENTATION.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 49B, § 16(i).

The former reference to “the employer’s” reasonable acts is deleted as surplusage in light of the reference to reasonable acts “taken by the employer”.

- Defined terms: “Employee” § 20–601
“Employer” § 20–601
“Sexual orientation” § 20–101

20–608. DISABILITIES DUE TO PREGNANCY OR CHILDBIRTH.

(A) TREATMENT AS TEMPORARY DISABILITIES.

DISABILITIES CAUSED OR CONTRIBUTED TO BY PREGNANCY OR CHILDBIRTH:

(1) ARE TEMPORARY DISABILITIES FOR ALL JOB-RELATED PURPOSES; AND

(2) SHALL BE TREATED AS TEMPORARY DISABILITIES UNDER ANY HEALTH OR TEMPORARY DISABILITY INSURANCE OR SICK LEAVE PLAN AVAILABLE IN CONNECTION WITH EMPLOYMENT.

(B) PARITY WITH OTHER TEMPORARY DISABILITIES.

WRITTEN AND UNWRITTEN EMPLOYMENT POLICIES AND PRACTICES INVOLVING MATTERS SUCH AS THE COMMENCEMENT AND DURATION OF LEAVE, THE AVAILABILITY OF EXTENSIONS OF LEAVE, THE ACCRUAL OF SENIORITY AND

OTHER BENEFITS AND PRIVILEGES, REINSTATEMENT, AND PAYMENT UNDER ANY HEALTH OR TEMPORARY DISABILITY INSURANCE OR SICK LEAVE PLAN, FORMAL OR INFORMAL, SHALL BE APPLIED TO DISABILITY DUE TO PREGNANCY OR CHILDBIRTH ON THE SAME TERMS AND CONDITIONS AS THEY ARE APPLIED TO OTHER TEMPORARY DISABILITIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 17.

In subsection (b) of this section, the reference to extensions "of leave" is added for clarity.

Also in subsection (b) of this section, the former reference to other temporary disabilities "subject to the provisions of this section" is deleted as surplusage and for clarity.

Defined term: "Disability" § 20-601

SUBTITLE 7. DISCRIMINATION IN HOUSING.

20-701. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 49B, § 20(a).

No changes are made.

(B) DISABILITY.

(1) "DISABILITY" MEANS:

(I) A DISABILITY THAT SUBSTANTIALLY LIMITS ONE OR MORE OF AN INDIVIDUAL'S MAJOR LIFE ACTIVITIES;

(II) A RECORD OF HAVING A DISABILITY THAT SUBSTANTIALLY LIMITS ONE OR MORE OF AN INDIVIDUAL'S MAJOR LIFE ACTIVITIES; OR

(III) BEING REGARDED AS HAVING A DISABILITY THAT SUBSTANTIALLY LIMITS ONE OR MORE OF AN INDIVIDUAL'S MAJOR LIFE ACTIVITIES.

(2) "DISABILITY" DOES NOT INCLUDE THE CURRENT ILLEGAL USE OF OR ADDICTION TO:

(I) A CONTROLLED DANGEROUS SUBSTANCE, AS DEFINED IN § 5-101 OF THE CRIMINAL LAW ARTICLE; OR

(II) A CONTROLLED SUBSTANCE, AS DEFINED IN 21 U.S.C. § 802.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 49B, § 20(k).

In the introductory language of paragraph (1) of this subsection, the former phrase "for an individual" is deleted as surplusage.

In paragraph (2)(ii) of this subsection, the former reference to "§ 102 of the Federal Controlled Substances Act" is deleted as unnecessary in light of the reference to "21 U.S.C. § 802".

The Human Relations Commission Law Article Review Committee notes, for consideration by the General Assembly, that Ch. 60, Acts of 1999, incorrectly substituted the word "disability" for references to a "physical or mental impairment" in former Art. 49B, § 20(k)(1). The General Assembly may wish to restore references to a "physical or mental impairment" in paragraph (1)(i), (ii), and (iii) of this subsection for consistency with the federal fair housing law. *See* 42 U.S.C. § 3602(h).

(C) DISCRIMINATORY HOUSING PRACTICE.

"DISCRIMINATORY HOUSING PRACTICE" MEANS AN ACT THAT IS PROHIBITED UNDER § 20-705, § 20-706, § 20-707, OR § 20-708 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 49B, § 20(g).

(D) DWELLING.

"DWELLING" MEANS:

(1) ANY BUILDING, STRUCTURE, OR PORTION OF A BUILDING OR STRUCTURE THAT IS OCCUPIED, OR DESIGNED OR INTENDED FOR OCCUPANCY, AS A RESIDENCE BY ONE OR MORE FAMILIES; AND

(2) ANY VACANT LAND THAT IS OFFERED FOR SALE OR LEASE FOR THE CONSTRUCTION OR LOCATION ON THE LAND OF ANY BUILDING, STRUCTURE, OR PORTION OF A BUILDING OR STRUCTURE DESCRIBED IN ITEM (1) OF THIS SUBSECTION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 49B, § 20(h).

Defined term: "Family" § 20-701

(E) FAMILIAL STATUS.

(1) "FAMILIAL STATUS" MEANS THE STATUS OF ONE OR MORE MINORS WHO ARE DOMICILED WITH:

(I) A PARENT OR OTHER PERSON HAVING LEGAL CUSTODY OF THE MINOR; OR

(II) THE DESIGNEE OF A PARENT OR OTHER PERSON HAVING LEGAL CUSTODY OF THE MINOR WITH THE WRITTEN PERMISSION OF THE PARENT OR OTHER PERSON.

(2) "FAMILIAL STATUS" INCLUDES THE STATUS OF BEING:

(I) A PREGNANT WOMAN; OR

(II) AN INDIVIDUAL WHO IS IN THE PROCESS OF SECURING LEGAL CUSTODY OF A MINOR.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 49B, § 20(i).

In paragraph (2)(ii) and the introductory language of paragraph (1) of this subsection, the references to "a minor" and "minors" are substituted for the former phrases "an individual under age 18" and "individuals who are under age 18", respectively, for brevity. *See* Art. 1, § 24. Correspondingly, in paragraph (1)(i) and (ii) of this subsection, the word "minor" is substituted for the former word "individual".

Defined terms: "Includes" § 1-101

“Person” § 1–101

(F) FAMILY.

“FAMILY” INCLUDES A SINGLE INDIVIDUAL.

REVISOR’S NOTE: This subsection formerly was Art. 49B, § 20(j).

No changes are made.

Defined term: “Includes” § 1–101

(G) IN THE BUSINESS OF SELLING OR RENTING DWELLINGS.

“IN THE BUSINESS OF SELLING OR RENTING DWELLINGS” MEANS:

(1) WITHIN THE PRECEDING 12 MONTHS, PARTICIPATING AS A PRINCIPAL IN THREE OR MORE TRANSACTIONS INVOLVING THE SALE OR RENTAL OF ANY DWELLING OR ANY INTEREST IN A DWELLING;

(2) WITHIN THE PRECEDING 12 MONTHS, PARTICIPATING AS AN AGENT, OTHER THAN IN THE SALE OF THE INDIVIDUAL’S OWN PERSONAL RESIDENCE, IN PROVIDING SALES OR RENTAL FACILITIES OR SERVICES IN TWO OR MORE TRANSACTIONS INVOLVING THE SALE OR RENTAL OF ANY DWELLING OR ANY INTEREST IN A DWELLING; OR

(3) BEING THE OWNER OF ANY DWELLING OCCUPIED, OR DESIGNED OR INTENDED FOR OCCUPANCY, BY FIVE OR MORE FAMILIES.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 49B, § 20(m).

In the introductory language of this subsection, the reference to “dwellings” is substituted for the former reference to “a dwelling” for consistency with the use of the defined term in this subtitle.

Defined terms: “Dwelling” § 20–701

“Family” § 20–701

“Rent” § 20–701

(H) MARITAL STATUS.

“MARITAL STATUS” MEANS THE STATE OF BEING SINGLE, MARRIED, SEPARATED, DIVORCED, OR WIDOWED.

REVISOR'S NOTE: This subsection formerly was Art. 49B, § 20(n).

No changes are made.

(I) RENT.

“RENT” INCLUDES TO LEASE, SUBLEASE, LET, OR OTHERWISE GRANT FOR A CONSIDERATION THE RIGHT TO OCCUPY PREMISES NOT OWNED BY THE OCCUPANT.

REVISOR'S NOTE: This subsection formerly was Art. 49B, § 20(q).

The only changes are in style.

Defined term: “Includes” § 1–101

REVISOR'S NOTE TO SECTION:

Former Art. 49B, § 20(o), which defined “person”, is deleted as unnecessary in light of the definition of “person” in § 1–101 of this article.

Former Art. 49B, § 20(t), which defined “restrictive covenants”, is deleted as unnecessary because the term is not used in this subtitle.

20–702. STATE POLICY; ADMINISTRATION AND ENFORCEMENT OF SUBTITLE.

(A) STATE POLICY.

IT IS THE POLICY OF THE STATE:

(1) TO PROVIDE FOR FAIR HOUSING THROUGHOUT THE STATE TO ALL, REGARDLESS OF RACE, COLOR, RELIGION, SEX, FAMILIAL STATUS, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, OR DISABILITY; AND

(2) TO THAT END, TO PROHIBIT DISCRIMINATORY PRACTICES WITH RESPECT TO RESIDENTIAL HOUSING BY ANY PERSON, IN ORDER TO PROTECT AND INSURE THE PEACE, HEALTH, SAFETY, PROSPERITY, AND GENERAL WELFARE OF ALL.

(B) ADMINISTRATION AND ENFORCEMENT OF SUBTITLE.

THIS SUBTITLE:

(1) IS AN EXERCISE OF THE POLICE POWER OF THE STATE FOR THE PROTECTION OF THE PEOPLE OF THE STATE; AND

(2) SHALL BE ADMINISTERED AND ENFORCED BY THE COMMISSION AND, AS PROVIDED IN THIS TITLE, ENFORCED BY THE APPROPRIATE STATE COURT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 19.

In subsection (a)(1) and (2) of this section, the former references to "its citizens" and "the inhabitants of the State" are deleted as archaic.

In subsection (a)(2) of this section, the former reference to a "group of persons" is deleted in light of the reference to a "person" and Art. 1, § 8, which provides that the singular generally includes the plural.

In the introductory language of subsection (b) of this section, the reference to this "subtitle" is substituted for the former reference to this "law" for clarity.

Defined terms: "Commission" § 20-101

"Disability" § 20-701

"Familial status" § 20-701

"Marital status" § 20-701

"Person" § 1-101

"Sexual orientation" § 20-101

20-703. CONSTRUCTION OF SUBTITLE.

THIS SUBTITLE DOES NOT:

(1) INVALIDATE OR LIMIT ANY LOCAL LAW THAT REQUIRES DWELLINGS TO BE DESIGNED AND CONSTRUCTED IN A MANNER THAT AFFORDS AN INDIVIDUAL WITH A DISABILITY GREATER ACCESS THAN IS REQUIRED BY § 20-706(B) OF THIS SUBTITLE;

(2) LIMIT THE APPLICABILITY OF ANY REASONABLE LOCAL, STATE, OR FEDERAL RESTRICTIONS REGARDING THE MAXIMUM NUMBER OF OCCUPANTS ALLOWED TO OCCUPY A DWELLING;

(3) PROHIBIT THE STATE OR A LOCAL GOVERNMENT FROM ENACTING STANDARDS THAT GOVERN THE LOCATION OF GROUP HOMES, AS DEFINED IN § 4-601 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE;

(4) AFFECT THE POWERS OF ANY LOCAL GOVERNMENT TO ENACT AN ORDINANCE ON ANY SUBJECT COVERED BY THIS SUBTITLE, PROVIDED THAT THE ORDINANCE DOES NOT AUTHORIZE ANY ACT THAT WOULD BE A DISCRIMINATORY HOUSING PRACTICE UNDER THIS SUBTITLE;

(5) REQUIRE THAT A DWELLING BE MADE AVAILABLE TO AN INDIVIDUAL WHOSE TENANCY WOULD:

(I) CONSTITUTE A DIRECT THREAT TO THE HEALTH OR SAFETY OF OTHER INDIVIDUALS; OR

(II) RESULT IN SUBSTANTIAL PHYSICAL DAMAGE TO THE PROPERTY OF OTHERS;

(6) PROHIBIT CONDUCT AGAINST A PERSON BECAUSE THE PERSON HAS BEEN CONVICTED BY A COURT OF COMPETENT JURISDICTION OF THE ILLEGAL MANUFACTURE OR DISTRIBUTION OF:

(I) A CONTROLLED DANGEROUS SUBSTANCE, AS DEFINED IN § 5-101 OF THE CRIMINAL LAW ARTICLE; OR

(II) A CONTROLLED SUBSTANCE, AS DEFINED IN 21 U.S.C. § 802;

(7) UNLESS MEMBERSHIP IN THE RELIGION IS RESTRICTED ON THE BASIS OF RACE, COLOR, OR NATIONAL ORIGIN, PROHIBIT A RELIGIOUS ORGANIZATION, ASSOCIATION, OR SOCIETY OR ANY NONPROFIT INSTITUTION OR ORGANIZATION OPERATED, SUPERVISED, OR CONTROLLED BY OR IN CONJUNCTION WITH A RELIGIOUS ORGANIZATION, ASSOCIATION, OR SOCIETY FROM GIVING PREFERENCE OR LIMITING THE SALE, RENTAL, OR OCCUPANCY OF DWELLINGS THAT IT OWNS OR OPERATES FOR OTHER THAN A COMMERCIAL PURPOSE TO PERSONS OF THE SAME RELIGION; OR

(8) PROHIBIT A PRIVATE CLUB THAT IS NOT OPEN TO THE PUBLIC AND THAT, AS AN INCIDENT TO ITS PRIMARY PURPOSE OR PURPOSES, PROVIDES LODGINGS THAT IT OWNS OR OPERATES FOR OTHER THAN A COMMERCIAL PURPOSE, FROM LIMITING THE RENTAL OR OCCUPANCY OF THE DWELLINGS TO ITS MEMBERS OR FROM GIVING PREFERENCE TO ITS MEMBERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, §§ 38 and 21(c), (d), (e), (f), (g), (i), and (j).

In item (1) of this section, the reference to any "local law" is substituted for the former reference to any "law of a political subdivision of the State" for brevity.

In item (4) of this section, the former reference to any "county, municipality or other" local government is deleted as included in the reference to any "local government".

Also in item (4) of this section, the former reference to an "unlawful" housing practice is deleted as unnecessary in light of the reference to a "discriminatory" housing practice.

In item (8) of this section, the former phrase "in fact" is deleted as surplusage.

Defined terms: "Disability" § 20-701

"Discriminatory housing practice" § 20-701

"Dwelling" § 20-701

"Person" § 1-101

"Rent" § 20-701

20-704. SCOPE OF SUBTITLE.

(A) IN GENERAL.

THIS SUBTITLE DOES NOT APPLY TO:

(1) THE SALE OR RENTAL OF A SINGLE-FAMILY DWELLING, IF THE DWELLING IS SOLD OR RENTED WITHOUT:

(I) THE USE OF THE SALES OR RENTAL FACILITIES OR SERVICES OF ANY:

- 1. REAL ESTATE BROKER, AGENT, OR SALESPERSON;**
- 2. AGENT OF ANY REAL ESTATE BROKER, AGENT, OR SALESPERSON;**
- 3. PERSON IN THE BUSINESS OF SELLING OR RENTING DWELLINGS; OR**

4. AGENT OF A PERSON IN THE BUSINESS OF SELLING OR RENTING DWELLINGS; OR

(II) THE PUBLICATION, POSTING, OR MAILING, AFTER NOTICE, OF ANY ADVERTISEMENT OR WRITTEN NOTICE IN VIOLATION OF THIS SUBTITLE; AND

(2) WITH RESPECT TO DISCRIMINATION ON THE BASIS OF SEX, SEXUAL ORIENTATION, OR MARITAL STATUS:

(I) THE RENTAL OF ROOMS IN ANY DWELLING, IF THE OWNER MAINTAINS THE DWELLING AS THE OWNER'S PRINCIPAL RESIDENCE; OR

(II) THE RENTAL OF ANY APARTMENT IN A DWELLING THAT CONTAINS NOT MORE THAN FIVE RENTAL UNITS, IF THE OWNER MAINTAINS THE DWELLING AS THE OWNER'S PRINCIPAL RESIDENCE.

(B) USE OF PROFESSIONAL ASSISTANCE TO TRANSFER TITLE.

THE USE OF ATTORNEYS, ESCROW AGENTS, ABSTRACTORS, TITLE COMPANIES, AND OTHER SIMILAR PROFESSIONAL ASSISTANCE AS NECESSARY TO PERFECT OR TRANSFER THE TITLE TO A SINGLE-FAMILY DWELLING DOES NOT SUBJECT A PERSON TO THIS SUBTITLE IF THE PERSON OTHERWISE WOULD BE EXEMPTED UNDER SUBSECTION (A) OF THIS SECTION.

(C) HOUSING FOR OLDER PERSONS.

(1) (I) IN THIS SUBSECTION, "HOUSING FOR OLDER PERSONS" MEANS HOUSING:

1. PROVIDED UNDER ANY STATE OR FEDERAL PROGRAM THAT IS SPECIFICALLY DESIGNED AND OPERATED TO ASSIST ELDERLY PERSONS, AS DEFINED IN THE STATE OR FEDERAL PROGRAM;

2. INTENDED FOR, AND SOLELY OCCUPIED BY, PERSONS WHO ARE AT LEAST 62 YEARS OLD;

3. INTENDED AND OPERATED FOR OCCUPANCY BY AT LEAST ONE PERSON WHO IS AT LEAST 55 YEARS OLD IN EACH UNIT; OR

4. THAT MEETS THE REQUIREMENTS SET FORTH IN REGULATIONS ADOPTED BY THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT UNDER 42 U.S.C. § 3607(B)(2)(C).

(II) "HOUSING FOR OLDER PERSONS" INCLUDES:

1. UNOCCUPIED UNITS, IF THE UNITS ARE RESERVED FOR OCCUPANCY BY PERSONS WHO MEET THE AGE REQUIREMENTS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH; OR

2. UNITS OCCUPIED AS OF SEPTEMBER 13, 1988 BY PERSONS WHO DO NOT MEET THE AGE REQUIREMENTS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH, IF THE NEW OCCUPANT OF THE UNIT MEETS THE AGE REQUIREMENT.

(2) THE PROVISIONS IN THIS SUBTITLE CONCERNING FAMILIAL STATUS DO NOT APPLY TO HOUSING FOR OLDER PERSONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, §§ 20(1) and 21(a), (b), and (h).

In subsection (b) of this section, the reference to transferring the title "to a single-family dwelling" is added for clarity and consistency with subsection (a) of this section.

In subsection (c)(1)(i)4 of this section, the reference to the "Secretary of Housing and Urban Development" is substituted for the former reference to "Secretary of the U.S. Department of Housing and Urban Development" for accuracy.

Also in subsection (c)(1)(i)4 of this section, the former parenthetical "(federal Fair Housing Act)" is deleted as unnecessary in light of the reference to "42 U.S.C. § 3607(b)(2)(C)".

The Human Relations Commission Law Article Review Committee notes, for consideration by the General Assembly, that the General Assembly may wish to clarify the meaning of the phrase "after notice" in subsection (a)(1)(ii) of this section.

Defined terms: "Dwelling" § 20-701

"Familial status" § 20-701

"Family" § 20-701

"In the business of selling or renting dwellings" § 20-701

"Includes" § 1-101

"Marital status" § 20-701

“Person” § 1-101

“Rent” § 20-701

“Sexual orientation” § 20-101

20-705. DISCRIMINATORY HOUSING PRACTICES — SALE OR RENTAL OF DWELLING.

EXCEPT AS PROVIDED IN §§ 20-703 AND 20-704 OF THIS SUBTITLE, A PERSON MAY NOT:

(1) REFUSE TO SELL OR RENT AFTER THE MAKING OF A BONA FIDE OFFER, REFUSE TO NEGOTIATE FOR THE SALE OR RENTAL OF, OR OTHERWISE MAKE UNAVAILABLE OR DENY, A DWELLING TO ANY PERSON BECAUSE OF RACE, COLOR, RELIGION, SEX, DISABILITY, MARITAL STATUS, FAMILIAL STATUS, SEXUAL ORIENTATION, OR NATIONAL ORIGIN;

(2) DISCRIMINATE AGAINST ANY PERSON IN THE TERMS, CONDITIONS, OR PRIVILEGES OF THE SALE OR RENTAL OF A DWELLING, OR IN THE PROVISION OF SERVICES OR FACILITIES IN CONNECTION WITH THE SALE OR RENTAL OF A DWELLING, BECAUSE OF RACE, COLOR, RELIGION, SEX, DISABILITY, MARITAL STATUS, FAMILIAL STATUS, SEXUAL ORIENTATION, OR NATIONAL ORIGIN;

(3) MAKE, PRINT, OR PUBLISH, OR CAUSE TO BE MADE, PRINTED, OR PUBLISHED, ANY NOTICE, STATEMENT, OR ADVERTISEMENT WITH RESPECT TO THE SALE OR RENTAL OF A DWELLING THAT INDICATES ANY PREFERENCE, LIMITATION, OR DISCRIMINATION BASED ON RACE, COLOR, RELIGION, SEX, DISABILITY, MARITAL STATUS, FAMILIAL STATUS, SEXUAL ORIENTATION, OR NATIONAL ORIGIN, OR AN INTENTION TO MAKE ANY PREFERENCE, LIMITATION, OR DISCRIMINATION;

(4) REPRESENT TO ANY PERSON, BECAUSE OF RACE, COLOR, RELIGION, SEX, DISABILITY, MARITAL STATUS, FAMILIAL STATUS, SEXUAL ORIENTATION, OR NATIONAL ORIGIN, THAT ANY DWELLING IS NOT AVAILABLE FOR INSPECTION, SALE, OR RENTAL WHEN THE DWELLING IS AVAILABLE; OR

(5) FOR PROFIT, INDUCE OR ATTEMPT TO INDUCE ANY PERSON TO SELL OR RENT ANY DWELLING BY REPRESENTATIONS REGARDING THE ENTRY OR PROSPECTIVE ENTRY INTO THE NEIGHBORHOOD OF A PERSON OF A PARTICULAR RACE, COLOR, RELIGION, SEX, DISABILITY, MARITAL STATUS, FAMILIAL STATUS, SEXUAL ORIENTATION, OR NATIONAL ORIGIN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 22(a)(1) through (5).

In item (4) of this section, the former phrase "in fact" is deleted as surplusage.

In item (5) of this section, the former reference to "persons" is deleted in light of the reference to a "person" and Art. 1, § 8, which provides that the singular generally includes the plural.

Defined terms: "Disability" § 20-701

"Dwelling" § 20-701

"Familial status" § 20-701

"Marital status" § 20-701

"Person" § 1-101

"Rent" § 20-701

"Sexual orientation" § 20-101

20-706. DISCRIMINATION AGAINST INDIVIDUALS WITH DISABILITIES; ACCESSIBILITY.

(A) "COVERED MULTIFAMILY DWELLING" DEFINED.

IN THIS SECTION, "COVERED MULTIFAMILY DWELLING" MEANS:

(1) A BUILDING CONSISTING OF FOUR OR MORE UNITS, IF THE BUILDING HAS ONE OR MORE ELEVATORS; OR

(2) A GROUND FLOOR UNIT IN A BUILDING CONSISTING OF FOUR OR MORE UNITS, IF THE BUILDING HAS NO ELEVATOR.

(B) DISCRIMINATION AGAINST INDIVIDUALS WITH DISABILITIES.

EXCEPT AS PROVIDED IN §§ 20-703 AND 20-704 OF THIS SUBTITLE, A PERSON MAY NOT:

(1) DISCRIMINATE IN THE SALE OR RENTAL OF, OR OTHERWISE MAKE UNAVAILABLE OR DENY, A DWELLING TO ANY BUYER OR RENTER BECAUSE OF A DISABILITY OF:

(I) THE BUYER OR RENTER; OR

(II) AN INDIVIDUAL RESIDING IN OR INTENDING TO RESIDE IN THE DWELLING AFTER IT IS SOLD, RENTED, OR MADE AVAILABLE;

(2) DISCRIMINATE AGAINST ANY INDIVIDUAL IN THE TERMS, CONDITIONS, OR PRIVILEGES OF THE SALE OR RENTAL OF A DWELLING, OR IN THE PROVISION OF SERVICES OR FACILITIES IN CONNECTION WITH THE DWELLING, BECAUSE OF A DISABILITY OF:

(I) THE INDIVIDUAL; OR

(II) AN INDIVIDUAL RESIDING IN OR INTENDING TO RESIDE IN THE DWELLING AFTER IT IS SOLD, RENTED, OR MADE AVAILABLE;

(3) REFUSE TO ALLOW, AT THE EXPENSE OF AN INDIVIDUAL WITH A DISABILITY, REASONABLE MODIFICATIONS OF EXISTING PREMISES OCCUPIED OR TO BE OCCUPIED BY THE INDIVIDUAL, IF:

(I) THE MODIFICATIONS MAY BE NECESSARY TO AFFORD THE INDIVIDUAL WITH A DISABILITY FULL ENJOYMENT OF THE DWELLING; AND

(II) FOR A RENTAL DWELLING, THE TENANT AGREES THAT, WHEN THE TENANT VACATES THE DWELLING, THE TENANT WILL RESTORE, AT THE TENANT'S EXPENSE, THE INTERIOR OF THE DWELLING TO THE CONDITION THAT EXISTED BEFORE THE MODIFICATION, EXCEPT FOR REASONABLE WEAR AND TEAR;

(4) REFUSE TO MAKE REASONABLE ACCOMMODATIONS IN RULES, POLICIES, PRACTICES, OR SERVICES WHEN THE ACCOMMODATIONS MAY BE NECESSARY TO AFFORD AN INDIVIDUAL WITH A DISABILITY EQUAL OPPORTUNITY TO USE AND ENJOY A DWELLING; OR

(5) FAIL TO DESIGN OR CONSTRUCT A COVERED MULTIFAMILY DWELLING FOR FIRST OCCUPANCY AS REQUIRED UNDER SUBSECTION (C) OF THIS SECTION.

(C) ACCESSIBILITY.

(1) ON OR AFTER JULY 1, 1991, A COVERED MULTIFAMILY DWELLING FOR FIRST OCCUPANCY SHALL BE DESIGNED AND CONSTRUCTED SO THAT:

(I) THE PUBLIC USE AND COMMON USE PORTIONS OF THE DWELLING ARE READILY ACCESSIBLE AND USABLE TO INDIVIDUALS WITH DISABILITIES;

(II) ALL THE DOORS DESIGNED TO ALLOW PASSAGE INTO AND WITHIN ALL PREMISES WITHIN THE DWELLING ARE SUFFICIENTLY WIDE TO ALLOW PASSAGE BY INDIVIDUALS WITH DISABILITIES IN WHEELCHAIRS; AND

(III) ALL PREMISES WITHIN THE DWELLING CONTAIN THE FOLLOWING FEATURES OF ADAPTIVE DESIGN:

1. AN ACCESSIBLE ROUTE INTO AND THROUGH THE DWELLING;

2. LIGHT SWITCHES, ELECTRICAL OUTLETS, THERMOSTATS, AND OTHER ENVIRONMENTAL CONTROLS IN ACCESSIBLE LOCATIONS;

3. REINFORCEMENTS IN BATHROOM WALLS TO ALLOW LATER INSTALLATION OF GRAB BARS; AND

4. USABLE KITCHENS AND BATHROOMS SO THAT AN INDIVIDUAL IN A WHEELCHAIR CAN MANEUVER ABOUT THE SPACE.

(2) THE REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION ARE SATISFIED BY COMPLIANCE WITH:

(I) THE APPROPRIATE REQUIREMENTS OF THE MOST CURRENT REVISION OF THE AMERICAN NATIONAL STANDARD FOR BUILDINGS AND FACILITIES PROVIDING ACCESSIBILITY AND UsABILITY FOR PHYSICALLY HANDICAPPED PEOPLE (COMMONLY CITED AS ANSI A117.1); OR

(II) THE FEDERAL LAW, REGULATIONS, AND GUIDELINES ON HANDICAPPED ACCESSIBILITY ADOPTED UNDER THE FEDERAL FAIR HOUSING AMENDMENTS ACT OF 1988 AND INCORPORATED BY REFERENCE IN THE REGULATIONS ADOPTED BY THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT UNDER § 12-202 OF THE PUBLIC SAFETY ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, §§ 20(f) and 22(b) and (a)(6) through (10).

Throughout this section, references to an "individual" are substituted for the former references to a "person" for consistency within this section and because only an individual, and not the other entities included in the definition of the term "person", can have a disability.

In subsection (c)(2)(ii) of this section, the reference to the “Fair Housing Amendments Act of 1988” is substituted for the former reference to the “Fair Housing Act Amendments of 1988” for accuracy.

Also in subsection (c)(2)(ii) of this section, the former reference to “rules” is deleted in light of the reference to “regulations”. *See* General Revisor’s Note to title.

Defined terms: “Disability” § 20–701

“Dwelling” § 20–701

“Person” § 1–101

“Rent” § 20–701

20–707. DISCRIMINATION IN RESIDENTIAL REAL ESTATE–RELATED TRANSACTIONS; DISCRIMINATION IN PROFESSIONAL SERVICES OR ORGANIZATIONS.

(A) “RESIDENTIAL REAL ESTATE–RELATED TRANSACTION” DEFINED.

IN THIS SECTION, “RESIDENTIAL REAL ESTATE–RELATED TRANSACTION” MEANS:

(1) THE MAKING OR PURCHASING OF LOANS OR PROVIDING OTHER FINANCIAL ASSISTANCE:

(I) FOR PURCHASING, CONSTRUCTING, IMPROVING, REPAIRING, OR MAINTAINING A DWELLING; OR

(II) SECURED BY RESIDENTIAL REAL ESTATE; OR

(2) THE SELLING, BROKERING, OR APPRAISING OF RESIDENTIAL REAL PROPERTY.

(B) DISCRIMINATION IN RESIDENTIAL REAL ESTATE–RELATED TRANSACTIONS.

(1) A PERSON WHOSE BUSINESS INCLUDES ENGAGING IN RESIDENTIAL REAL ESTATE–RELATED TRANSACTIONS MAY NOT DISCRIMINATE AGAINST ANY PERSON IN MAKING AVAILABLE A TRANSACTION, OR IN THE TERMS OR CONDITIONS OF A TRANSACTION, BECAUSE OF RACE, COLOR, RELIGION, SEX, DISABILITY, MARITAL STATUS, FAMILIAL STATUS, SEXUAL ORIENTATION, OR NATIONAL ORIGIN.

(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT PROHIBIT A PERSON ENGAGED IN THE BUSINESS OF FURNISHING APPRAISALS OF REAL PROPERTY FROM TAKING INTO CONSIDERATION FACTORS OTHER THAN RACE, COLOR, RELIGION, SEX, DISABILITY, MARITAL STATUS, FAMILIAL STATUS, SEXUAL ORIENTATION, OR NATIONAL ORIGIN.

(C) DISCRIMINATION IN PROFESSIONAL SERVICES OR ORGANIZATIONS.

A PERSON MAY NOT, BECAUSE OF RACE, COLOR, RELIGION, SEX, DISABILITY, MARITAL STATUS, FAMILIAL STATUS, SEXUAL ORIENTATION, OR NATIONAL ORIGIN:

(1) DENY A PERSON ACCESS TO, OR MEMBERSHIP OR PARTICIPATION IN, A MULTIPLE-LISTING SERVICE, REAL ESTATE BROKERS' ORGANIZATION, OR OTHER SERVICE, ORGANIZATION, OR FACILITY RELATING TO THE BUSINESS OF SELLING OR RENTING DWELLINGS; OR

(2) DISCRIMINATE AGAINST A PERSON IN THE TERMS OR CONDITIONS OF MEMBERSHIP OR PARTICIPATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, §§ 23 and 20(r).

In subsection (b)(1) of this section, the former phrase "or other entity" is deleted as included in the reference to a "person".

Defined terms: "Disability" § 20-701

"Dwelling" § 20-701

"Familial status" § 20-701

"Marital status" § 20-701

"Person" § 1-101

"Rent" § 20-701

"Sexual orientation" § 20-101

20-708. INTERFERENCE WITH EXERCISE OF RIGHTS.

A PERSON MAY NOT COERCE, INTIMIDATE, THREATEN, INTERFERE WITH, OR RETALIATE AGAINST ANY PERSON:

(1) IN THE EXERCISE OR ENJOYMENT OF ANY RIGHT GRANTED OR PROTECTED BY THIS SUBTITLE;

(2) BECAUSE A PERSON HAS EXERCISED OR ENJOYED ANY RIGHT GRANTED OR PROTECTED BY THIS SUBTITLE; OR

(3) BECAUSE A PERSON HAS AIDED OR ENCOURAGED ANY OTHER PERSON IN THE EXERCISE OR ENJOYMENT OF ANY RIGHT GRANTED OR PROTECTED BY THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 24.

Defined term: "Person" § 1-101

20-709. DUTIES OF EXECUTIVE UNITS.

EACH EXECUTIVE UNIT, INCLUDING UNITS WITH REGULATORY OR SUPERVISORY AUTHORITY OVER FINANCIAL INSTITUTIONS, SHALL:

(1) ADMINISTER ITS PROGRAMS AND ACTIVITIES IN A MANNER THAT FURTHERS THE PURPOSES OF THIS SUBTITLE; AND

(2) COOPERATE WITH THE COMMISSION TO FURTHER THE PURPOSES OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 25.

In the introductory language of this section, the references to a "unit" and "units" are substituted for the former references to "departments and agencies" and "agencies", respectively, for consistency throughout this title. *See* General Revisor's Note to title.

Defined terms: "Commission" § 20-101
"Including" § 1-101

20-710. POWERS AND DUTIES OF COMMISSION.

(A) TECHNICAL ASSISTANCE, STUDIES, AND REPORTS.

THE COMMISSION SHALL:

(1) COOPERATE WITH AND PROVIDE TECHNICAL ASSISTANCE TO FEDERAL, STATE, LOCAL, AND OTHER GOVERNMENTAL UNITS OR PRIVATE AGENCIES, ORGANIZATIONS, AND INSTITUTIONS THAT ARE FORMULATING OR

CARRYING ON PROGRAMS TO PREVENT OR ELIMINATE DISCRIMINATORY HOUSING PRACTICES;

(2) CONDUCT STUDIES CONCERNING THE NATURE AND EXTENT OF DISCRIMINATORY HOUSING PRACTICES IN REPRESENTATIVE URBAN, SUBURBAN, AND RURAL COMMUNITIES THROUGHOUT THE STATE; AND

(3) PUBLISH AND DISSEMINATE REPORTS, RECOMMENDATIONS, AND INFORMATION DERIVED FROM STUDIES CONDUCTED UNDER ITEM (2) OF THIS SUBSECTION.

(B) COOPERATION WITH LOCAL UNITS.

THE COMMISSION MAY:

(1) COOPERATE WITH LOCAL UNITS CHARGED WITH THE ADMINISTRATION OF LOCAL FAIR HOUSING LAWS;

(2) WITH THE CONSENT OF THE LOCAL UNITS, UTILIZE THE SERVICES AND EMPLOYEES OF THE LOCAL UNITS;

(3) ENTER INTO WRITTEN AGREEMENTS WITH LOCAL UNITS TO FURTHER COOPERATIVE EFFORTS TO CARRY OUT THE PURPOSES OF THIS SUBTITLE; AND

(4) NOTWITHSTANDING ANY OTHER LAW, REIMBURSE LOCAL UNITS AND THEIR EMPLOYEES FOR SERVICES PROVIDED TO ASSIST IN CARRYING OUT THIS SUBTITLE.

(C) EDUCATIONAL AND CONCILIATORY ACTIVITIES.

TO FURTHER THE PURPOSES OF THIS SUBTITLE, THE COMMISSION MAY CONDUCT EDUCATIONAL AND CONCILIATORY ACTIVITIES, INCLUDING:

(1) CONFERENCES TO ACQUAINT INTERESTED PERSONS WITH THE PROVISIONS OF THIS SUBTITLE AND THE PLANS FOR IMPLEMENTATION OF THIS SUBTITLE;

(2) IN CONSULTATION WITH INTERESTED PERSONS, PROGRAMS OF VOLUNTARY COMPLIANCE AND OF ENFORCEMENT; AND

(3) CONSULTATIONS WITH INTERESTED PERSONS AND STATE AND LOCAL OFFICIALS TO LEARN:

(I) THE EXTENT, IF ANY, TO WHICH HOUSING DISCRIMINATION EXISTS IN THE STATE OR LOCAL POLITICAL SUBDIVISIONS; AND

(II) HOW STATE OR LOCAL ENFORCEMENT PROGRAMS MAY BE USED TO COMBAT HOUSING DISCRIMINATION IN CONNECTION WITH, OR INSTEAD OF, THE COMMISSION'S ENFORCEMENT OF THIS SUBTITLE.

(D) REGULATIONS.

(1) IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE, THE COMMISSION MAY ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE AND SUBTITLE 10, PART II OF THIS TITLE.

(2) THE COMMISSION SHALL ADOPT REGULATIONS REQUIRING LOCAL UNITS THAT ARE CERTIFIED AS SUBSTANTIALLY EQUIVALENT BY THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT UNDER 42 U.S.C. § 3610 TO FILE ANNUAL REPORTS WITH THE COMMISSION CONTAINING THE INFORMATION SPECIFIED BY THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, §§ 26, 35, and 36.

In subsection (a)(1) of this section, the reference to "governmental units" is substituted for the former reference to "public ... agencies" for consistency with similar provisions in this and other revised articles of the Code. Similarly, in subsections (b) and (d)(2) of this section, references to local "units" are substituted for the former references to local "agencies" and local "agencies and commissions", respectively. See General Revisor's Note to title.

In subsection (d) of this section, the former reference to "data" is deleted as included in the reference to "information".

Defined terms: "Commission" § 20-101
"Discriminatory housing practice" § 20-701
"Including" § 1-101
"Person" § 1-101

GENERAL REVISOR'S NOTE TO SUBTITLE:

Former Art. 49B, § 39, which provided for the severability of provisions under the former subtitle “Discrimination in Housing”, is deleted as unnecessary in light of the general severability provision in Art. 1, § 23.

**SUBTITLE 8. AIDING, ABETTING, OR ATTEMPTING DISCRIMINATORY ACT;
OBSTRUCTING COMPLIANCE.**

20–801. PROHIBITED ACTS.

A PERSON MAY NOT:

(1) AID, ABET, INCITE, COMPEL, OR COERCE ANY PERSON TO COMMIT A DISCRIMINATORY ACT;

(2) ATTEMPT, DIRECTLY OR INDIRECTLY, ALONE OR IN CONCERT WITH OTHERS, TO COMMIT A DISCRIMINATORY ACT; OR

(3) OBSTRUCT OR PREVENT ANY PERSON FROM COMPLYING WITH THIS TITLE OR ANY ORDER ISSUED UNDER THIS TITLE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 49B, § 12A.

In item (1) of this section, the reference to “any person” is added for clarity.

In items (1) and (2) of this section, the defined term “discriminatory act” is substituted for the former reference to any “act declared by this article to be an unlawful practice” for brevity and consistency throughout this title.

Defined terms: “Discriminatory act” § 20–101
“Person” § 1–101

SUBTITLE 9. DISCRIMINATION BY GOVERNMENTAL UNITS, OFFICERS, AND EMPLOYEES.

20–901. IN GENERAL.

(A) DISCRIMINATION PROHIBITED.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A UNIT, OFFICER, OR EMPLOYEE OF THE STATE, A COUNTY, OR A MUNICIPAL

CORPORATION MAY NOT ENGAGE IN A DISCRIMINATORY ACT PROHIBITED BY § 20-304, § 20-606, § 20-705, § 20-706, § 20-707, OR § 20-708 OF THIS TITLE.

(B) EXCEPTIONS.

SECTIONS 20-304, 20-705, AND 20-706 OF THIS TITLE DO NOT PROHIBIT THE STATE, A COUNTY, OR A MUNICIPALITY FROM:

(1) PROVIDING SEPARATE FACILITIES FOR MALES AND FEMALES IN GOVERNMENT-OWNED OR GOVERNMENT-OPERATED PUBLIC INSTITUTIONS; OR

(2) OPERATING OR FUNDING SPECIAL OR SEPARATE PROGRAMS AND FACILITIES FOR CHILDREN, SENIORS, OR OTHER SPECIAL POPULATIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 7(a).

In subsection (a) of this section, the reference to a "unit" is substituted for the former reference to "agencies" for consistency throughout this title. See General Revisor's Note to title.

Also in subsection (a) of this section, the defined term "discriminatory act" is substituted for the former reference to "discriminatory practices" for consistency throughout this title.

Also in subsection (a) of this section, the former reference to a county or municipal corporation "in the State" is deleted as implicit.

In subsection (b)(2) of this section, the reference to "seniors" is substituted for the former reference to "the aged" for consistency with terminology used in Title 10 of the Human Services Article.

Defined terms: "County" § 1-101
"Discriminatory act" § 20-101

20-902. CASES AGAINST GOVERNMENTAL RESPONDENTS.

(A) EMPLOYMENT DISCRIMINATION CASES.

IN AN EMPLOYMENT DISCRIMINATION CASE IN WHICH A UNIT, OFFICER, OR EMPLOYEE OF THE STATE, A COUNTY, OR A MUNICIPALITY IS A RESPONDENT, THE RULES, PROCEDURES, POWERS, RIGHTS, AND REMEDIES

THAT APPLY ARE THE SAME AS THOSE THAT APPLY IN A DISCRIMINATION CASE IN WHICH A PRIVATE PERSON IS THE RESPONDENT.

(B) POWER OF COMMISSION TO SEEK INJUNCTIVE RELIEF OR JUDICIAL ENFORCEMENT OF ORDERS.

IN A DISCRIMINATION CASE IN WHICH A UNIT, OFFICER, OR EMPLOYEE OF THE STATE, A COUNTY, OR A MUNICIPALITY IS A RESPONDENT, THE COMMISSION MAY SEEK INJUNCTIVE RELIEF OR JUDICIAL ENFORCEMENT OF ITS ORDERS AGAINST THE RESPONDENT.

(C) CASES AGAINST COMMISSION.

IN A DISCRIMINATION CASE IN WHICH THE COMMISSION, OR A MEMBER, OFFICER, OR EMPLOYEE OF THE COMMISSION, IS A RESPONDENT, THE GOVERNOR SHALL SPECIALLY DESIGNATE A PERSON TO PERFORM THE FUNCTIONS USUALLY PERFORMED BY THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 7(b).

In subsections (a) and (b) of this section, the references to a "unit" are substituted for the former references to an "agency" for consistency throughout this title. See General Revisor's Note to title.

In subsection (a) of this section, the former reference to a county or municipal corporation "in the State" is deleted as implicit.

In subsection (b) of this section, the phrase "of the State, a county, or a municipality" is added for clarity and consistency with subsection (a) of this section.

Also in subsection (b) of this section, the phrase "the Commission may" is substituted for the former phrase "the power of the ... Commission includes the authority to" for brevity.

Defined terms: "Commission" § 20-101

"County" § 1-101

"Person" § 1-101

"Respondent" § 20-101

20-903. WAIVER OF STATE'S SOVEREIGN IMMUNITY IN EMPLOYMENT DISCRIMINATION CASES.

THE STATE, ITS OFFICERS, AND ITS UNITS MAY NOT RAISE SOVEREIGN IMMUNITY AS A DEFENSE AGAINST AN AWARD IN AN EMPLOYMENT DISCRIMINATION CASE UNDER THIS TITLE.

REVISOR'S NOTE: This section formerly was Art. 49B, § 17A.

The only change is in a cross-reference.

20-904. PAYMENT OF AWARDS AGAINST STATE.

(A) PAYMENT WHEN SUFFICIENT MONEY AVAILABLE.

IF THE STATE HAS SUFFICIENT MONEY AVAILABLE AT THE TIME AN AWARD IS MADE AGAINST THE STATE UNDER THIS TITLE, THE STATE SHALL PAY THE AWARD AS SOON AS PRACTICABLE WITHIN 20 DAYS AFTER THE AWARD IS FINAL.

(B) REPORT TO COMPTROLLER WHEN SUFFICIENT MONEY NOT AVAILABLE.

(1) IF SUFFICIENT MONEY IS NOT AVAILABLE AT THE TIME AN AWARD IS MADE AGAINST THE STATE UNDER THIS TITLE, THE AFFECTED STATE UNIT OR OFFICER SHALL REPORT THE OUTSTANDING AWARD TO THE STATE COMPTROLLER.

(2) THE COMPTROLLER SHALL:

**(I) KEEP AN ACCOUNTING OF ALL OUTSTANDING AWARDS;
AND**

(II) REPORT THE ACCOUNTING ANNUALLY TO THE GOVERNOR.

(C) INCLUSION OF SUFFICIENT MONEY IN STATE BUDGET.

(1) THE GOVERNOR SHALL INCLUDE IN THE STATE BUDGET SUFFICIENT MONEY TO PAY ALL AWARDS MADE AGAINST THE STATE UNDER THIS TITLE.

(2) ON APPROPRIATION OF MONEY BY THE GENERAL ASSEMBLY, THE COMPTROLLER SHALL AUTHORIZE PAYMENT OF ALL OUTSTANDING AWARDS UNDER THIS TITLE IN THE ORDER OF THE DATE ON WHICH EACH AWARD WAS MADE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 17B.

SUBTITLE 10. ENFORCEMENT.

PART I. IN GENERAL.

20-1001. "UNLAWFUL EMPLOYMENT PRACTICE" DEFINED.

IN THIS PART, "UNLAWFUL EMPLOYMENT PRACTICE" MEANS AN ACT THAT IS PROHIBITED UNDER § 20-606 OF THIS TITLE.

REVISOR'S NOTE: This section is new language added for clarity.

20-1002. CONSTRUCTION OF PART.

(A) FEDERAL, STATE, AND LOCAL LAWS.

THIS PART, INCLUDING THE LIMITATIONS ON DAMAGES, DOES NOT LIMIT THE SCOPE OF, OR THE ADMINISTRATIVE PROCEDURES OR RELIEF AVAILABLE UNDER, ANY OTHER PROVISION OF FEDERAL, STATE, OR LOCAL LAW.

(B) CIVIL ACTIONS FOR VIOLATIONS OF COUNTY DISCRIMINATION LAWS.

THIS PART DOES NOT LIMIT SUBTITLE 12 OF THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 11D(b) and (c).

Defined term: "Including" § 1-101

20-1003. SCOPE OF PART.

EXCEPT AS OTHERWISE PROVIDED IN PART II OF THIS SUBTITLE, THIS PART APPLIES TO ALLEGED DISCRIMINATORY HOUSING PRACTICES UNDER SUBTITLE 7 OF THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 9.

The reference to “discriminatory housing practices under Subtitle 7 of this title” is substituted for the former reference to “instances of housing discrimination” for clarity and consistency throughout this title.

20-1004. COMPLAINT.

(A) COMPLAINT BY AGGRIEVED PERSON.

ANY PERSON CLAIMING TO BE AGGRIEVED BY AN ALLEGED DISCRIMINATORY ACT MAY FILE A COMPLAINT WITH THE COMMISSION.

(B) FORM AND CONTENT.

THE COMPLAINT SHALL:

(1) BE IN WRITING;

(2) STATE:

(I) THE NAME AND ADDRESS OF THE PERSON OR STATE OR LOCAL UNIT ALLEGED TO HAVE COMMITTED THE DISCRIMINATORY ACT; AND

(II) THE PARTICULARS OF THE ALLEGED DISCRIMINATORY ACT;

(3) CONTAIN ANY OTHER INFORMATION REQUIRED BY THE COMMISSION; AND

(4) BE SIGNED BY THE COMPLAINANT UNDER OATH.

(C) TIME FOR FILING.

(1) A COMPLAINT SHALL BE FILED WITHIN 6 MONTHS AFTER THE DATE ON WHICH THE ALLEGED DISCRIMINATORY ACT OCCURRED.

(2) A COMPLAINT FILED WITH A FEDERAL OR LOCAL HUMAN RELATIONS COMMISSION WITHIN 6 MONTHS AFTER THE DATE ON WHICH THE ALLEGED DISCRIMINATORY ACT OCCURRED SHALL BE DEEMED TO HAVE COMPLIED WITH THIS SUBSECTION.

(D) COMPLAINT ISSUED BY COMMISSION.

THE COMMISSION, ON ITS OWN MOTION, AND BY ACTION OF AT LEAST THREE COMMISSIONERS, MAY ISSUE A COMPLAINT IN ITS NAME IN THE SAME MANNER AS IF THE COMPLAINT HAD BEEN FILED BY AN INDIVIDUAL, IF:

(1) THE COMMISSION HAS RECEIVED RELIABLE INFORMATION FROM AN INDIVIDUAL THAT A PERSON HAS BEEN OR IS ENGAGED IN A DISCRIMINATORY ACT; AND

(2) AFTER A PRELIMINARY INVESTIGATION BY THE COMMISSION'S STAFF AUTHORIZED BY THE CHAIR OR VICE-CHAIR, THE COMMISSION IS SATISFIED THAT THE INFORMATION WARRANTS THE FILING OF A COMPLAINT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 9A(a) and (b).

In subsections (a), (b)(2)(i), (c)(1), and (d)(1) of this section, the defined term "discriminatory act" is substituted for the former references to "discrimination prohibited by any section of this article", "act of discrimination", "violation of this article", and "discriminatory practice within the scope of this article", respectively, for brevity and consistency throughout this title.

In subsection (a) of this section, the former reference to "mak[ing]" a complaint is deleted as surplusage.

In subsection (b)(2)(i) of this section, the reference to a "local" unit is added for consistency with § 20-901(a) of this title, which prohibits a unit, officer, or employee of a county or a municipal corporation from engaging in specified discriminatory acts.

Also in subsection (b)(2)(i) of this section, the reference to a "unit" is substituted for the former reference to an "agency, department or board" for brevity and consistency throughout this title. *See* General Revisor's Note to title.

Also in subsection (b)(2)(i) of this section, the former reference to the "firm, association, partnership, [or] corporation" is deleted as included in the definition of the term "person" in § 1-101 of this article.

In subsection (b)(2)(ii) of this section, the reference to the "alleged" discriminatory act is added for consistency throughout this section.

In subsection (b)(3) of this section, the former phrase "from time to time" is deleted as surplusage.

In subsection (c)(2) of this section, the reference to the “date on which the alleged discriminatory act occurred” is substituted for the former reference to the “date of occurrence” for clarity.

Also in subsection (c)(2) of this section, the reference to this “subsection” is substituted for the former overbroad reference to this “section”.

In subsection (d)(1) of this section, the former reference to “individuals” is deleted in light of the reference to any “individual” and Art. 1, § 8, which provides that the singular generally includes the plural.

In subsection (d)(2) of this section, the references to the “chair” and “vice-chair” are substituted for the former references to the “Chairman” and “Vice-Chairman”, respectively, because SG § 2–1238 requires the use of terms that are neutral as to gender to the extent practicable.

Defined terms: “Commission” § 20–101

“Complainant” § 20–101

“Discriminatory act” § 20–101

“Person” § 1–101

20–1005. INVESTIGATION OF COMPLAINT; CONCILIATION.

(A) INVESTIGATION BY COMMISSION STAFF; FINDINGS.

(1) AFTER A COMPLAINT IS FILED, THE EXECUTIVE DIRECTOR OF THE COMMISSION SHALL:

(I) CONSIDER THE COMPLAINT; AND

(II) REFER IT TO THE COMMISSION’S STAFF FOR PROMPT INVESTIGATION AND FACT-FINDING.

(2) (I) IF THE COMPLAINT ALLEGES A FAILURE TO MAKE A REASONABLE ACCOMMODATION UNDER § 20–305 OF THIS TITLE, THE INVESTIGATION SHALL INCLUDE AN INITIAL DETERMINATION WHETHER AN ACCOMMODATION IS A REASONABLE ACCOMMODATION.

(II) IN MAKING THE DETERMINATION FOR BUILDINGS, THE COMMISSION MAY CONSULT WITH THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT AND ANY OTHER PERSONS THAT MAY BE USEFUL IN DETERMINING THE COST AND FEASIBILITY OF ANY STRUCTURAL CHANGES, MODIFICATIONS, OR ADDITIONS OR THE PROVISION OF SPECIAL EQUIPMENT.

(3) THE COMMISSION'S STAFF SHALL:

(I) ISSUE THE RESULTS OF THE INVESTIGATION AS WRITTEN FINDINGS;

(II) PROVIDE A COPY OF THE WRITTEN FINDINGS TO THE COMPLAINANT AND THE RESPONDENT; AND

(III) SEND A COPY OF THE WRITTEN FINDINGS OF AN INVESTIGATION OF A REAL ESTATE BROKER, ASSOCIATE REAL ESTATE BROKER, OR REAL ESTATE SALESPERSON TO THE STATE REAL ESTATE COMMISSION.

(B) CONCILIATION.

IF THERE IS A FINDING OF PROBABLE CAUSE TO BELIEVE THAT A DISCRIMINATORY ACT HAS BEEN OR IS BEING COMMITTED, THE COMMISSION'S STAFF IMMEDIATELY SHALL ENDEAVOR TO ELIMINATE THE DISCRIMINATION BY CONFERENCE, CONCILIATION, OR PERSUASION.

(C) CONCILIATION AGREEMENT.

(1) IF AN AGREEMENT IS REACHED TO ELIMINATE THE DISCRIMINATION AS A RESULT OF THE CONFERENCE, CONCILIATION, OR PERSUASION:

(I) THE AGREEMENT SHALL BE REDUCED TO WRITING AND SIGNED BY THE RESPONDENT; AND

(II) THE COMMISSION SHALL ENTER AN ORDER SETTING FORTH THE TERMS OF THE AGREEMENT.

(2) IF AN AGREEMENT CANNOT BE REACHED, THE COMMISSION'S STAFF SHALL:

(I) MAKE A WRITTEN FINDING TO THAT EFFECT; AND

(II) PROVIDE COPIES OF THE WRITTEN FINDING TO THE COMPLAINANT AND THE RESPONDENT.

(3) THE COMMISSION MAY NOT ENTER AN ORDER AT THIS STAGE OF THE PROCEEDINGS UNLESS IT IS BASED ON A WRITTEN AGREEMENT.

(D) DENIAL OF REQUEST FOR RECONSIDERATION.

UNLESS THE U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION HAS JURISDICTION OVER THE SUBJECT MATTER OF THE COMPLAINT, A DENIAL OF A REQUEST FOR RECONSIDERATION OF A FINDING OF NO PROBABLE CAUSE BY THE COMMISSION IS A FINAL ORDER APPEALABLE TO THE CIRCUIT COURT AS PROVIDED IN § 10-222 OF THIS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, §§ 10 and 5(e)(2)(ii)3.

In subsection (a)(1)(ii) of this section, the reference to "fact-finding" is substituted for the former archaic reference to "ascertainment of the facts".

In subsection (a)(2)(i) of this section, the phrase "[i]f the complaint alleges a failure to make a reasonable accommodation under § 20-305 of this title, the investigation shall include an initial determination" is substituted for the former phrase "[t]he Human Relations Commission shall make a determination in the first instance" for clarity and to reflect current practice.

Also in subsection (a)(2)(i) of this section, the reference to a "reasonable accommodation" is substituted for the former reference to an accommodation being "reasonable" for consistency with terminology used in Subtitle 3 of this title.

In subsection (a)(2)(ii) of this section, the reference to "any other persons" is substituted for the former reference to "such others" for clarity.

Also in subsection (a)(2)(ii) of this section, the phrase "in determining" is substituted for the former phrase "as to" for clarity.

In subsections (a)(3) and (c)(2) of this section, the requirement that the "Commission's staff" perform the enumerated duties is added for clarity.

In subsection (a)(3)(ii) of this section, the defined term "respondent" is substituted for the former reference to the "person, firm, association, partnership or corporation (hereinafter referred to as the "respondent"), against whom or which the complaint is made" for brevity and consistency throughout this title.

In subsections (b) and (c)(1) of this section, the reference to conference, conciliation, "or" persuasion is substituted for the former reference to conference, conciliation, "and" persuasion to clarify that the Commission's

staff may use any or all of the enumerated methods to reach an agreement.

In subsection (b) of this section, the former phrase “within the scope of any of these subtitles” is deleted as surplusage.

The Human Relations Commission Law Article Review Committee notes, for consideration by the General Assembly, that subsection (d) of this section refers to “a denial of a request for reconsideration of a finding of no probable cause”, but the statute does not establish the authority for filing a request for reconsideration. Although a reconsideration process is established by the Commission’s regulations (*see* COMAR 14.03.01.06C), the General Assembly may wish to state expressly that which is only implied by subsection (d) of this section.

Defined terms: “Commission” § 20–101

“Complainant” § 20–101

“Discriminatory act” § 20–101

“Person” § 1–101

“Respondent” § 20–101

20–1006. CERTIFICATION OF FILE; ISSUANCE AND SERVICE OF NOTICE AND COMPLAINT.

(A) CERTIFICATION OF FILE.

ON THE MAKING OF A FINDING UNDER § 20–1005(C)(2) OF THIS SUBTITLE THAT AN AGREEMENT TO REMEDY AND ELIMINATE THE DISCRIMINATION CANNOT BE REACHED, THE ENTIRE FILE, INCLUDING THE COMPLAINT AND ANY FINDINGS, SHALL BE CERTIFIED TO THE GENERAL COUNSEL OF THE COMMISSION.

(B) ISSUANCE AND SERVICE OF NOTICE AND COMPLAINT.

THE EXECUTIVE DIRECTOR OF THE COMMISSION SHALL CAUSE A WRITTEN NOTICE TO BE ISSUED AND SERVED IN THE NAME OF THE COMMISSION, TOGETHER WITH A COPY OF THE COMPLAINT, REQUIRING THE RESPONDENT TO ANSWER THE CHARGES OF THE COMPLAINT AT A PUBLIC HEARING:

(1) BEFORE AN ADMINISTRATIVE LAW JUDGE AT A TIME AND PLACE CERTIFIED IN THE NOTICE; OR

(2) IN A CIVIL ACTION ELECTED UNDER § 20-1007 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 11(a)(1) and (2).

In subsection (a) of this section, the reference to findings "under § 20-1005(c)(2) of this subtitle" is added for clarity.

In subsection (b)(2) of this section, the former reference to a civil action elected "by a complainant" is deleted as unnecessary in light of the reference to a civil action elected "under § 20-1007 of this subtitle".

Defined terms: "Commission" § 20-101

"Complainant" § 20-101

"Including" § 1-101

"Respondent" § 20-101

20-1007. ELECTION OF CIVIL ACTION.

(A) ELECTION BY COMPLAINANT OR RESPONDENT.

(1) WHEN A COMPLAINT IS ISSUED AND SERVED UNDER § 20-1006 OF THIS SUBTITLE, A COMPLAINANT OR RESPONDENT MAY ELECT TO HAVE THE CLAIMS ASSERTED IN THE COMPLAINT DETERMINED IN A CIVIL ACTION BROUGHT BY THE COMMISSION ON THE COMPLAINANT'S BEHALF, IF:

(I) THE COMMISSION HAS FOUND PROBABLE CAUSE TO BELIEVE THE RESPONDENT HAS ENGAGED IN OR IS ENGAGING IN A DISCRIMINATORY ACT; AND

(II) THERE IS A FAILURE TO REACH AN AGREEMENT TO REMEDY AND ELIMINATE THE DISCRIMINATORY ACT.

(2) AN ELECTION UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE MADE WITHIN 30 DAYS AFTER THE COMPLAINANT OR RESPONDENT RECEIVES SERVICE UNDER § 20-1006(B) OF THIS SUBTITLE.

(3) IF AN ELECTION IS NOT MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSION SHALL PROVIDE AN OPPORTUNITY FOR A HEARING AS PROVIDED UNDER § 20-1008(A) OF THIS SUBTITLE.

(B) ELECTION BY COMMISSION.

WHEN A COMPLAINT IS ISSUED AND SERVED UNDER § 20-1006 OF THIS SUBTITLE, THE COMMISSION MAY ELECT TO HAVE THE CLAIMS ASSERTED IN THE COMPLAINT DETERMINED IN A CIVIL ACTION BROUGHT ON THE COMMISSION'S OWN BEHALF, IF:

(1) THE COMMISSION HAS FOUND PROBABLE CAUSE TO BELIEVE THE RESPONDENT HAS ENGAGED IN OR IS ENGAGING IN A DISCRIMINATORY ACT; AND

(2) THERE IS A FAILURE TO REACH AN AGREEMENT TO REMEDY AND ELIMINATE THE DISCRIMINATORY ACT.

(c) NOTICE OF ELECTION.

(1) IF A COMPLAINANT OR RESPONDENT MAKES AN ELECTION UNDER SUBSECTION (A) OF THIS SECTION, THAT PARTY SHALL GIVE NOTICE OF THE ELECTION TO THE COMMISSION AND TO ALL OTHER COMPLAINANTS AND RESPONDENTS.

(2) IF THE COMMISSION MAKES AN ELECTION UNDER SUBSECTION (B) OF THIS SECTION, THE COMMISSION SHALL GIVE NOTICE OF THE ELECTION TO ALL COMPLAINANTS AND RESPONDENTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 11A(a), (b), and (c)(1) and (2).

In the introductory language of subsections (a)(1) and (b) of this section, the reference to a complaint being "issued and served" is substituted for the former reference to a complaint being "filed" for accuracy and consistency with § 20-1006 of this subtitle.

In subsections (a)(1)(i) and (b)(1) of this section, the phrase "has found probable cause to believe" is substituted for the former word "finds" for accuracy and consistency with § 20-1005(b) of this subtitle.

The Human Relations Commission Law Article Review Committee notes, for consideration by the General Assembly, that Chs. 176 and 177 of the Acts of 2007 intended to create a private right of action in employment discrimination cases; however, as drafted, the law applies to all discriminatory acts. The General Assembly may wish to clarify that the provisions of this subtitle relating to civil actions elected or filed by complainants apply only to unlawful employment practices.

Defined terms: "Commission" § 20-101

“Complainant” § 20–101
“Discriminatory act” § 20–101
“Respondent” § 20–101

20–1008. ADMINISTRATIVE HEARING.

(A) HEARING BY ADMINISTRATIVE LAW JUDGE; VENUE.

(1) IF A CIVIL ACTION IS NOT ELECTED UNDER § 20–1007 OF THIS SUBTITLE, THE CASE SHALL BE HEARD BY AN ADMINISTRATIVE LAW JUDGE.

(2) THE HEARING SHALL BE HELD IN THE COUNTY WHERE THE ALLEGED DISCRIMINATORY ACT OCCURRED.

(B) ROLE OF GENERAL COUNSEL.

THE GENERAL COUNSEL OF THE COMMISSION SHALL PRESENT THE CASE IN SUPPORT OF THE COMPLAINT AT THE HEARING.

(C) RIGHTS OF RESPONDENT.

THE RESPONDENT:

(1) MAY FILE A WRITTEN ANSWER TO THE COMPLAINT;

(2) MAY APPEAR AT THE HEARING IN PERSON, OR OTHERWISE, WITH OR WITHOUT COUNSEL;

(3) MAY SUBMIT TESTIMONY;

(4) SHALL BE FULLY HEARD; AND

(5) MAY EXAMINE AND CROSS-EXAMINE WITNESSES.

(D) RECORDING AND TRANSCRIPT OF TESTIMONY.

(1) TESTIMONY TAKEN AT THE HEARING SHALL BE UNDER OATH AND RECORDED.

(2) A TRANSCRIPT SHALL BE MADE OF ALL TESTIMONY AT THE HEARING.

(E) AMENDMENT OF COMPLAINT OR ANSWER.

THE COMMISSION MAY ALLOW ANY COMPLAINT OR ANSWER TO BE REASONABLY AMENDED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 11(b), (c), and (a)(3), (4), and (5).

In subsection (a)(2) of this section, the defined term "discriminatory act" is substituted for the former reference to the "act of discrimination" for consistency throughout this title.

The Human Relations Commission Law Article Review Committee notes, for consideration by the General Assembly, that subsection (e) of this section incorrectly grants the authority to the Commission to "allow any complaint or answer to be reasonably amended". The General Assembly may wish to clarify that, at this stage of the proceedings, it is properly within the power of the administrative law judge to allow amendments.

Defined terms: "Commission" § 20-101

"County" § 1-101

"Discriminatory act" § 20-101

"Respondent" § 20-101

20-1009. DECISION OF ADMINISTRATIVE LAW JUDGE; REMEDIES.

(A) FINDING AGAINST RESPONDENT.

IF, AFTER REVIEWING ALL OF THE EVIDENCE, THE ADMINISTRATIVE LAW JUDGE FINDS THAT THE RESPONDENT HAS ENGAGED IN A DISCRIMINATORY ACT, THE ADMINISTRATIVE LAW JUDGE SHALL:

(1) ISSUE A DECISION AND ORDER STATING THE JUDGE'S FINDINGS OF FACT AND CONCLUSIONS OF LAW; AND

(2) ISSUE AND CAUSE TO BE SERVED ON THE RESPONDENT AN ORDER REQUIRING THE RESPONDENT TO:

(I) CEASE AND DESIST FROM ENGAGING IN THE DISCRIMINATORY ACTS; AND

(II) TAKE AFFIRMATIVE ACTION TO EFFECTUATE THE PURPOSES OF THE APPLICABLE SUBTITLE OF THIS TITLE.

(B) REMEDIES FOR UNLAWFUL EMPLOYMENT PRACTICES.

(1) IF THE RESPONDENT IS FOUND TO HAVE ENGAGED IN OR TO BE ENGAGING IN AN UNLAWFUL EMPLOYMENT PRACTICE CHARGED IN THE COMPLAINT, THE REMEDY MAY INCLUDE:

(I) ENJOINING THE RESPONDENT FROM ENGAGING IN THE DISCRIMINATORY ACT;

(II) ORDERING APPROPRIATE AFFIRMATIVE RELIEF, INCLUDING THE REINSTATEMENT OR HIRING OF EMPLOYEES, WITH OR WITHOUT BACK PAY;

(III) AWARDING COMPENSATORY DAMAGES; OR

(IV) ORDERING ANY OTHER EQUITABLE RELIEF THAT THE ADMINISTRATIVE LAW JUDGE CONSIDERS APPROPRIATE.

(2) COMPENSATORY DAMAGES AWARDED UNDER THIS SUBSECTION ARE IN ADDITION TO:

(I) BACK PAY OR INTEREST ON BACK PAY THAT THE COMPLAINANT MAY RECOVER UNDER ANY OTHER PROVISION OF LAW; AND

(II) ANY OTHER EQUITABLE RELIEF THAT A COMPLAINANT MAY RECOVER UNDER ANY OTHER PROVISION OF LAW.

(3) THE SUM OF THE AMOUNT OF COMPENSATORY DAMAGES AWARDED TO EACH COMPLAINANT UNDER THIS SUBSECTION FOR FUTURE PECUNIARY LOSSES, EMOTIONAL PAIN, SUFFERING, INCONVENIENCE, MENTAL ANGUISH, LOSS OF ENJOYMENT OF LIFE, OR NONPECUNIARY LOSSES, MAY NOT EXCEED:

(I) \$50,000, IF THE RESPONDENT EMPLOYS NOT FEWER THAN 15 AND NOT MORE THAN 100 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR;

(II) \$100,000, IF THE RESPONDENT EMPLOYS NOT FEWER THAN 101 AND NOT MORE THAN 200 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR;

(III) \$200,000, IF THE RESPONDENT EMPLOYS NOT FEWER THAN 201 AND NOT MORE THAN 500 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR; AND

(IV) \$300,000, IF THE RESPONDENT EMPLOYS NOT FEWER THAN 501 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR.

(4) IF BACK PAY IS AWARDED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE AWARD SHALL BE REDUCED BY ANY INTERIM EARNINGS OR AMOUNTS EARNABLE WITH REASONABLE DILIGENCE BY THE PERSON DISCRIMINATED AGAINST.

(C) NONMONETARY RELIEF FOR DISCRIMINATORY ACTS OTHER THAN UNLAWFUL EMPLOYMENT PRACTICES.

(1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, IF THE RESPONDENT IS FOUND TO HAVE ENGAGED IN OR TO BE ENGAGING IN A DISCRIMINATORY ACT OTHER THAN AN UNLAWFUL EMPLOYMENT PRACTICE, IN ADDITION TO AN AWARD OF CIVIL PENALTIES AS PROVIDED IN § 20-1016 OF THIS SUBTITLE, NONMONETARY RELIEF MAY BE GRANTED TO THE COMPLAINANT.

(II) AN ORDER MAY NOT BE ISSUED THAT SUBSTANTIALLY AFFECTS THE COST, LEVEL, OR TYPE OF ANY TRANSPORTATION SERVICES.

(2) (I) IN CASES INVOLVING TRANSPORTATION SERVICES THAT ARE SUPPORTED FULLY OR PARTIALLY WITH FUNDS FROM THE MARYLAND DEPARTMENT OF TRANSPORTATION, AN ORDER MAY NOT BE ISSUED THAT WOULD REQUIRE COSTS, LEVEL, OR TYPE OF TRANSPORTATION SERVICES DIFFERENT FROM OR EXCEEDING THOSE REQUIRED TO MEET U.S. DEPARTMENT OF TRANSPORTATION REGULATIONS ADOPTED UNDER 29 U.S.C. § 794.

(II) AN ORDER ISSUED IN VIOLATION OF SUBPARAGRAPH (I) OF THIS PARAGRAPH IS NOT ENFORCEABLE UNDER § 20-1011 OF THIS SUBTITLE.

(D) FINDING IN FAVOR OF RESPONDENT.

IF, AFTER REVIEWING ALL OF THE EVIDENCE, THE ADMINISTRATIVE LAW JUDGE FINDS THAT THE RESPONDENT HAS NOT ENGAGED IN AN ALLEGED DISCRIMINATORY ACT, THE ADMINISTRATIVE LAW JUDGE SHALL:

(1) STATE FINDINGS OF FACT AND CONCLUSIONS OF LAW; AND

(2) ISSUE AN ORDER DISMISSING THE COMPLAINT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 11(e) and (f).

In the introductory language of subsection (a) of this section, the former phrase “within the scope of this article” is deleted as surplusage. Similarly, in subsection (d) of this section, the former phrase “within the scope of the particular subtitle” is deleted.

In subsection (a)(1) of this section, the requirement that the administrative law judge “issue a decision and order stating the judge’s findings of fact and conclusions of law” is substituted for the former requirement that the administrative law judge “so state the findings” for clarity and accuracy. Similarly, in subsection (d)(1) of this section, the reference to “conclusions of law” is added.

In subsection (a)(2)(i) of this section, the reference to “engaging in” the discriminatory acts is added for consistency within the subsection.

In subsection (a)(2)(ii) of this section, the reference to the “applicable subtitle of this title” is substituted for the former reference to the “particular” subtitle for clarity.

In subsection (b)(1)(iv) of this section, the reference to the “administrative law judge” is substituted for the former reference to the “court” for accuracy and consistency within this section.

In subsection (b)(4) of this section, the former reference to “persons” is deleted in light of the reference to the “person” and Art. 1, § 8, which provides that the singular generally includes the plural.

In subsection (c)(1)(i) of this section, the phrase “if the respondent is found to have engaged in or to be engaging in a discriminatory act other than an unlawful employment practice” is substituted for the former phrase “[i]n cases of discrimination other than those involving employment” for clarity and consistency with subsection (b)(1) of this section.

In subsection (c)(2)(i) of this section, the former reference to “Section 504 of the Rehabilitation Act of 1973” is deleted as unnecessary in light of the reference to “29 U.S.C. § 794”.

In subsection (d)(2) of this section, the former reference to “fil[ing]” an order is deleted for accuracy.

The Human Relations Commission Law Article Review Committee notes, for consideration by the General Assembly, that the General Assembly may wish to specify in statute the effect of a decision of an administrative law judge under this section. Under the Commission's regulations, "[i]n the absence of a timely appeal, the decision of the administrative law judge shall become the final decision and order of the Commission....". See COMAR 14.03.01.09H(5).

Defined terms: "Complainant" § 20-101
 "Discriminatory act" § 20-101
 "Includes", "including" § 1-101
 "Person" § 1-101
 "Respondent" § 20-101
 "Unlawful employment practice" § 20-1001

20-1010. POWER OF COMMISSION TO ADMINISTER OATHS AND ISSUE SUBPOENAS; SERVICE AND ENFORCEMENT OF SUBPOENAS.

(A) POWER OF COMMISSION TO ADMINISTER OATHS AND ISSUE SUBPOENAS.

IN THE ADMINISTRATION AND ENFORCEMENT OF THIS TITLE, THE COMMISSION MAY:

- (1) ADMINISTER OATHS;**
 - (2) ISSUE SUBPOENAS;**
 - (3) COMPEL THE ATTENDANCE AND TESTIMONY OF WITNESSES;**
- AND**
- (4) COMPEL THE PRODUCTION OF BOOKS, PAPERS, RECORDS, AND DOCUMENTS RELEVANT OR NECESSARY FOR PROCEEDINGS UNDER THIS TITLE.**

(B) SERVICE OF SUBPOENA.

A SUBPOENA ISSUED BY THE COMMISSION SHALL BE SERVED BY:

- (1) CERTIFIED MAIL, REQUESTING RESTRICTED DELIVERY - SHOW TO WHOM, DATE, ADDRESS OF DELIVERY; OR**
- (2) PERSONAL SERVICE OF PROCESS BY:**

(I) AN EMPLOYEE OF THE COMMISSION;

(II) ANY ADULT WHO IS NOT A PARTY TO THE PROCEEDING;

OR

(III) THE SHERIFF OR DEPUTY SHERIFF OF THE COUNTY IN WHICH IS LOCATED THE RESIDENCE OR MAIN OFFICE OF THE PERSON TO WHOM OR WHICH THE SUBPOENA IS ISSUED.

(C) ENFORCEMENT OF SUBPOENA.

(1) IN CASE OF FAILURE TO COMPLY WITH A SUBPOENA, THE COMMISSION MAY APPLY TO A CIRCUIT COURT IN ANY COUNTY FOR AN ORDER REQUIRING THE ATTENDANCE AND TESTIMONY OF WITNESSES AND THE PRODUCTION OF BOOKS, PAPERS, RECORDS, AND DOCUMENTS.

(2) THE COURT MAY ISSUE AN ORDER REQUIRING THE ATTENDANCE AND TESTIMONY OF THE WITNESS AND THE PRODUCTION OF THE BOOKS, PAPERS, RECORDS, AND DOCUMENTS:

(I) AFTER NOTICE TO THE PERSON SUBPOENAED AS A WITNESS OR DIRECTED TO PRODUCE BOOKS, PAPERS, RECORDS, AND DOCUMENTS; AND

(II) ON A FINDING THAT THE ATTENDANCE AND TESTIMONY OF THE WITNESS OR THE PRODUCTION OF THE BOOKS, PAPERS, RECORDS, AND DOCUMENTS IS RELEVANT OR NECESSARY FOR THE PROCEEDINGS OF THE COMMISSION.

(3) AN ORDER ISSUED BY THE COURT UNDER THIS SUBSECTION SHALL BE SERVED ON THE PERSON TO WHOM IT IS DIRECTED BY THE SHERIFF OR DEPUTY SHERIFF OF THE COUNTY WHERE THE RESIDENCE OR MAIN OFFICE OF THE PERSON IS LOCATED.

(4) A FAILURE TO OBEY AN ORDER ISSUED BY THE COURT UNDER THIS SUBSECTION MAY BE PUNISHED BY THE COURT AS A CONTEMPT OF COURT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 11(d).

In the introductory language of subsection (b) of this section, the reference to a subpoena "issued by the Commission" is added for clarity.

In subsection (b)(2)(ii) of this section, the reference to a party “to the proceeding” is added for clarity.

Also in subsection (b)(2)(ii) of this section, the reference to any “adult” is substituted for the former reference to any “person who ... is not less than 18 years of age” for brevity. *See* Art. 1, § 24.

In subsections (b)(2)(iii) and (c)(3) of this section, the references to the “county” are substituted for the former references to the “political subdivision” for clarity and accuracy.

In subsection (b)(2)(iii) of this section, the former reference to a “firm, association, partnership or corporation” is deleted as included in the definition of the term “person” in § 1–101 of this article.

In subsection (c)(1) of this section, the reference to “failure to comply with” a subpoena is substituted for the former archaic reference to “disobedience to” a subpoena.

In the introductory language of subsection (c)(2) of this section, the former phrase “[i]n case of contumacy or refusal to obey a subpoena for the attendance of a witness or the production of books, papers, records, and documents” is deleted as unnecessary in light of the phrase “[i]n case of failure to comply with a subpoena” in subsection (c)(1) of this section.

Defined terms: “Commission” § 20–101

“County” § 1–101

“Person” § 1–101

20–1011. ENFORCEMENT OF COMMISSION’S ORDERS.

(A) CIVIL ACTION AUTHORIZED.

IF A RESPONDENT REFUSES TO COMPLY WITH AN ORDER OF THE COMMISSION ISSUED UNDER THIS TITLE, THE COMMISSION MAY BRING A CIVIL ACTION TO ENFORCE COMPLIANCE WITH THE ORDER IN THE APPROPRIATE EQUITY COURT OF THE COUNTY WHERE THE ALLEGED DISCRIMINATORY ACT OCCURRED.

(B) JUDICIAL REVIEW STANDARDS.

THE JUDICIAL REVIEW STANDARDS SET FORTH IN TITLE 10, SUBTITLE 2 OF THIS ARTICLE SHALL GOVERN THE COURT IN HEARING A CASE BROUGHT UNDER THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 12(a).

In subsection (a) of this section, the reference to “bring[ing] a civil action” is substituted for the former archaic reference to “institut[ing] litigation”.

Also in subsection (a) of this section, the reference to enforcing compliance with “the order” is substituted for the former reference to enforcing compliance with “any provision of this title” for accuracy. This substitution is called to the attention of the General Assembly.

Also in subsection (a) of this section, the defined term “discriminatory act” is substituted for the former reference to “discrimination” for consistency throughout this title.

Also in subsection (a) of this section, the former reference to the Commission being “represented by its general counsel” is deleted as unnecessary in light of § 20–206(b)(2) of this title, which requires the general counsel to “represent the Commission at all hearings and judicial proceedings in which the Commission is a party”.

Also in subsection (a) of this section, the former reference to “Baltimore City” is deleted as included in the definition of the term “county” in § 1–101 of this article.

In subsection (b) of this section, the former reference to the “Administrative Procedure Act” is deleted as unnecessary in light of the reference to “Title 10, Subtitle 2 of this article”.

The Human Relations Commission Law Article Review Committee notes, for consideration by the General Assembly, that the “judicial review standards set forth in Title 10, Subtitle 2 of this article” referred to in subsection (b) of this section apply to administrative appeals and that it is inappropriate to apply them in a proceeding to enforce an administrative order. The General Assembly may wish to repeal subsection (b) of this section.

Defined terms: “Commission” § 20–101

“County” § 1–101

“Discriminatory act” § 20–101

“Respondent” § 20–101

20–1012. CIVIL ACTION BY COMMISSION ON COMPLAINANT’S BEHALF.

(A) FILING OF ACTION.

WITHIN 60 DAYS AFTER AN ELECTION IS MADE UNDER § 20-1007 OF THIS SUBTITLE, THE COMMISSION SHALL FILE A CIVIL ACTION IN THE CIRCUIT COURT FOR THE COUNTY WHERE THE ALLEGED DISCRIMINATORY ACT OCCURRED.

(B) REMEDIES.

IF THE COURT FINDS THAT A DISCRIMINATORY ACT OCCURRED, THE COURT MAY PROVIDE THE REMEDIES SPECIFIED IN § 20-1009(B) OF THIS SUBTITLE.

(C) DEMAND FOR JURY TRIAL.

IF THE COMMISSION SEEKS COMPENSATORY DAMAGES UNDER THIS SECTION:

(1) ANY PARTY MAY DEMAND A TRIAL BY JURY; AND

(2) THE COURT MAY NOT INFORM THE JURY OF THE LIMITATIONS ON COMPENSATORY DAMAGES IMPOSED UNDER § 20-1009(B)(3) OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 11A(d), (e), and (c)(3).

In subsection (a) of this section, the reference to the "circuit" court is added for clarity and consistency with § 20-1013(b) of this subtitle.

Also in subsection (a) of this section, the former reference to an election made "by any party" is deleted as unnecessary in light of the reference to an election "under § 20-1007 of this subtitle".

Also in subsection (a) of this section, the defined term "discriminatory act" is substituted for the former reference to the "act of discrimination" for consistency throughout this title.

Defined terms: "Commission" § 20-101

"County" § 1-101

"Discriminatory act" § 20-101

20-1013. CIVIL ACTION BY COMPLAINANT.

(A) IN GENERAL.

IN ADDITION TO THE RIGHT TO MAKE AN ELECTION UNDER § 20-1007 OF THIS SUBTITLE, A COMPLAINANT MAY BRING A CIVIL ACTION AGAINST THE RESPONDENT ALLEGING A DISCRIMINATORY ACT, IF:

(1) THE COMPLAINANT INITIALLY FILED A TIMELY ADMINISTRATIVE CHARGE OR A COMPLAINT UNDER FEDERAL, STATE, OR LOCAL LAW ALLEGING A DISCRIMINATORY ACT BY THE RESPONDENT;

(2) AT LEAST 180 DAYS HAVE ELAPSED SINCE THE FILING OF THE ADMINISTRATIVE CHARGE OR COMPLAINT; AND

(3) THE CIVIL ACTION IS FILED WITHIN 2 YEARS AFTER THE ALLEGED DISCRIMINATORY ACT OCCURRED.

(B) VENUE.

A CIVIL ACTION UNDER THIS SECTION SHALL BE FILED IN THE CIRCUIT COURT FOR THE COUNTY WHERE THE ALLEGED DISCRIMINATORY ACT OCCURRED.

(C) TERMINATION OF ADMINISTRATIVE PROCEEDINGS.

THE FILING OF A CIVIL ACTION UNDER THIS SECTION AUTOMATICALLY TERMINATES ANY PROCEEDING BEFORE THE COMMISSION BASED ON THE UNDERLYING ADMINISTRATIVE COMPLAINT AND ANY AMENDMENT TO THE COMPLAINT.

(D) REMEDIES.

IF THE COURT FINDS THAT A DISCRIMINATORY ACT OCCURRED, THE COURT MAY PROVIDE THE REMEDIES SPECIFIED IN § 20-1009(B) OF THIS SUBTITLE.

(E) PUNITIVE DAMAGES.

IN ADDITION TO THE RELIEF AUTHORIZED UNDER SUBSECTION (D) OF THIS SECTION, THE COURT MAY AWARD PUNITIVE DAMAGES, IF:

(1) THE RESPONDENT IS NOT A GOVERNMENTAL UNIT OR POLITICAL SUBDIVISION; AND

(2) THE COURT FINDS THAT THE RESPONDENT HAS ENGAGED IN OR IS ENGAGING IN AN UNLAWFUL EMPLOYMENT PRACTICE WITH ACTUAL MALICE.

(F) DEMAND FOR JURY TRIAL.

IF A COMPLAINANT SEEKS COMPENSATORY OR PUNITIVE DAMAGES UNDER THIS SECTION:

(1) ANY PARTY MAY DEMAND A TRIAL BY JURY; AND

(2) THE COURT MAY NOT INFORM THE JURY OF THE LIMITATIONS ON COMPENSATORY AND PUNITIVE DAMAGES IMPOSED UNDER § 20-1009(B)(3) OF THIS SUBTITLE.

(G) ALTERNATIVE DISPUTE RESOLUTION.

WHEN APPROPRIATE AND TO THE EXTENT AUTHORIZED UNDER LAW, IN A DISPUTE ARISING UNDER THIS PART, IN WHICH THE COMPLAINANT SEEKS COMPENSATORY OR PUNITIVE DAMAGES, THE PARTIES ARE ENCOURAGED TO USE ALTERNATIVE MEANS OF DISPUTE RESOLUTION, INCLUDING SETTLEMENT NEGOTIATIONS OR MEDIATION.

REVISOR'S NOTE: Subsections (a) through (c) and (e) through (g) of this section are new language derived without substantive change from former Art. 49B, § 11B.

Subsection (d) of this section is new language substituted for former Art. 49B, § 11B(e), (f), and (h) for brevity and to avoid repetition.

In subsections (a)(3) and (b) of this section, the defined term "discriminatory act" is substituted for the former references to the "act of discrimination" for consistency throughout this title.

In subsection (b) of this section, the word "shall" is substituted for the former word "may" for clarity and accuracy.

In subsection (e)(1) of this section, the reference to a "governmental unit" is substituted for the former reference to a "government entity" for consistency throughout this title. See General Revisor's Note to title.

Defined terms: "Commission" § 20-101

"Complainant" § 20-101

"County" § 1-101

"Discriminatory act" § 20-101

“Including” § 1–101
“Person” § 1–101
“Respondent” § 20–101
“Unlawful employment practice” § 20–1001

20–1014. INTERVENTION IN CIVIL ACTION.

(A) INTERVENTION BY PERSON.

A PERSON MAY INTERVENE IN A CIVIL ACTION BROUGHT BY THE COMMISSION UNDER THIS PART, IF THE ACTION INVOLVES:

- (1) AN ALLEGED DISCRIMINATORY ACT TO WHICH THE PERSON IS A PARTY; OR**
- (2) A CONCILIATION AGREEMENT TO WHICH THE PERSON IS A PARTY.**

(B) INTERVENTION BY COMMISSION.

THE COMMISSION MAY INTERVENE IN A CIVIL ACTION BROUGHT UNDER THIS PART, IF:

- (1) THE COMMISSION CERTIFIES THAT THE CASE IS OF GENERAL PUBLIC IMPORTANCE; AND**
- (2) TIMELY APPLICATION IS MADE.**

(C) RELIEF TO INTERVENOR.

THE COURT MAY GRANT ANY APPROPRIATE RELIEF TO AN INTERVENING PARTY THAT MAY BE GRANTED TO A PLAINTIFF IN A CIVIL ACTION UNDER § 20–1012 OF THIS SUBTITLE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 49B, § 11C.

The Human Relations Commission Law Article Review Committee notes, for consideration by the General Assembly, that former Art. 49B, § 11C(c) incorrectly referred to a civil action under “§ 11A of this subtitle”, rather than § 11B. The General Assembly may wish to clarify that an individual intervening in a civil action under this section may be granted the relief specified under § 20–1013 of this subtitle, which includes punitive damages.

Defined terms: "Commission" § 20-101

"Discriminatory act" § 20-101

"Person" § 1-101

20-1015. AWARD OF FEES AND COSTS.

IN AN ACTION BROUGHT UNDER THIS PART, THE COURT MAY AWARD THE PREVAILING PARTY REASONABLE ATTORNEY'S FEES, EXPERT WITNESS FEES, AND COSTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 11D(a).

The former phrase "in its discretion" is deleted as surplusage.

20-1016. CIVIL PENALTIES.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IN ADDITION TO ANY OTHER RELIEF AUTHORIZED, IF THE COMMISSION FINDS THAT A RESPONDENT HAS ENGAGED IN A DISCRIMINATORY ACT UNDER SUBTITLE 3 OR SUBTITLE 4 OF THIS TITLE, THE COMMISSION MAY SEEK AN ORDER ASSESSING A CIVIL PENALTY AGAINST THE RESPONDENT:

(1) IF THE RESPONDENT HAS NOT BEEN ADJUDICATED TO HAVE COMMITTED ANY PRIOR DISCRIMINATORY ACT, IN AN AMOUNT NOT EXCEEDING \$500;

(2) IF THE RESPONDENT HAS BEEN ADJUDICATED TO HAVE COMMITTED ONE OTHER DISCRIMINATORY ACT DURING THE 5-YEAR PERIOD ENDING ON THE DATE OF THE FILING OF THE CURRENT CHARGE, IN AN AMOUNT NOT EXCEEDING \$1,000; AND

(3) IF THE RESPONDENT HAS BEEN ADJUDICATED TO HAVE COMMITTED TWO OR MORE DISCRIMINATORY ACTS DURING THE 7-YEAR PERIOD ENDING ON THE DATE OF THE FILING OF THE CURRENT CHARGE, IN AN AMOUNT NOT EXCEEDING \$2,500.

(B) PRIOR ACTS COMMITTED BY SAME INDIVIDUAL.

IF THE DISCRIMINATORY ACT IS COMMITTED BY AN INDIVIDUAL WHO HAS BEEN PREVIOUSLY ADJUDICATED TO HAVE COMMITTED ONE OR MORE DISCRIMINATORY ACTS, THE TIME PERIODS SET FORTH IN SUBSECTION (A)(2) AND (3) OF THIS SECTION DO NOT APPLY.

(C) PAYMENT TO GENERAL FUND.

ANY CIVIL PENALTIES COLLECTED UNDER THIS SECTION SHALL BE PAID TO THE GENERAL FUND OF THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, §§ 5(h) and 8(b).

In the introductory language of subsection (a) of this section, the phrase "[e]xcept as provided in subsection (b) of this section" is added for clarity and consistency with §§ 20-1026(c)(2)(ii) and 20-1028(b)(2)(i) of this subtitle.

Also in the introductory language of subsection (a) of this section, the defined term "discriminatory act" is substituted for the former reference to an "unlawful practice" for consistency throughout this title. Similarly, in subsections (a)(1), (2), and (3) and (b) of this section, the references to "discriminatory act" and "discriminatory acts" are substituted for the former references to "discriminatory practice", "discriminatory practices", and "the acts constituting the discriminatory practice".

In subsection (a)(2) and (3) of this section, the references to "the current" charge are substituted for the former references to "this" charge for clarity.

In subsection (b) of this section, the phrase "the time periods set forth ... do not apply" is substituted for the former phrase "then the civil penalties set forth ... may be imposed without regard to the period of time within which any subsequent discriminatory practice occurred" for brevity and clarity.

In subsection (c) of this section, the reference to civil penalties "collected under this section" is added for clarity.

Defined terms: "Commission" § 20-101
"Discriminatory act" § 20-101
"Respondent" § 20-101

20-1017. ACTION FOR TEMPORARY INJUNCTION.

(A) POWER OF COMMISSION TO BRING ACTION.

AT ANY TIME AFTER A COMPLAINT HAS BEEN FILED, IF THE COMMISSION BELIEVES THAT A CIVIL ACTION IS NECESSARY TO PRESERVE THE STATUS OF THE PARTIES OR TO PREVENT IRREPARABLE HARM FROM THE TIME THE COMPLAINT IS FILED UNTIL THE TIME OF THE FINAL DISPOSITION OF THE COMPLAINT, THE COMMISSION MAY BRING AN ACTION TO OBTAIN A TEMPORARY INJUNCTION.

(B) VENUE.

THE ACTION SHALL BE BROUGHT IN THE CIRCUIT COURT FOR THE COUNTY WHERE:

(1) THE PLACE OF PUBLIC ACCOMMODATION THAT IS THE SUBJECT OF THE ALLEGED DISCRIMINATORY ACT IS LOCATED;

(2) THE UNLAWFUL EMPLOYMENT PRACTICE IS ALLEGED TO HAVE OCCURRED OR TO BE OCCURRING; OR

(3) THE DWELLING THAT IS THE SUBJECT OF THE ALLEGED DISCRIMINATORY HOUSING PRACTICE IS LOCATED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 4.

In subsection (a) of this section, the former reference to "an appropriate" civil action is deleted as surplusage.

In subsection (b)(1) of this section, the defined term "discriminatory act" is substituted for the former reference to the "discrimination" for consistency throughout this title. Similarly, in subsection (b)(3) of this section, the reference to the "discriminatory housing practice" is substituted for the former reference to the "discrimination".

In subsection (b)(2) of this section, the phrase "or to be occurring" is added for accuracy.

Defined terms: "Commission" § 20-101

"County" § 1-101

"Discriminatory act" § 20-101

"Unlawful employment practice" § 20-1001

20-1018. RESERVED.

20-1019. RESERVED.

PART II. DISCRIMINATORY HOUSING PRACTICES.

20-1020. DEFINITIONS.

(A) IN GENERAL.

IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 49B, § 20(a).

(B) AGGRIEVED PERSON.

“AGGRIEVED PERSON” MEANS ANY PERSON THAT CLAIMS TO HAVE BEEN INJURED BY A DISCRIMINATORY HOUSING PRACTICE.

REVISOR'S NOTE: This subsection formerly was Art. 49B, § 20(b).

The only change is in style.

Defined terms: “Discriminatory housing practice” § 20-1020
“Person” § 1-101

(C) CONCILIATION.

“CONCILIATION” MEANS THE ATTEMPTED RESOLUTION OF ISSUES RAISED BY A COMPLAINT, OR BY THE INVESTIGATION OF A COMPLAINT, THROUGH INFORMAL NEGOTIATIONS INVOLVING THE AGGRIEVED PERSON, THE RESPONDENT, AND THE COMMISSION.

REVISOR'S NOTE: This subsection formerly was Art. 49B, § 20(d).

The only change is in style.

Defined terms: “Aggrieved person” § 20-1020
“Commission” § 20-101
“Respondent” § 20-101

(D) CONCILIATION AGREEMENT.

“CONCILIATION AGREEMENT” MEANS A WRITTEN AGREEMENT BETWEEN THE RESPONDENT AND THE COMPLAINANT SETTING FORTH THE RESOLUTION OF THE ISSUES IN CONCILIATION.

REVISOR’S NOTE: This subsection is new language derived without substantive change from Art. 49B, § 20(e) and, as it related to a conciliation agreement being an agreement between the respondent and the complainant, § 28(b)(1).

Defined terms: “Complainant” § 20–101

“Conciliation” § 20–1020

“Respondent” § 20–101

(E) DISCRIMINATORY HOUSING PRACTICE.

“DISCRIMINATORY HOUSING PRACTICE” MEANS AN ACT THAT IS PROHIBITED UNDER § 20–705, § 20–706, § 20–707, OR § 20–708 OF THIS TITLE.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 49B, § 20(g).

(F) PREVAILING PARTY.

“PREVAILING PARTY” HAS THE MEANING AS JUDICIALLY DETERMINED UNDER 42 U.S.C. § 1988.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 49B, § 20(p).

The reference to the meaning “as judicially determined under” 42 U.S.C. § 1988 is substituted for the former reference to the meaning “stated in” 42 U.S.C. § 1988 for clarity and accuracy. The term “prevailing party” is not defined in 42 U.S.C. § 1988, but has been interpreted by the federal courts under that section.

20–1021. COMPLAINT; ANSWER TO COMPLAINT.

(A) COMPLAINT BY AGGRIEVED PERSON.

(1) AN AGGRIEVED PERSON MAY FILE A COMPLAINT WITH THE COMMISSION ALLEGING A DISCRIMINATORY HOUSING PRACTICE.

(2) THE COMPLAINT SHALL BE FILED WITHIN 1 YEAR AFTER THE ALLEGED DISCRIMINATORY HOUSING PRACTICE OCCURRED OR TERMINATED.

(B) COMPLAINT BY COMMISSION.

THE COMMISSION MAY:

**(1) FILE A COMPLAINT ON THE COMMISSION'S OWN INITIATIVE;
AND**

**(2) INVESTIGATE HOUSING PRACTICES TO DETERMINE WHETHER
A COMPLAINT SHOULD BE FILED UNDER THIS SECTION.**

(C) FORM AND CONTENT OF COMPLAINT.

A COMPLAINT SHALL:

(1) BE IN WRITING;

(2) BE IN THE FORM THAT THE COMMISSION REQUIRES; AND

**(3) CONTAIN THE INFORMATION THAT THE COMMISSION
REQUIRES.**

(D) SERVICE OF NOTICE ON AGGRIEVED PERSON.

**AFTER A COMPLAINT IS FILED, THE COMMISSION SHALL SERVE NOTICE
ON THE AGGRIEVED PERSON ACKNOWLEDGING THE FILING AND ADVISING THE
AGGRIEVED PERSON OF THE TIME LIMITS AND CHOICE OF FORUMS PROVIDED
UNDER THIS PART.**

(E) SERVICE OF COMPLAINT AND NOTICE ON RESPONDENT.

**WITHIN 10 DAYS AFTER A COMPLAINT IS FILED OR AN ADDITIONAL
RESPONDENT IS IDENTIFIED UNDER § 20-1022(B) OF THIS SUBTITLE, THE
COMMISSION SHALL SERVE ON THE RESPONDENT:**

(1) A COPY OF THE ORIGINAL COMPLAINT; AND

**(2) A NOTICE IDENTIFYING THE ALLEGED DISCRIMINATORY
HOUSING PRACTICE AND ADVISING THE RESPONDENT OF THE PROCEDURAL
RIGHTS AND OBLIGATIONS OF RESPONDENTS UNDER THIS PART.**

(F) ANSWER TO COMPLAINT.

(1) EACH RESPONDENT MAY FILE AN ANSWER TO THE COMPLAINT.

(2) THE ANSWER SHALL BE FILED WITHIN 10 DAYS AFTER RECEIPT OF THE COPY OF THE COMPLAINT AND NOTICE FROM THE COMMISSION UNDER SUBSECTION (E) OF THIS SECTION.

(G) FILING UNDER OATH; AMENDMENTS.

COMPLAINTS AND ANSWERS:

(1) SHALL BE UNDER OATH; AND

(2) MAY BE REASONABLY AMENDED AT ANY TIME.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 27(a), (b), and (d).

In subsection (a)(2) of this section, the requirement that a complaint "shall be filed" within 1 year after the alleged discriminatory housing practice occurred or terminated is added for clarity and consistency with § 20-1004(c) of this subtitle. Similarly, in subsection (f)(2) of this section, the requirement that an answer "shall be filed" within 10 days after receipt of the copy of the complaint and notice is added.

In subsection (b)(1) and (2) of this section, the former references to "also" are deleted as surplusage.

In subsection (b)(2) of this section, the word "filed" is substituted for the former word "brought" for consistency with subsection (b)(1) of this section.

In subsection (f)(2) of this section, the references to the "copy of the complaint" and notice from the Commission "under subsection (e) of this section" are added for clarity and consistency with subsection (e) of this section.

In subsection (g)(1) of this section, the former reference to "affirmation" is deleted as included in the reference to "oath". See Art. 1, § 9.

In subsection (g)(2) of this section, the former reference to being "fairly" amended is deleted as included in the reference to being "reasonably" amended.

Defined terms: "Aggrieved person" § 20-1020

“Commission” § 20–101

“Discriminatory housing practice” § 20–1020

“Respondent” § 20–101

20–1022. INVESTIGATION OF COMPLAINT; JOINDER OF RESPONDENTS.

(A) INVESTIGATION OF COMPLAINT.

(1) THE COMMISSION SHALL INVESTIGATE A COMPLAINT ALLEGING A DISCRIMINATORY HOUSING PRACTICE AND DETERMINE, BASED ON THE FACTS, WHETHER PROBABLE CAUSE EXISTS TO BELIEVE THAT A DISCRIMINATORY HOUSING PRACTICE HAS OCCURRED OR IS ABOUT TO OCCUR.

(2) UNLESS IT IS IMPRACTICABLE TO DO SO, THE COMMISSION SHALL COMPLETE THE INVESTIGATION AND MAKE THE DETERMINATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION WITHIN 100 DAYS AFTER THE FILING OF THE COMPLAINT.

(3) IF THE COMMISSION IS UNABLE TO COMPLETE THE INVESTIGATION AND MAKE THE DETERMINATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION WITHIN 100 DAYS AFTER THE FILING OF THE COMPLAINT, THE COMMISSION SHALL NOTIFY THE COMPLAINANT AND THE RESPONDENT IN WRITING AND INCLUDE THE REASONS FOR THE DELAY.

(B) JOINDER OF RESPONDENTS.

(1) A PERSON THAT IS NOT NAMED AS A RESPONDENT IN A COMPLAINT, BUT THAT IS IDENTIFIED AS A RESPONDENT DURING AN INVESTIGATION, MAY BE JOINED AS AN ADDITIONAL OR SUBSTITUTE RESPONDENT AFTER WRITTEN NOTICE IN ACCORDANCE WITH § 20–1021(E) OF THIS SUBTITLE.

(2) IN ADDITION TO MEETING THE REQUIREMENTS OF § 20–1021(E) OF THIS SUBTITLE, THE NOTICE SHALL EXPLAIN THE BASIS FOR THE COMMISSION’S BELIEF THAT THE PERSON TO WHOM THE NOTICE IS ADDRESSED IS PROPERLY JOINED AS A RESPONDENT.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 49B, § 27(c) and (e).

In subsection (a)(1) of this section, the defined term “discriminatory housing practice” is substituted for the former reference to a “discriminatory practice” for consistency throughout this title.

Defined terms: "Commission" § 20-101
"Complainant" § 20-101
"Discriminatory housing practice" § 20-1020
"Person" § 1-101
"Respondent" § 20-101

20-1023. SUBPOENAS; DISCOVERY; WITNESS FEES.

(A) AUTHORITY TO ISSUE SUBPOENAS AND ORDER DISCOVERY.

THE COMMISSION MAY ISSUE SUBPOENAS AND ORDER DISCOVERY IN AID OF INVESTIGATIONS AND HEARINGS UNDER THIS PART.

(B) WITNESS FEES.

(1) WITNESSES SUBPOENAED BY THE COMMISSION TO TESTIFY IN ANY PROCEEDINGS UNDER THIS PART ARE ENTITLED TO THE SAME WITNESS AND MILEAGE FEES AS WITNESSES IN PROCEEDINGS BEFORE ANY CIRCUIT COURT IN THE STATE.

(2) THE PARTY WHO REQUESTS THAT A WITNESS BE SUBPOENAED TO TESTIFY IN A PROCEEDING SHALL PAY THE FEES OR, IF THE PARTY IS UNABLE TO PAY, THE COMMISSION SHALL PAY THE FEES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 31(a) and (c).

Defined term: "Commission" § 20-101

20-1024. CONCILIATION.

(A) IN GENERAL.

DURING THE PERIOD BETWEEN THE FILING OF A COMPLAINT AND THE FILING OF A CHARGE OR A DISMISSAL BY THE COMMISSION, THE COMMISSION, TO THE EXTENT FEASIBLE, SHALL ENGAGE IN CONCILIATION WITH RESPECT TO THE COMPLAINT.

(B) CONCILIATION AGREEMENT.

(1) A CONCILIATION AGREEMENT IS SUBJECT TO APPROVAL BY THE COMMISSION.

(2) (I) A CONCILIATION AGREEMENT MAY PROVIDE FOR BINDING ARBITRATION OF THE DISPUTE ARISING FROM THE COMPLAINT.

(II) ANY ARBITRATION THAT RESULTS FROM A CONCILIATION AGREEMENT MAY AWARD APPROPRIATE RELIEF, INCLUDING MONETARY RELIEF.

(3) EACH CONCILIATION AGREEMENT SHALL BE MADE PUBLIC UNLESS THE COMPLAINANT AND RESPONDENT OTHERWISE AGREE AND THE COMMISSION DETERMINES THAT THE DISCLOSURE IS NOT REQUIRED TO FURTHER THE PURPOSES OF THIS PART AND SUBTITLE 7 OF THIS TITLE.

(C) ENFORCEMENT OF CONCILIATION AGREEMENT.

IF THE COMMISSION HAS PROBABLE CAUSE TO BELIEVE THAT A RESPONDENT HAS BREACHED A CONCILIATION AGREEMENT, THE COMMISSION MAY BRING A CIVIL ACTION TO ENFORCE THE CONCILIATION AGREEMENT IN THE SAME MANNER AS PROVIDED IN § 20-1011 OF THIS SUBTITLE FOR THE ENFORCEMENT OF AN ORDER OF THE COMMISSION.

(D) CONFIDENTIALITY OF CONCILIATION.

EXCEPT IN A PROCEEDING TO ENFORCE A CONCILIATION AGREEMENT, STATEMENTS AND ACTS IN THE COURSE OF CONCILIATION UNDER THIS SECTION MAY NOT BE MADE PUBLIC OR USED AS EVIDENCE IN A SUBSEQUENT PROCEEDING UNDER THIS PART WITHOUT THE WRITTEN CONSENT OF THE PERSONS CONCERNED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 28(a) and (b)(2), (3), (4), (5), and, as it related to a conciliation agreement being subject to Commission approval, (1).

In subsection (c) of this section, the reference to "bring[ing] a civil action" is substituted for the former archaic reference to "institut[ing] litigation".

- Defined terms: "Commission" § 20-101
"Complainant" § 20-101
"Conciliation" § 20-1020
"Conciliation agreement" § 20-1020
"Including" § 1-101
"Person" § 1-101
"Respondent" § 20-101

20-1025. CERTIFICATION OF CASE; ISSUANCE AND SERVICE OF CHARGES.

(A) CERTIFICATION FOR PROCESSING.

EXCEPT AS PROVIDED IN SUBSECTIONS (C) AND (D) OF THIS SECTION, IF THE COMMISSION DETERMINES THAT PROBABLE CAUSE EXISTS TO BELIEVE THAT A DISCRIMINATORY HOUSING PRACTICE HAS OCCURRED OR IS ABOUT TO OCCUR AND THAT CONCILIATION HAS FAILED, THE EXECUTIVE DIRECTOR OF THE COMMISSION OR THE EXECUTIVE DIRECTOR'S DESIGNEE SHALL CERTIFY THE CASE FOR PROCESSING.

(B) ACTION BY COMMISSION AFTER REVIEW.

AFTER REVIEW OF THE CERTIFIED COMPLAINT, THE COMMISSION SHALL:

(1) REMAND THE MATTER TO THE COMMISSION'S STAFF FOR FURTHER PROCESSING;

(2) ISSUE A CHARGE ON BEHALF OF THE AGGRIEVED PERSON FOR FURTHER PROCEEDINGS UNDER THIS PART; OR

(3) PROMPTLY DISMISS THE COMPLAINT, IF THE COMMISSION DETERMINES THAT PROBABLE CAUSE DOES NOT EXIST TO BELIEVE THAT A DISCRIMINATORY HOUSING PRACTICE HAS OCCURRED OR IS ABOUT TO OCCUR.

(C) REFERRAL TO ATTORNEY GENERAL.

(1) IF THE COMMISSION DETERMINES THAT THE MATTER INVOLVES THE LEGALITY OF A STATE OR LOCAL ZONING OR OTHER LAND USE LAW OR ORDINANCE, THE COMMISSION SHALL IMMEDIATELY REFER THE MATTER TO THE ATTORNEY GENERAL FOR APPROPRIATE ACTION.

(2) NOT LESS THAN 60 DAYS AFTER THE COMMISSION REFERS THE MATTER TO THE ATTORNEY GENERAL UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSION MAY ISSUE A CHARGE OR TAKE OTHER APPROPRIATE ACTION IN THE MATTER.

(D) EFFECT OF TRIAL OF CIVIL ACTION.

AFTER THE BEGINNING OF THE TRIAL OF A CIVIL ACTION THAT IS COMMENCED BY AN AGGRIEVED PERSON UNDER FEDERAL OR STATE LAW AND THAT SEEKS RELIEF FOR AN ALLEGED DISCRIMINATORY HOUSING PRACTICE,

THE COMMISSION MAY NOT ISSUE A CHARGE UNDER THIS SECTION FOR THE SAME ALLEGED DISCRIMINATORY HOUSING PRACTICE.

(E) SERVICE OF CHARGE.

AFTER THE COMMISSION ISSUES A CHARGE UNDER THIS SECTION, THE COMMISSION SHALL CAUSE A COPY OF THE CHARGE, TOGETHER WITH INFORMATION AS TO HOW TO MAKE AN ELECTION UNDER § 20-1026 OF THIS SUBTITLE AND THE EFFECT OF THE ELECTION, TO BE SERVED:

(1) ON EACH RESPONDENT NAMED IN THE CHARGE; AND

(2) ON EACH AGGRIEVED PERSON ON WHOSE BEHALF THE COMPLAINT WAS FILED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 30.

In subsection (a) of this section, the requirement that the "executive director of the Commission or the executive director's designee" certify the case for processing is added for clarity and to reflect current practice.

Also in subsection (a) of this section, the reference to "subsections (c) and (d)" of this section is substituted for the former incorrect reference to "subsection (c)" of this section.

In the introductory language of subsection (b) of this section, the reference to review "of the certified complaint" is added for clarity.

In subsection (b)(1) of this section, the reference to remanding the matter "to the Commission's staff" is added for clarity and to reflect current practice.

In subsection (d) of this section, the defined term "aggrieved person" is substituted for the former reference to an "aggrieved party" for clarity and consistency throughout this part.

Also in subsection (d) of this section, the reference to "federal" law is substituted for the former reference to an "act of Congress" for brevity and consistency throughout this title.

Defined terms: "Aggrieved person" § 20-1020

"Commission" § 20-101

"Conciliation" § 20-1020

"Discriminatory housing practice" § 20-1020

“Respondent” § 20–101

20–1026. ELECTION OF CIVIL ACTION.

(A) ELECTION BY COMPLAINANT, RESPONDENT, OR AGGRIEVED PERSON.

WHEN A CHARGE IS ISSUED AND SERVED UNDER § 20–1025 OF THIS SUBTITLE, A COMPLAINANT, RESPONDENT, OR AGGRIEVED PERSON ON WHOSE BEHALF THE COMPLAINT WAS FILED MAY ELECT TO HAVE THE CLAIMS ASSERTED IN THE CHARGE DECIDED IN A CIVIL ACTION UNDER § 20–1032 OF THIS SUBTITLE INSTEAD OF A HEARING UNDER § 20–1027 OF THIS SUBTITLE.

(B) TIME FOR FILING ELECTION.

AN ELECTION UNDER SUBSECTION (A) OF THIS SECTION SHALL BE MADE WITHIN:

(1) 20 DAYS AFTER THE COMPLAINANT, RESPONDENT, OR AGGRIEVED PERSON ON WHOSE BEHALF THE COMPLAINT WAS FILED RECEIVES SERVICE UNDER § 20–1025 OF THIS SUBTITLE; OR

(2) IF THE COMMISSION IS THE COMPLAINANT, 20 DAYS AFTER SERVICE UNDER § 20–1025 OF THIS SUBTITLE IS MADE ON ALL OTHER PARTIES.

(C) NOTICE OF ELECTION.

A PERSON THAT MAKES AN ELECTION UNDER SUBSECTION (A) OF THIS SECTION SHALL GIVE NOTICE OF THE ELECTION TO THE COMMISSION AND TO ALL OTHER COMPLAINANTS, RESPONDENTS, AND AGGRIEVED PERSONS ON WHOSE BEHALF THE COMPLAINT WAS FILED TO WHOM THE CHARGE RELATES.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 49B, § 32(a).

In subsection (a) of this section, the reference to a charge being “issued and served” is substituted for the former reference to a complaint being “filed” for accuracy and consistency with § 20–1025 of this subtitle.

In subsection (b)(2) of this section, the phrase “if the Commission is the complainant” is substituted for the former phrase “in the case of the Commission” for clarity.

Defined terms: “Aggrieved person” § 20–1020

“Commission” § 20–101
“Complainant” § 20–101
“Person” § 1–101
“Respondent” § 20–101

20–1027. ADMINISTRATIVE HEARING.

(A) OPPORTUNITY FOR HEARING.

IF AN ELECTION IS NOT MADE UNDER § 20–1026 OF THIS SUBTITLE, THE COMMISSION SHALL PROVIDE AN OPPORTUNITY FOR A HEARING ON THE RECORD WITH RESPECT TO A CHARGE ISSUED UNDER § 20–1025 OF THIS SUBTITLE.

(B) CONDUCT OF HEARING.

(1) THE COMMISSION SHALL DELEGATE THE CONDUCT OF A HEARING UNDER THIS SECTION TO THE OFFICE OF ADMINISTRATIVE HEARINGS.

(2) AN ADMINISTRATIVE LAW JUDGE SHALL CONDUCT THE HEARING IN THE COUNTY WHERE THE DISCRIMINATORY HOUSING PRACTICE IS ALLEGED TO HAVE OCCURRED OR IS ABOUT TO OCCUR.

(3) (I) UNLESS IT IS IMPRACTICABLE TO DO SO, THE ADMINISTRATIVE LAW JUDGE SHALL COMMENCE THE HEARING UNDER THIS SECTION WITHIN 120 DAYS AFTER THE ISSUANCE OF THE CHARGE.

(II) IF THE ADMINISTRATIVE LAW JUDGE IS UNABLE TO COMMENCE THE HEARING WITHIN 120 DAYS AFTER THE ISSUANCE OF THE CHARGE, THE ADMINISTRATIVE LAW JUDGE SHALL NOTIFY THE COMMISSION, THE AGGRIEVED PERSON ON WHOSE BEHALF THE CHARGE WAS FILED, AND THE RESPONDENT IN WRITING OF THE REASONS FOR THE DELAY.

(4) AT A HEARING UNDER THIS SECTION, EACH PARTY MAY APPEAR IN PERSON, BE REPRESENTED BY COUNSEL, PRESENT EVIDENCE, CROSS-EXAMINE WITNESSES, AND OBTAIN THE ISSUANCE OF SUBPOENAS AS AUTHORIZED BY THIS SECTION.

(5) A HEARING UNDER THIS SECTION SHALL BE CONDUCTED AS EXPEDITIOUSLY AND INEXPENSIVELY AS POSSIBLE, CONSISTENT WITH THE NEEDS AND RIGHTS OF THE PARTIES TO OBTAIN A FAIR HEARING AND COMPLETE RECORD.

(C) SUBPOENAS; DISCOVERY.

(1) THE ADMINISTRATIVE LAW JUDGE MAY ISSUE SUBPOENAS AND ORDER DISCOVERY IN CONNECTION WITH A HEARING CONDUCTED UNDER THIS SECTION.

(2) DISCOVERY IN ADMINISTRATIVE PROCEEDINGS UNDER THIS SECTION SHALL BE CONDUCTED AS EXPEDITIOUSLY AND INEXPENSIVELY AS POSSIBLE, CONSISTENT WITH THE NEED OF ALL PARTIES TO OBTAIN RELEVANT EVIDENCE.

(D) EFFECT OF TRIAL OF CIVIL ACTION.

AFTER THE BEGINNING OF THE TRIAL OF A CIVIL ACTION THAT IS COMMENCED BY AN AGGRIEVED PERSON UNDER FEDERAL OR STATE LAW AND THAT SEEKS RELIEF FOR AN ALLEGED DISCRIMINATORY HOUSING PRACTICE, AN ADMINISTRATIVE LAW JUDGE MAY NOT CONTINUE ADMINISTRATIVE PROCEEDINGS UNDER THIS SECTION FOR THE SAME ALLEGED DISCRIMINATORY HOUSING PRACTICE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 32(b), (c), (e), (d)(1) and (2), and (f)(1).

In subsection (d) of this section, the defined term "aggrieved person" is substituted for the former reference to an "aggrieved party" for clarity and consistency throughout this part.

Also in subsection (d) of this section, the reference to "federal" law is substituted for the former reference to an "act of Congress" for brevity and consistency throughout this title.

- Defined terms: "Aggrieved person" § 20-1020
- "Commission" § 20-101
- "County" § 1-101
- "Discriminatory housing practice" § 20-1020
- "Respondent" § 20-101

20-1028. DECISION OF ADMINISTRATIVE LAW JUDGE.

(A) DATE OF ISSUANCE.

(1) UNLESS IT IS IMPRACTICABLE TO DO SO, THE ADMINISTRATIVE LAW JUDGE SHALL MAKE FINDINGS OF FACT AND

CONCLUSIONS OF LAW WITHIN 60 DAYS AFTER SUBMISSION OF POSTHEARING MEMORANDA.

(2) IF THE ADMINISTRATIVE LAW JUDGE IS UNABLE TO MAKE FINDINGS OF FACT AND CONCLUSIONS OF LAW WITHIN THE 60-DAY PERIOD OR ANY SUCCEEDING 60-DAY PERIOD, THE ADMINISTRATIVE LAW JUDGE SHALL NOTIFY THE COMMISSION, THE AGGRIEVED PERSON ON WHOSE BEHALF THE CHARGE WAS FILED, AND THE RESPONDENT IN WRITING OF THE REASONS FOR THE DELAY.

(B) FINDING AGAINST RESPONDENT.

(1) IF THE ADMINISTRATIVE LAW JUDGE FINDS THAT A RESPONDENT HAS ENGAGED OR IS ABOUT TO ENGAGE IN A DISCRIMINATORY HOUSING PRACTICE, THE ADMINISTRATIVE LAW JUDGE SHALL PROMPTLY ISSUE AN ORDER FOR APPROPRIATE RELIEF, WHICH MAY INCLUDE ACTUAL DAMAGES SUFFERED BY THE AGGRIEVED PERSON AND INJUNCTIVE OR OTHER EQUITABLE RELIEF.

(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE ORDER MAY ASSESS A CIVIL PENALTY AGAINST THE RESPONDENT, TO BE PAID TO THE GENERAL FUND OF THE STATE:

1. IF THE RESPONDENT HAS NOT BEEN ADJUDICATED TO HAVE COMMITTED ANY PRIOR DISCRIMINATORY HOUSING PRACTICE, IN AN AMOUNT NOT EXCEEDING \$10,000;

2. IF THE RESPONDENT HAS BEEN ADJUDICATED TO HAVE COMMITTED ONE OTHER DISCRIMINATORY HOUSING PRACTICE DURING THE 5-YEAR PERIOD ENDING ON THE DATE OF THE FILING OF THE CURRENT CHARGE, IN AN AMOUNT NOT EXCEEDING \$25,000; AND

3. IF THE RESPONDENT HAS BEEN ADJUDICATED TO HAVE COMMITTED TWO OR MORE DISCRIMINATORY HOUSING PRACTICES DURING THE 7-YEAR PERIOD ENDING ON THE DATE OF THE FILING OF THE CURRENT CHARGE, IN AN AMOUNT NOT EXCEEDING \$50,000.

(II) IF THE DISCRIMINATORY HOUSING PRACTICE IS COMMITTED BY AN INDIVIDUAL WHO HAS BEEN PREVIOUSLY ADJUDICATED TO HAVE COMMITTED ONE OR MORE DISCRIMINATORY HOUSING PRACTICES, THE TIME PERIODS SET FORTH IN PARAGRAPH (2)(I)2 AND 3 OF THIS SUBSECTION DO NOT APPLY.

(C) EFFECT OF ORDER.

AN ORDER ISSUED UNDER SUBSECTION (B) OF THIS SECTION MAY NOT AFFECT ANY CONTRACT, SALE, ENCUMBRANCE, OR LEASE CONSUMMATED BEFORE THE ISSUANCE OF THE ORDER AND INVOLVING A BONA FIDE PURCHASER, ENCUMBRANCER, OR TENANT WITHOUT ACTUAL NOTICE OF THE CHARGE FILED UNDER THIS PART.

(D) FINDING FOR RESPONDENT.

(1) IF THE ADMINISTRATIVE LAW JUDGE FINDS THAT THE RESPONDENT HAS NOT ENGAGED IN A DISCRIMINATORY HOUSING PRACTICE, THE ADMINISTRATIVE LAW JUDGE SHALL ENTER AN ORDER DISMISSING THE CHARGE.

(2) THE COMMISSION SHALL PUBLICLY DISCLOSE EACH DISMISSAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 32(f)(2) through (5).

In subsection (b)(2)(i)2 and 3 of this section, the references to "the current" charge are substituted for the former references to "this" charge for clarity.

In subsection (b)(2)(ii) of this section, the phrase "the time periods set forth ... do not apply" is substituted for the former phrase "then the civil penalties set forth ... may be imposed without regard to the period of time within which any subsequent discriminatory housing practice occurred" for brevity and clarity.

Defined terms: "Aggrieved person" § 20-1020
"Commission" § 20-101
"Discriminatory housing practice" § 20-1020
"Includes" § 1-101
"Respondent" § 20-101

20-1029. FINAL DECISION AND ORDER.

(A) ISSUANCE BY COMMISSION.

(1) IN ACCORDANCE WITH THE COMMISSION'S REGULATIONS, THE COMMISSION SHALL:

(I) REVIEW ANY FINDINGS, CONCLUSIONS, OR ORDERS ISSUED UNDER § 20-1028 OF THIS SUBTITLE; AND

(II) ISSUE A FINAL ORDER.

(2) IF A TIMELY APPEAL OF THE FINDINGS, CONCLUSIONS, OR ORDERS ISSUED UNDER § 20-1028 OF THIS SUBTITLE IS NOT FILED WITH THE COMMISSION IN ACCORDANCE WITH THE COMMISSION'S REGULATIONS, THE FINDINGS, CONCLUSIONS, OR ORDERS ISSUED BY THE ADMINISTRATIVE LAW JUDGE UNDER § 20-1028 OF THIS SUBTITLE SHALL BECOME A FINAL ORDER OF THE COMMISSION.

(B) SERVICE OF ORDER.

THE COMMISSION SHALL CAUSE THE FINDINGS OF FACT AND CONCLUSIONS OF LAW MADE WITH RESPECT TO ANY FINAL ORDER FOR RELIEF UNDER THIS SECTION, TOGETHER WITH A COPY OF THE ORDER, TO BE SERVED ON EACH AGGRIEVED PERSON AND RESPONDENT IN THE PROCEEDING.

(C) ORDER CONCERNING LICENSED OR REGULATED BUSINESS.

IF AN ORDER IS ISSUED CONCERNING A DISCRIMINATORY HOUSING PRACTICE THAT OCCURRED IN THE COURSE OF A BUSINESS SUBJECT TO LICENSING OR REGULATION BY A STATE OR LOCAL UNIT, THE COMMISSION SHALL, WITHIN 30 DAYS AFTER THE DATE OF THE ISSUANCE OF THE FINAL ORDER OF THE COMMISSION OR, IF THE ORDER IS JUDICIALLY REVIEWED, 30 DAYS AFTER THE FINAL ORDER IS AFFIRMED IN SUBSTANCE AFTER REVIEW:

(1) SEND COPIES OF THE FINDINGS OF FACT AND CONCLUSIONS OF LAW AND THE FINAL ORDER TO THE STATE OR LOCAL UNIT; AND

(2) RECOMMEND TO THE STATE OR LOCAL UNIT APPROPRIATE DISCIPLINARY ACTION, INCLUDING, IF APPROPRIATE:

(I) THE SUSPENSION OR REVOCATION OF THE LICENSE OF THE RESPONDENT; OR

(II) THE SUSPENSION OR DEBARMENT OF THE RESPONDENT FROM PARTICIPATION IN STATE AND LOCAL LOAN, GRANT, OR OTHER REGULATED PROGRAMS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 32(g).

In subsection (c) of this section, the references to a State or local “unit” are substituted for the former references to an “agency” for consistency throughout this title. *See* General Revisor’s Note to title.

Defined terms: “Aggrieved person” § 20–1020
“Commission” § 20–101
“Discriminatory housing practice” § 20–1020
“Including” § 1–101
“Respondent” § 20–101

20–1030. JUDICIAL REVIEW.

(A) IN GENERAL.

SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, ANY PARTY AGGRIEVED BY A FINAL ORDER FOR RELIEF UNDER § 20–1029 OF THIS SUBTITLE MAY OBTAIN JUDICIAL REVIEW OF THE ORDER IN ACCORDANCE WITH THE PROVISIONS FOR JUDICIAL REVIEW UNDER TITLE 10, SUBTITLE 2 OF THIS ARTICLE.

(B) TIME FOR FILING.

A PETITION FOR JUDICIAL REVIEW SHALL BE FILED WITHIN 30 DAYS AFTER THE FINAL ORDER IS ENTERED.

(C) VENUE.

A PETITION FOR JUDICIAL REVIEW SHALL BE FILED IN THE CIRCUIT COURT FOR THE COUNTY WHERE THE DISCRIMINATORY HOUSING PRACTICE IS ALLEGED TO HAVE OCCURRED.

(D) PARTIES.

IF THE COMMISSION ISSUES A FINAL ORDER IN WHICH A FINDING OF A DISCRIMINATORY HOUSING PRACTICE IS MADE, THE COMMISSION IS A PARTY IN ANY APPEAL OF THE FINAL ORDER.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 49B, § 32(h).

In subsection (a) of this section, the phrase “[s]ubject to” is substituted for the former phrase “[e]xcept as provided in” for clarity and accuracy.

In subsection (c) of the section, the requirement that “[a] petition for judicial review shall be filed in the circuit court for the county” is substituted for the former requirement that “[v]enue of the proceeding shall be in the judicial circuit” for accuracy and consistency with §§ 20–1031(a)(2) and (e), 20–1032(a)(2), and 20–1037(b) of this subtitle.

In subsection (d) of this section, the defined term “discriminatory housing practice” is substituted for the former reference to “discrimination” for consistency throughout this title.

Defined terms: “Commission” § 20–101

“County” § 1–101

“Discriminatory housing practice” § 20–1020

20–1031. PETITION TO ENFORCE COMMISSION’S ORDER.

(A) PETITION BY COMMISSION.

(1) THE COMMISSION MAY FILE A PETITION FOR THE ENFORCEMENT OF AN ORDER OF THE COMMISSION AND FOR APPROPRIATE TEMPORARY RELIEF OR A RESTRAINING ORDER.

(2) THE PETITION SHALL BE FILED IN THE CIRCUIT COURT FOR THE COUNTY WHERE THE DISCRIMINATORY HOUSING PRACTICE IS ALLEGED TO HAVE OCCURRED OR WHERE ANY RESPONDENT RESIDES OR TRANSACTS BUSINESS.

(3) THE CLERK OF THE COURT SHALL SEND A COPY OF THE PETITION TO THE PARTIES TO THE PROCEEDINGS BEFORE THE COMMISSION UNDER § 20–1029 OF THIS SUBTITLE OR BEFORE THE ADMINISTRATIVE LAW JUDGE.

(B) INTERVENTION.

ANY PARTY TO THE PROCEEDINGS BEFORE THE COMMISSION UNDER § 20–1029 OF THIS SUBTITLE OR BEFORE THE ADMINISTRATIVE LAW JUDGE MAY INTERVENE IN THE CIRCUIT COURT IN AN ENFORCEMENT PROCEEDING BROUGHT UNDER THIS SECTION.

(C) PRESERVATION OF OBJECTIONS.

UNLESS THE FAILURE OR NEGLECT TO MAKE THE OBJECTION IS EXCUSED BECAUSE OF EXTRAORDINARY CIRCUMSTANCES, AN OBJECTION NOT MADE BEFORE THE COMMISSION UNDER § 20–1029 OF THIS SUBTITLE OR BEFORE

1. IF THE RESPONDENT HAS NOT BEEN ADJUDICATED TO HAVE COMMITTED ANY PRIOR DISCRIMINATORY HOUSING PRACTICE, IN AN AMOUNT NOT EXCEEDING \$10,000;

2. IF THE RESPONDENT HAS BEEN ADJUDICATED TO HAVE COMMITTED ONE OTHER DISCRIMINATORY HOUSING PRACTICE DURING THE 5-YEAR PERIOD ENDING ON THE DATE OF THE FILING OF THE CURRENT CHARGE, IN AN AMOUNT NOT EXCEEDING \$25,000; AND

3. IF THE RESPONDENT HAS BEEN ADJUDICATED TO HAVE COMMITTED TWO OR MORE DISCRIMINATORY HOUSING PRACTICES DURING THE 7-YEAR PERIOD ENDING ON THE DATE OF THE FILING OF THE CURRENT CHARGE, IN AN AMOUNT NOT EXCEEDING \$50,000.

(II) IF THE DISCRIMINATORY HOUSING PRACTICE IS COMMITTED BY AN INDIVIDUAL WHO HAS BEEN PREVIOUSLY ADJUDICATED TO HAVE COMMITTED ONE OR MORE DISCRIMINATORY HOUSING PRACTICES, THE TIME PERIODS SET FORTH IN PARAGRAPH (2)(I)2 AND 3 OF THIS SUBSECTION DO NOT APPLY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 32(1).

In subsection (a)(1) of this section, the defined term "discriminatory housing practice" is substituted for the former reference to "discrimination" for consistency throughout this title.

Also in subsection (a)(1) of this section, the former reference to an election "to pursue judicial action" is deleted as unnecessary in light of the reference to an election "under § 20-1026 of this subtitle".

In the introductory language of subsection (b)(2)(i) of this section, the phrase "in addition to the relief authorized under paragraph (1) of this subsection" is added for clarity.

Also in the introductory language of subsection (b)(2)(i) of this section, the reference to the court "assess[ing]" a civil penalty is substituted for the former reference to the court "grant[ing] as relief" a civil penalty for accuracy and consistency with §§ 20-1016(a) and 20-1028(b)(2)(i) of this subtitle.

In subsection (b)(2)(i)2 and 3 of this section, the references to "the current" charge are substituted for the former references to "this" charge for clarity.

In subsection (b)(2)(ii) of this section, the phrase “the time periods set forth ... do not apply” is substituted for the former phrase “then the civil penalties set forth ... may be imposed without regard to the period of time within which any subsequent discriminatory housing practice occurred” for brevity and clarity.

Defined terms: “Aggrieved person” § 20–1020
“Commission” § 20–101
“County” § 1–101
“Discriminatory housing practice” § 20–1020
“Respondent” § 20–101

20–1033. ATTORNEY’S FEES AND COSTS.

IN AN ADMINISTRATIVE PROCEEDING UNDER § 20–1027 OF THIS SUBTITLE, A COURT PROCEEDING ARISING FROM THE ADMINISTRATIVE PROCEEDING, OR A CIVIL ACTION UNDER § 20–1032 OF THIS SUBTITLE, THE ADMINISTRATIVE LAW JUDGE OR THE COURT MAY ALLOW THE PREVAILING PARTY, INCLUDING THE COMMISSION, REASONABLE ATTORNEY’S FEES AND COSTS.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 49B, § 32(m).

The former phrase “in its discretion” is deleted as surplusage.

Defined terms: “Commission” § 20–101
“Including” § 1–101
“Prevailing party” § 20–1020

20–1034. REGULATIONS.

THE OFFICE OF ADMINISTRATIVE HEARINGS AND THE COMMISSION SHALL ADOPT REGULATIONS TO IMPLEMENT §§ 20–1026 THROUGH 20–1033 OF THIS SUBTITLE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 49B, § 32(d)(3).

Defined term: “Commission” § 20–101

20–1035. CIVIL ACTION BY AGGRIEVED PERSON.

(A) AUTHORIZED.

IN ACCORDANCE WITH THIS SECTION, AN AGGRIEVED PERSON MAY COMMENCE A CIVIL ACTION IN AN APPROPRIATE STATE COURT TO OBTAIN APPROPRIATE RELIEF FOR AN ALLEGED DISCRIMINATORY HOUSING PRACTICE OR THE BREACH OF A CONCILIATION AGREEMENT ENTERED INTO UNDER THIS PART.

(B) TIME FOR FILING.

(1) THE ACTION SHALL BE FILED WITHIN 2 YEARS AFTER THE LATER OF THE OCCURRENCE OR TERMINATION OF THE ALLEGED DISCRIMINATORY HOUSING PRACTICE OR THE BREACH OF THE CONCILIATION AGREEMENT.

(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE COMPUTATION OF THE 2-YEAR PERIOD DOES NOT INCLUDE ANY TIME DURING WHICH AN ADMINISTRATIVE PROCEEDING UNDER THIS PART WAS PENDING FOR A COMPLAINT OR CHARGE BASED ON THE ALLEGED DISCRIMINATORY HOUSING PRACTICE.

(II) SUBPARAGRAPH (I) OF THIS PARAGRAPH DOES NOT APPLY TO AN ACTION ARISING FROM A BREACH OF A CONCILIATION AGREEMENT.

(3) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN AGGRIEVED PERSON MAY COMMENCE A CIVIL ACTION UNDER THIS SECTION:

(I) NOT SOONER THAN 130 DAYS AFTER A COMPLAINT HAS BEEN FILED UNDER § 20-1021 OF THIS SUBTITLE; AND

(II) REGARDLESS OF THE STATUS OF ANY COMPLAINT.

(C) EXCEPTIONS.

(1) IF THE COMMISSION OR A STATE OR LOCAL UNIT HAS OBTAINED A CONCILIATION AGREEMENT WITH THE CONSENT OF AN AGGRIEVED PERSON, THE AGGRIEVED PERSON MAY NOT FILE AN ACTION UNDER THIS SECTION FOR THE ALLEGED DISCRIMINATORY HOUSING PRACTICE THAT FORMS THE BASIS FOR THE COMPLAINT, EXCEPT FOR THE PURPOSE OF ENFORCING THE TERMS OF THE CONCILIATION AGREEMENT.

(2) AN AGGRIEVED PERSON MAY NOT COMMENCE A CIVIL ACTION UNDER THIS SECTION WITH RESPECT TO AN ALLEGED DISCRIMINATORY HOUSING PRACTICE THAT FORMS THE BASIS OF A CHARGE ISSUED BY THE COMMISSION, IF AN ADMINISTRATIVE LAW JUDGE HAS COMMENCED A HEARING ON THE RECORD UNDER THIS PART WITH RESPECT TO THE CHARGE.

(D) APPOINTMENT OF ATTORNEY; WAIVER OF FEES, COSTS, AND SECURITY.

ON APPLICATION BY A PERSON ALLEGING A DISCRIMINATORY HOUSING PRACTICE OR A PERSON AGAINST WHOM A DISCRIMINATORY HOUSING PRACTICE IS ALLEGED, THE COURT MAY:

(1) APPOINT AN ATTORNEY FOR THE PERSON; OR

(2) IF, IN THE OPINION OF THE COURT, THE PERSON IS FINANCIALLY UNABLE TO BEAR THE COSTS OF THE ACTION, AUTHORIZE THE COMMENCEMENT OR CONTINUATION OF A CIVIL ACTION UNDER SUBSECTION (A) OF THIS SECTION WITHOUT THE PAYMENT OF FEES, COSTS, OR SECURITY.

(E) RELIEF.

(1) IN A CIVIL ACTION UNDER THIS SECTION, IF THE COURT FINDS THAT A DISCRIMINATORY HOUSING PRACTICE HAS OCCURRED, THE COURT MAY:

(I) AWARD TO THE PLAINTIFF ACTUAL AND PUNITIVE DAMAGES; AND

(II) SUBJECT TO SUBSECTION (F) OF THIS SECTION, GRANT AS RELIEF, AS THE COURT CONSIDERS APPROPRIATE, ANY PERMANENT OR TEMPORARY INJUNCTION, TEMPORARY RESTRAINING ORDER, OR OTHER ORDER, INCLUDING AN ORDER ENJOINING THE DEFENDANT FROM ENGAGING IN THE PRACTICE OR ORDERING AFFIRMATIVE ACTION.

(2) IN A CIVIL ACTION UNDER THIS SECTION, THE COURT MAY ALLOW THE PREVAILING PARTY REASONABLE ATTORNEY'S FEES AND COSTS.

(F) EFFECT OF RELIEF GRANTED.

RELIEF GRANTED UNDER THIS SECTION MAY NOT AFFECT ANY CONTRACT, SALE, ENCUMBRANCE, OR LEASE CONSUMMATED BEFORE THE GRANTING OF RELIEF AND INVOLVING A BONA FIDE PURCHASER,

ENCUMBRANCER, OR TENANT WITHOUT ACTUAL NOTICE OF THE FILING OF A COMPLAINT WITH THE COMMISSION OR CIVIL ACTION UNDER THIS PART.

(G) INTERVENTION BY COMMISSION.

IF THE COMMISSION CERTIFIES THAT THE CASE IS OF GENERAL PUBLIC IMPORTANCE AND ON TIMELY APPLICATION, THE COMMISSION MAY:

(1) INTERVENE IN A CIVIL ACTION BROUGHT UNDER THIS SECTION; AND

(2) OBTAIN ANY RELIEF THAT WOULD BE AVAILABLE TO THE COMMISSION UNDER § 20-1036(C) OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 33.

In subsection (b)(2)(i) of this section, the reference to the "alleged" discriminatory housing practice is added for consistency throughout this section.

In subsection (c)(1) of this section, the reference to a State or local "unit" is substituted for the former reference to an "agency" for consistency throughout this title. *See* General Revisor's Note to title.

In subsection (e)(1)(ii) of this section, the former reference to ordering affirmative action "as may be appropriate" is deleted as unnecessary in light of the authority of the court to grant relief "as the court considers appropriate".

In subsection (e)(2) of this section, the former phrase "in its discretion" is deleted as surplusage.

- Defined terms: "Aggrieved person" § 20-1020
- "Commission" § 20-101
- "Conciliation agreement" § 20-1020
- "Discriminatory housing practice" § 20-1020
- "Including" § 1-101
- "Person" § 1-101
- "Prevailing party" § 20-1020

20-1036. CIVIL ACTION BY COMMISSION IN PUBLIC INTEREST.

(A) AUTHORIZED.

THE COMMISSION MAY COMMENCE A CIVIL ACTION IN THE APPROPRIATE CIRCUIT COURT IF THE COMMISSION HAS PROBABLE CAUSE TO BELIEVE THAT:

(1) (I) A PERSON OR GROUP OF PERSONS IS ENGAGED IN A PATTERN OR PRACTICE OF RESISTANCE TO THE FULL ENJOYMENT OF ANY OF THE RIGHTS GRANTED BY THIS PART AND SUBTITLE 7 OF THIS TITLE; OR

(II) ANY GROUP OF PERSONS HAS BEEN DENIED ANY OF THE RIGHTS GRANTED BY THIS PART AND SUBTITLE 7 OF THIS TITLE; AND

(2) THE RESISTANCE OR DENIAL RAISES AN ISSUE OF GENERAL PUBLIC IMPORTANCE.

(B) ENFORCEMENT OF SUBPOENA.

THE COMMISSION OR OTHER PARTY AT WHOSE REQUEST A SUBPOENA IS ISSUED UNDER THIS PART MAY ENFORCE A SUBPOENA IN APPROPRIATE PROCEEDINGS IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE PERSON TO WHOM THE SUBPOENA WAS ADDRESSED RESIDES, WAS SERVED, OR TRANSACTS BUSINESS.

(C) RELIEF; ATTORNEY'S FEES.

(1) IN A CIVIL ACTION UNDER SUBSECTION (A) OF THIS SECTION, THE COURT MAY:

(I) AWARD PREVENTIVE RELIEF, INCLUDING A PERMANENT OR TEMPORARY INJUNCTION, RESTRAINING ORDER, OR OTHER ORDER AGAINST THE PERSON RESPONSIBLE FOR A VIOLATION OF SUBTITLE 7 OF THIS TITLE AS NECESSARY TO ASSURE THE FULL ENJOYMENT OF THE RIGHTS GRANTED BY SUBTITLE 7 OF THIS TITLE;

(II) AWARD OTHER RELIEF THE COURT CONSIDERS APPROPRIATE, INCLUDING MONETARY DAMAGES TO AGGRIEVED PERSONS; AND

(III) TO VINDICATE THE PUBLIC INTEREST, ASSESS A CIVIL PENALTY AGAINST THE RESPONDENT:

1. IN AN AMOUNT NOT EXCEEDING \$50,000, FOR A FIRST VIOLATION; AND

2. IN AN AMOUNT NOT EXCEEDING \$100,000, FOR ANY SUBSEQUENT VIOLATION.

(2) IN A CIVIL ACTION UNDER THIS SECTION, THE COURT MAY ALLOW THE PREVAILING PARTY, INCLUDING THE COMMISSION, REASONABLE ATTORNEY'S FEES AND COSTS.

(D) INTERVENTION.

(1) ON TIMELY APPLICATION, A PERSON MAY INTERVENE IN A CIVIL ACTION COMMENCED BY THE COMMISSION UNDER SUBSECTION (A) OR (B) OF THIS SECTION, IF THE ACTION INVOLVES:

(I) AN ALLEGED DISCRIMINATORY HOUSING PRACTICE TO WHICH THE PERSON IS AN AGGRIEVED PERSON; OR

(II) A CONCILIATION AGREEMENT TO WHICH THE PERSON IS A PARTY.

(2) THE COURT MAY GRANT ANY APPROPRIATE RELIEF TO ANY INTERVENING PARTY THAT IS AUTHORIZED TO BE GRANTED TO A PLAINTIFF IN A CIVIL ACTION UNDER § 20-1035 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 34.

In subsection (c)(2) of this section, the former phrase "in its discretion" is deleted as surplusage.

Defined terms: "Aggrieved person" § 20-1020

"Commission" § 20-101

"Conciliation agreement" § 20-1020

"County" § 1-101

"Discriminatory housing practice" § 20-1020

"Including" § 1-101

"Person" § 1-101

"Prevailing party" § 20-1020

"Respondent" § 20-101

20-1037. CIVIL ACTION FOR TEMPORARY OR PRELIMINARY RELIEF.

(A) AUTHORIZED.

IF THE COMMISSION CONCLUDES AT ANY TIME AFTER THE FILING OF A COMPLAINT THAT PROMPT JUDICIAL ACTION IS NECESSARY TO CARRY OUT THE PURPOSES OF THIS PART AND SUBTITLE 7 OF THIS TITLE, THE COMMISSION MAY BRING A CIVIL ACTION FOR APPROPRIATE TEMPORARY OR PRELIMINARY RELIEF PENDING FINAL DISPOSITION OF THE COMPLAINT UNDER THIS PART.

(B) VENUE.

AN ACTION UNDER THIS SECTION SHALL BE BROUGHT IN THE CIRCUIT COURT FOR THE COUNTY WHERE THE DWELLING THAT IS THE SUBJECT OF THE ALLEGED DISCRIMINATORY HOUSING PRACTICE IS LOCATED.

(C) EFFECT ON ADMINISTRATIVE PROCEEDINGS.

THE COMMENCEMENT OF A CIVIL ACTION UNDER THIS SECTION DOES NOT AFFECT THE INITIATION OR CONTINUATION OF ADMINISTRATIVE PROCEEDINGS UNDER THIS PART.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 29.

In subsection (a) of this section, the reference to "bring[ing]" a civil action is substituted for the former reference to "authoriz[ing]" a civil action for clarity.

In subsection (b) of this section, the defined term "discriminatory housing practice" is substituted for the former reference to "discrimination" for consistency throughout this title.

In subsection (c) of this section, the reference to this "section" is substituted for the former overbroad reference to this "subtitle".

Defined terms: "Commission" § 20-101
"County" § 1-101
"Discriminatory housing practice" § 20-1020

SUBTITLE 11. PROHIBITED ACTS; CRIMINAL PENALTIES.

20-1101. DISCLOSURE OF CONFIDENTIAL INFORMATION.

(A) CONFIDENTIALITY OF INVESTIGATION; DISCLOSURE OF INFORMATION PROHIBITED; EXCEPTIONS.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, DURING AN INVESTIGATION OF A COMPLAINT ALLEGING A DISCRIMINATORY ACT, AND UNTIL THE MATTER REACHES THE STAGE OF PUBLIC HEARINGS:

(I) THE ACTIVITIES OF ALL MEMBERS AND EMPLOYEES OF THE COMMISSION IN CONNECTION WITH THE INVESTIGATION SHALL BE CONDUCTED IN CONFIDENCE AND WITHOUT PUBLICITY; AND

(II) THE MEMBERS AND EMPLOYEES OF THE COMMISSION MAY NOT DISCLOSE ANY INFORMATION RELATING TO THE INVESTIGATION, INCLUDING THE IDENTITY OF THE COMPLAINANT AND THE RESPONDENT.

(2) (I) INFORMATION MAY BE DISCLOSED AT ANY TIME IF BOTH THE COMPLAINANT AND RESPONDENT AGREE TO THE DISCLOSURE IN WRITING.

(II) THE IDENTITY OF THE COMPLAINANT MAY BE DISCLOSED TO THE RESPONDENT AT ANY TIME.

(B) PENALTY.

A MEMBER OR EMPLOYEE OF THE COMMISSION WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$1,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 13.

In the introductory language of subsection (a)(1) of this section, the defined term "discriminatory act" is substituted for the former reference to "a violation of § 5, § 7, § 8, § 16, § 17, § 22, § 23, or § 24 of this article" for brevity. Although the reference to a "discriminatory act" includes violations that were not listed in the former law (*e.g.*, former Art. 49B, § 8A (Leasing of Commercial Property)), the Human Relations Commission Law Article Review Committee suggests that the failure to make all investigations confidential was an apparent oversight. This substitution is called to the attention of the General Assembly.

In subsection (a)(1)(ii) of this section, the reference to the "members and employees of" the Commission is added for clarity and consistency with subsection (a)(1)(i) of this section.

Also in subsection (a)(1)(ii) of this section, the phrase “may not disclose” is substituted for the former phrase “shall hold confidential” for clarity and consistency with similar provisions in other revised articles. *See, e.g.*, HO § 14–411 and HU §§ 1–201 and 1–202. Correspondingly, in subsection (a)(2)(i) of this subsection, the words “disclosed” and “disclosure” are substituted for the former words “released” and “release”, respectively.

Defined terms: “Commission” § 20–101

“Complainant” § 20–101

“Discriminatory act” § 20–101

“Including” § 1–101

“Respondent” § 20–101

20–1102. DISOBEYING SUBPOENA OR DISCOVERY ORDER IN HOUSING DISCRIMINATION CASE; FALSIFYING DOCUMENTARY EVIDENCE.

(A) DISOBEYING SUBPOENA OR DISCOVERY ORDER.

IF IT IS IN THE PERSON’S POWER TO COMPLY, A PERSON MAY NOT WILLFULLY FAIL OR NEGLECT TO ATTEND AND TESTIFY, ANSWER ANY LAWFUL INQUIRY, OR PRODUCE RECORDS, DOCUMENTS, OR OTHER EVIDENCE, IN COMPLIANCE WITH A SUBPOENA OR OTHER LAWFUL ORDER ISSUED UNDER § 20–1023(A) OF THIS TITLE.

(B) FALSIFYING DOCUMENTARY EVIDENCE.

A PERSON MAY NOT, WITH INTENT TO MISLEAD ANOTHER PERSON IN ANY PROCEEDING UNDER SUBTITLE 10, PART II OF THIS TITLE:

(1) MAKE OR CAUSE TO BE MADE ANY FALSE ENTRY OR STATEMENT OF FACT IN ANY REPORT, ACCOUNT, RECORD, OR OTHER DOCUMENT PRODUCED IN COMPLIANCE WITH A SUBPOENA OR OTHER LAWFUL ORDER ISSUED UNDER § 20–1023(A) OF THIS TITLE;

(2) WILLFULLY NEGLECT OR FAIL TO MAKE OR CAUSE TO BE MADE FULL, TRUE, AND CORRECT ENTRIES IN ANY REPORT, ACCOUNT, RECORD, OR OTHER DOCUMENT PRODUCED IN COMPLIANCE WITH A SUBPOENA OR OTHER LAWFUL ORDER ISSUED UNDER § 20–1023(A) OF THIS TITLE; OR

(3) WILLFULLY MUTILATE, ALTER, OR BY ANY OTHER MEANS FALSIFY ANY DOCUMENTARY EVIDENCE.

(C) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$100,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 31(b).

In subsection (a) of this section, the reference to the person's power to "comply" is substituted for the former reference to the person's power to "do so" for clarity.

In subsection (b)(2) of this section, the reference to "any report, account, record, or other document produced in accordance with a subpoena or other lawful order issued under § 20-1023(a) of this title" is substituted for the former reference to "the reports, accounts, records, or other documents" for clarity and consistency with subsection (b)(1) of this section.

In subsection (c) of this section, the reference to being "guilty of a misdemeanor" is added to state expressly that which was only implied in the former law. In this State, any crime that was not a felony at common law and has not been declared a felony by statute is considered to be a misdemeanor. *See State v. Canova*, 278 Md. 483, 490 (1976); *Bowser v. State*, 136 Md. 342, 345 (1920); *Williams v. State*, 4 Md. App. 342, 347 (1968); and *Dutton v. State*, 123 Md. 373, 378 (1914).

Defined term: "Person" § 1-101

20-1103. INJURY, INTIMIDATION, OR INTERFERENCE WITH PROTECTED HOUSING ACTIVITIES.

(A) DEFINITIONS.

IN THIS SECTION, "DISABILITY", "DWELLING", "FAMILIAL STATUS", "MARITAL STATUS", AND "RENT" HAVE THE MEANINGS STATED IN § 20-701 OF THIS TITLE.

(B) PROHIBITED ACTS.

WHETHER OR NOT ACTING UNDER COLOR OF LAW, A PERSON MAY NOT, BY FORCE OR THREAT OF FORCE, WILLFULLY INJURE, INTIMIDATE, INTERFERE WITH, OR ATTEMPT TO INJURE, INTIMIDATE, OR INTERFERE WITH:

(1) ANY PERSON BECAUSE OF RACE, COLOR, RELIGION, SEX, DISABILITY, MARITAL STATUS, FAMILIAL STATUS, SEXUAL ORIENTATION, OR NATIONAL ORIGIN AND BECAUSE THE PERSON IS OR HAS BEEN:

(I) SELLING, PURCHASING, RENTING, FINANCING, OCCUPYING, OR CONTRACTING OR NEGOTIATING FOR THE SALE, PURCHASE, RENTAL, FINANCING, OR OCCUPATION OF ANY DWELLING; OR

(II) APPLYING FOR OR PARTICIPATING IN ANY SERVICE, ORGANIZATION, OR FACILITY RELATING TO THE BUSINESS OF SELLING OR RENTING DWELLINGS;

(2) ANY PERSON BECAUSE THE PERSON IS OR HAS BEEN, OR IN ORDER TO INTIMIDATE THE PERSON OR ANY OTHER PERSON OR ANY CLASS OF PERSONS FROM:

(I) PARTICIPATING, WITHOUT DISCRIMINATION ON ACCOUNT OF RACE, COLOR, RELIGION, SEX, DISABILITY, MARITAL STATUS, FAMILIAL STATUS, SEXUAL ORIENTATION, OR NATIONAL ORIGIN, IN ANY OF THE ACTIVITIES, SERVICES, ORGANIZATIONS, OR FACILITIES DESCRIBED IN ITEM (1) OF THIS SUBSECTION; OR

(II) AFFORDING ANOTHER PERSON OR CLASS OF PERSONS THE OPPORTUNITY OR PROTECTION TO PARTICIPATE IN ANY OF THE ACTIVITIES, SERVICES, ORGANIZATIONS, OR FACILITIES DESCRIBED IN ITEM (1) OF THIS SUBSECTION; OR

(3) ANY PERSON BECAUSE THE PERSON IS OR HAS BEEN, OR IN ORDER TO DISCOURAGE THE PERSON OR ANY OTHER PERSON FROM:

(I) LAWFULLY AIDING OR ENCOURAGING OTHER PERSONS TO PARTICIPATE, WITHOUT DISCRIMINATION ON ACCOUNT OF RACE, COLOR, RELIGION, SEX, DISABILITY, MARITAL STATUS, FAMILIAL STATUS, SEXUAL ORIENTATION, OR NATIONAL ORIGIN, IN ANY OF THE ACTIVITIES, SERVICES, ORGANIZATIONS, OR FACILITIES DESCRIBED IN ITEM (1) OF THIS SUBSECTION; OR

(II) PARTICIPATING LAWFULLY IN SPEECH OR PEACEFUL ASSEMBLY OPPOSING ANY DENIAL OF THE OPPORTUNITY TO PARTICIPATE IN ANY OF THE ACTIVITIES, SERVICES, ORGANIZATIONS, OR FACILITIES DESCRIBED IN ITEM (1) OF THIS SUBSECTION.

(C) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

(1) IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$1,000 OR BOTH;

(2) IF THE VIOLATION RESULTS IN BODILY INJURY, IMPRISONMENT NOT EXCEEDING 10 YEARS OR A FINE NOT EXCEEDING \$10,000 OR BOTH; OR

(3) IF THE VIOLATION RESULTS IN DEATH, IMPRISONMENT NOT EXCEEDING LIFE.

REVISOR'S NOTE: Subsection (a) of this section is new language added to provide a convenient cross-reference to terms defined elsewhere in this title.

Subsections (b) and (c) of this section are new language derived without substantive change from former Art. 49B, § 37.

In the introductory language of subsection (c) of this section, the reference to being "guilty of a misdemeanor" is added to state expressly that which was only implied in the former law. In this State, any crime that was not a felony at common law and has not been declared a felony by statute is considered to be a misdemeanor. *See State v. Canova*, 278 Md. 483, 490 (1976); *Bowser v. State*, 136 Md. 342, 345 (1920); *Williams v. State*, 4 Md. App. 342, 347 (1968); and *Dutton v. State*, 123 Md. 373, 378 (1914).

In subsection (c)(3) of this section, the former reference to imprisonment "for any term of years" is deleted as unnecessary in light of the reference to imprisonment "not exceeding life".

Defined terms: "Person" § 1-101
"Sexual orientation" § 20-101

20-1104. MAKING COMPLAINT MALICIOUSLY.

(A) CONSTRUCTION OF SECTION.

THIS SECTION DOES NOT AFFECT THE RIGHT OF A RESPONDENT TO BRING A CIVIL ACTION AGAINST A PERSON THAT HAS FILED A COMPLAINT UNDER SUBTITLE 10, PART I OF THIS TITLE.

(B) PROHIBITED ACT.

A PERSON IS GUILTY OF A MISDEMEANOR IF:

(1) THE PERSON HAS CLAIMED TO BE AGGRIEVED UNDER SUBTITLE 10, PART I OF THIS TITLE;

(2) THE PERSON HAS PURSUED THE COMPLAINT UNDER §§ 20-1006 AND 20-1008 THROUGH 20-1011 OF THIS TITLE;

(3) THE COMMISSION HAS:

(I) FOUND THE COMPLAINT TO BE UNFOUNDED; OR

(II) DISMISSED THE COMPLAINT WITHOUT FURTHER ACTION AGAINST THE RESPONDENT; AND

(4) THE COURT HAS FOUND THE COMPLAINT TO HAVE BEEN MADE MALICIOUSLY.

(C) PENALTY.

A PERSON CONVICTED UNDER THIS SECTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$500 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 12(b).

In subsection (a) of this section, the reference to "a person" that has filed a complaint is substituted for the former reference to "one" that has filed a complaint for clarity and consistency within this title.

In the introductory language of subsection (b) of this section, the former parenthetical "(including one acting for or on behalf of a firm, association, or corporation)" is deleted as included in the reference to a "person".

In subsection (c) of this section, the former phrases "in the appropriate criminal court" and "in the discretion of the court" are deleted as surplusage.

The Human Relations Commission Law Article Review Committee notes, for consideration by the General Assembly, that this section is an

anachronism that doesn't make sense in the current statutory scheme. Under Subtitle 10, Part I of this title, it is not possible for a person to pursue a complaint administratively if the Human Relations Commission finds no probable cause to believe that a discriminatory act has been or is being committed. The General Assembly may wish to repeal this section. The Human Relations Commission Law Article Review Committee further notes that the repeal of this section would not affect the right of a respondent to bring a civil action against a person that has filed a complaint maliciously under Subtitle 10, Part I of this title.

Defined terms: "Commission" § 20-101

"Person" § 1-101

"Respondent" § 20-101

20-1105. REMUNERATION FOR PARTICIPATION IN RACIAL DEMONSTRATION.

(A) PROHIBITED ACT.

A PERSON MAY NOT RECEIVE ANY REMUNERATION FOR PARTICIPATION IN A RACIAL DEMONSTRATION IN THE STATE.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$1,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 6.

In subsection (a) of this section, the former reference to remuneration "of any kind whatsoever" is deleted as surplusage.

In subsection (b) of this section, the reference to being "guilty of a misdemeanor" is added to state expressly that which was only implied in the former law. In this State, any crime that was not a felony at common law and has not been declared a felony by statute is considered to be a misdemeanor. *See State v. Canova*, 278 Md. 483, 490 (1976); *Bowser v. State*, 136 Md. 342, 345 (1920); *Williams v. State*, 4 Md. App. 342, 347 (1968); and *Dutton v. State*, 123 Md. 373, 378 (1914).

The Human Relations Commission Law Article Review Committee notes, for consideration by the General Assembly, that the Office of the Attorney General has advised that "a court would likely hold that an attempt to enforce [this section] would violate the First Amendment of the United

States Constitution, as well as Article 40 of the Maryland Declaration of Rights” and recommended that the General Assembly repeal this section when it revises Article 49B. The Human Relations Commission Law Article Review Committee concurs with this recommendation.

Defined term: “Person” § 1–101

SUBTITLE 12. CIVIL ACTIONS — VIOLATIONS OF COUNTY DISCRIMINATION LAWS.

20–1201. “PREVAILING PARTY” DEFINED.

IN THIS SUBTITLE, “PREVAILING PARTY” HAS THE MEANING AS JUDICIALLY DETERMINED UNDER 42 U.S.C. § 1988.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 49B, § 41.

The reference to having the meaning “as judicially determined under” 42 U.S.C. § 1988 is substituted for the former reference to having the meaning “stated in” that section for clarity and accuracy. “Prevailing party” is not defined in 42 U.S.C. § 1988, but has been interpreted by the federal courts under that section.

20–1202. HOWARD, MONTGOMERY, AND PRINCE GEORGE’S COUNTIES.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY IN HOWARD COUNTY, MONTGOMERY COUNTY, AND PRINCE GEORGE’S COUNTY.

(B) CIVIL ACTION AUTHORIZED.

IN ACCORDANCE WITH THIS SECTION, A PERSON THAT IS SUBJECTED TO A DISCRIMINATORY ACT PROHIBITED BY THE COUNTY CODE MAY BRING AND MAINTAIN A CIVIL ACTION AGAINST THE PERSON THAT COMMITTED THE ALLEGED DISCRIMINATORY ACT FOR DAMAGES, INJUNCTIVE RELIEF, OR OTHER CIVIL RELIEF.

(C) TIME FOR FILING; VENUE.

(1) AN ACTION UNDER SUBSECTION (B) OF THIS SECTION SHALL BE COMMENCED IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE

ALLEGED DISCRIMINATORY ACT OCCURRED WITHIN 2 YEARS AFTER THE OCCURRENCE OF THE ALLEGED DISCRIMINATORY ACT.

(2) (I) SUBJECT TO PARAGRAPH (1) OF THIS SUBSECTION, AN ACTION UNDER SUBSECTION (B) OF THIS SECTION ALLEGING DISCRIMINATION IN EMPLOYMENT OR PUBLIC ACCOMMODATIONS MAY NOT BE COMMENCED SOONER THAN 45 DAYS AFTER THE AGGRIEVED PERSON FILES A COMPLAINT WITH THE COUNTY UNIT RESPONSIBLE FOR HANDLING VIOLATIONS OF THE COUNTY DISCRIMINATION LAWS.

(II) SUBJECT TO PARAGRAPH (1) OF THIS SUBSECTION, AN ACTION UNDER SUBSECTION (B) OF THIS SECTION ALLEGING DISCRIMINATION IN REAL ESTATE MAY BE COMMENCED AT ANY TIME.

(D) FEES AND COSTS.

IN A CIVIL ACTION UNDER THIS SECTION, THE COURT MAY AWARD THE PREVAILING PARTY REASONABLE ATTORNEY'S FEES, EXPERT WITNESS FEES, AND COSTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, §§ 42 and 40(a).

In subsections (b) and (c)(1) of this section, the references to a "discriminatory act" are substituted for the former references to an "act of discrimination" and the "discrimination", respectively, for consistency within this section.

In subsection (b) of this section, the reference to this "section" is substituted for the former overbroad reference to this "subtitle".

In subsection (c)(2)(i) of this section, the reference to the county "unit" is substituted for the former reference to the county "agency" for consistency throughout this title. *See* General Revisor's Note to title.

In subsection (d) of this section, the former phrase "in its discretion" is deleted as surplusage.

Defined terms: "Person" § 1-101
"Prevailing party" § 20-1201

20-1203. BALTIMORE COUNTY.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY IN BALTIMORE COUNTY.

(B) CIVIL ACTION AUTHORIZED.

IN ACCORDANCE WITH THIS SECTION, A PERSON THAT IS EMPLOYED BY AN EMPLOYER WITH FEWER THAN 15 EMPLOYEES AND THAT IS SUBJECTED TO A DISCRIMINATORY ACT PROHIBITED BY THE COUNTY CODE MAY BRING AND MAINTAIN A CIVIL ACTION AGAINST THE EMPLOYER THAT COMMITTED THE ALLEGED DISCRIMINATORY ACT FOR RELIEF AS PROVIDED UNDER SUBSECTION (D) OF THIS SECTION.

(C) TIME FOR FILING; VENUE.

(1) AN ACTION UNDER SUBSECTION (B) OF THIS SECTION SHALL BE COMMENCED IN THE CIRCUIT COURT FOR BALTIMORE COUNTY WITHIN 2 YEARS AFTER THE OCCURRENCE OF THE ALLEGED DISCRIMINATORY ACT.

(2) SUBJECT TO PARAGRAPH (1) OF THIS SUBSECTION, AN ACTION UNDER SUBSECTION (B) OF THIS SECTION MAY NOT BE COMMENCED SOONER THAN 60 DAYS AFTER THE AGGRIEVED PERSON FILES A COMPLAINT WITH THE COUNTY UNIT RESPONSIBLE FOR HANDLING VIOLATIONS OF THE COUNTY DISCRIMINATION LAWS.

(D) RELIEF; ATTORNEY'S FEES.

(1) IN A CIVIL ACTION UNDER THIS SECTION, THE COURT MAY AWARD THE PREVAILING PARTY:

- (I) INJUNCTIVE RELIEF;**
- (II) COMPENSATORY DAMAGES, INCLUDING BACK PAY; OR**
- (III) BOTH INJUNCTIVE RELIEF AND COMPENSATORY DAMAGES.**

(2) A PREVAILING PARTY MAY NOT BE AWARDED PUNITIVE DAMAGES UNDER THIS SECTION.

(3) THE COURT MAY AWARD THE PREVAILING PARTY REASONABLE ATTORNEY'S FEES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, §§ 43 and 40(b).

In subsection (b) of this section, the reference to this "section" is substituted for the former overbroad reference to this "subtitle".

Also in subsection (b) of this section, the reference to a "discriminatory act" is substituted for the former reference to an "act of discrimination" for consistency within this section.

Also in subsection (b) of this section, the former reference to "civil" relief is deleted as unnecessary in light of the references to a "civil action" and relief "as provided under subsection (d) of this section".

In subsection (c)(2) of this section, the reference to the county "unit" is substituted for the former reference to the county "agency" for consistency throughout this title. *See* General Revisor's Note to title.

In subsection (d) of this section, the former phrase "in its discretion" is deleted as surplusage.

Defined terms: "Including" § 1-101

"Person" § 1-101

"Prevailing party" § 20-1201

GENERAL REVISOR'S NOTE TO TITLE:

The Department of Legislative Services is charged with revising the law in a clear, concise, and organized manner, without changing the effect of the law. One precept of code revision has been that, once something is said, it should be said in the same way every time. To that end, the Human Relations Commission Law Article Review Committee conformed the language and organization of Title 20 to that of the rest of the State Government Article and other previously enacted revised articles to the extent possible.

It is the manifest intent both of the General Assembly and the Human Relations Commission Law Article Review Committee that this bulk revision of the substantive laws regarding human relations render no substantive change. The guiding principle of the preparation of Title 20 of the State Government Article is that stated in *Welch v. Humphrey*, 200 Md. 410, 417 (1952):

[T]he principal function of a Code is to reorganize the statutes and state them in simpler form. Consequently any changes made in them by a Code are presumed to be for the purpose of clarity rather than change of meaning. Therefore, even a change in the phraseology of a statute by a codification thereof will not ordinarily modify the law, unless the change

is so radical and material that the intention of the Legislature to modify the law appears unmistakably from the language of the Code. (citations omitted).

Accordingly, except to the extent that changes, which are noted in Revisor's Notes, clarify the former law, the enactment of this title in no way is intended to make any change to the substantive law of Maryland.

Throughout this title, as in other revised articles, the word "regulations" generally is substituted for former references to "rules and regulations" to distinguish, to the extent possible, between regulations of executive units and rules of judicial or legislative units and to establish consistency in the use of the words. This substitution conforms to the practice of the Division of State Documents.

In many provisions in this title, as in other revised articles, the word "unit" is substituted for former references to governmental entities such as an "agency", "department", "board", or "commission". In revised articles of the Code, the word "unit" is used as the general term for an organization in government because it is broad enough to include all such entities.

References to current units and positions are substituted for obsolete references to entities and positions that have been abolished or have otherwise ceased to exist.

In § 20-202 of this article ("Membership"), there is a subsection captioned "Tenure; vacancies". A standard paragraph included in that subsection provides that a "member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies". This paragraph applies: (1) when a successor is appointed to replace a member who has died, resigned, or failed for any other reason to complete a term; (2) when a member is appointed to succeed a member who has "held over" into the next term, pending the delayed appointment and qualification of the successor; or (3) when, in any other situation, a member takes office after a term has begun, *e.g.*, when, at the completion of a term, there is a delay in the appointment of a successor but the member who served the prior term does not "hold over".

In some instances, the staff of the Department of Legislative Services may create "Special Revisor's Notes" to reflect the substantive effect of legislation enacted during the 2009 Session on some provisions of this title.

SECTION 3. AND BE IT FURTHER ENACTED, That it is the intention of the General Assembly that, except as expressly provided in this Act, this Act shall be construed as a nonsubstantive revision, and may not otherwise be construed to render any substantive change in the law of the State.

SECTION 4. AND BE IT FURTHER ENACTED, That the catchlines, captions, Revisor's Notes, Special Revisor's Notes, and General Revisor's Notes contained in this Act are not law and may not be considered to have been enacted as a part of this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That nothing in this Act affects the term of office of an appointed or elected member of any commission, office, department, agency, or other unit. An individual who is a member of a unit on the effective date of this Act shall remain a member for the balance of the term to which appointed or elected, unless the member sooner dies, resigns, or is removed under provisions of law.

SECTION 6. AND BE IT FURTHER ENACTED, That, except as expressly provided to the contrary in this Act, any transaction or employment status affected by or flowing from any change of nomenclature or any statute amended, repealed, or transferred by this Act and validly entered into or existing before the effective date of this Act and every right, duty, or interest flowing from a statute amended, repealed, or transferred by this Act remains valid after the effective date of this Act and may be terminated, completed, consummated, or enforced as required or allowed by any statute amended, repealed, or transferred by this Act as though the repeal, amendment, or transfer had not occurred. If a change in nomenclature involves a change in name or designation of any State unit, the successor unit shall be considered in all respects as having the powers and obligations granted the former unit.

SECTION 7. AND BE IT FURTHER ENACTED, That the continuity of every commission, office, department, agency, or other unit is retained. The personnel, records, files, furniture, fixtures, and other properties and all appropriations, credits, assets, liabilities, and obligations of each retained unit are continued as the personnel, records, files, furniture, fixtures, properties, appropriations, credits, assets, liabilities, and obligations of the unit under the laws enacted by this Act.

SECTION 8. AND BE IT FURTHER ENACTED, That this Act does not rescind, supersede, change, or modify any rule adopted by the Court of Appeals that is or was in effect on the effective date of this Act concerning the practice and procedure in and the administration of the appellate courts and the other courts of this State.

SECTION 9. AND BE IT FURTHER ENACTED, That the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, cross-references and terminology rendered incorrect by this Act or by any other Act of the General Assembly of 2009 that affects provisions enacted by this Act. The publisher shall adequately describe any such correction in an editor's note following the section affected.

SECTION 10. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, April 14, 2009.