

but if a majority of the electors voting on such question vote "no," then the authorization shall be withdrawn.

* * * * *

Section 2. This act shall take effect immediately.

Act effective
immediately.

APPROVED—The 21st day of February, A. D. 1961.

DAVID L. LAWRENCE

No. 19

AN ACT

Amending the act of October 27, 1955 (P. L. 744), entitled "An act prohibiting certain practices of discrimination because of race, color, religious creed, ancestry, age or national origin by employers, employment agencies, labor organizations and others as herein defined; creating the Pennsylvania Fair Employment Practice Commission in the Department of Labor and Industry; defining its functions, powers and duties; providing for procedure and enforcement; providing for formulation of an educational program to prevent prejudice; providing for judicial review and enforcement; and imposing penalties," prohibiting discrimination in the selling, leasing or financing of commercial housing and discrimination in places of public accommodation, resort or amusement because of race, color, religious creed, ancestry or national origin; changing the name of the Pennsylvania Fair Employment Practice Commission to the Pennsylvania Human Relations Commission; and qualifying the scope of the act.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Pennsylvania
Human Relations
Act.

Section 1. The title and sections 1, 2, 3 and 4, act of October 27, 1955 (P. L. 744), known as the "Pennsylvania Fair Employment Practice Act," are amended to read:

Title and
sections 1, 2, 3
and 4, act of
October 27, 1955.
P. L. 744,
amended.

AN ACT

Prohibiting certain practices of discrimination because of race, color, religious creed, ancestry, age or national origin by employers, employment agencies, labor organizations and others as herein defined; creating the Pennsylvania [Fair Employment Practice] *Human Relations* Commission in the Department of Labor and Industry; defining its functions, powers and duties; providing for procedure and enforcement; providing for formulation of an educational program to prevent prejudice; providing for judicial review and enforcement and imposing penalties.

New title.

Section 1. Short Title.—This act may be cited as the "Pennsylvania [Fair Employment Practice] *Human Relations* Act."

Pennsylvania
Human Relations
Act.

Practice of discrimination in employment, and housing and public accommodation opportunities.

Section 2. Findings and Declaration of Policy.—

(a) The practice or policy of discrimination against individuals or groups by reason of their race, color, religious creed, ancestry, age or national origin is a matter of concern of the Commonwealth. Such discrimination foments domestic strife and unrest, threatens the rights and privileges of the inhabitants of the Commonwealth, and undermines the foundations of a free democratic state. The denial of equal employment, *housing and public accommodation* opportunities because of such discrimination, and the consequent failure to utilize the productive capacities of individuals to their fullest extent, deprives large segments of the population of the Commonwealth of earnings necessary to maintain decent standards of living, necessitates their resort to public relief and intensifies group conflicts, thereby resulting in grave injury to the public health and welfare, *compels many individuals to live in dwellings which are substandard, unhealthful and overcrowded, resulting in racial segregation in public schools and other community facilities, juvenile delinquency and other evils, thereby threatening the peace, health, safety and general welfare of the Commonwealth and its inhabitants.*

Public policy discrimination.

(b) It is hereby declared to be the public policy of this Commonwealth to foster the employment of all individuals in accordance with their fullest capacities regardless of their race, color, religious creed, ancestry, age or national origin, and to safeguard their right to obtain and hold employment without such discrimination, *to assure equal opportunities to all individuals and to safeguard their rights at places of public accommodation and to secure commercial housing regardless of race, color, religious creed, ancestry or national origin.*

Police power.

(c) This act shall be deemed an exercise of the police power of the Commonwealth for the protection of the public welfare, prosperity, health and peace of the people of the Commonwealth of Pennsylvania.

Declaration of civil right.

Section 3. Right to Freedom from Discrimination in Employment, *Housing and Places of Public Accommodation*.—The opportunity for an individual to *obtain* employment for which he is qualified, *and to obtain all the accommodations, advantages, facilities and privileges of any place of public accommodation and of commercial housing* without discrimination because of race, color, religious creed, ancestry, age or national origin [is] *are* hereby recognized as and declared to be [a civil right] *civil rights* which shall be enforceable [only] as set forth in this act.

Definitions.

Section 4. Definitions.—As used in this act unless a different meaning clearly appears from the context:

(a) The term "person" includes one or more individuals, partnerships, associations, organizations, corporations, legal representatives, trustees in bankruptcy or receivers. *It also includes, but is not limited to, any owner, lessor, assignor, builder, manager, broker, salesman, agent, employe, lending institution and the Commonwealth of Pennsylvania, and all political subdivisions, authorities, boards and commissions thereof.*

(b) The term "employer" includes the Commonwealth or any political subdivision or board, department, commission or school district thereof and any person employing twelve or more persons within the Commonwealth, but does not include religious, fraternal, charitable or sectarian corporations or associations, except such corporations or associations supported, in whole or in part, by governmental appropriations.

(c) The term "employe" does not include any individual employed in agriculture or in the domestic service of any person, nor any individual employed by his parents, spouse or child.

(d) The term "labor organizations" includes any organization which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment or of other mutual aid or protection in relation to employment.

(e) The term "employment agency" includes any person regularly undertaking, with or without compensation, to procure opportunities to work or to procure, recruit, refer or place employes.

(f) The term "Commission" means the Pennsylvania [Fair Employment Practice] *Human Relations Commission* created by this act.

(g) The term "discriminate" includes segregate.

(h) The term "age" includes any person between the ages of forty and sixty-two inclusive.

(i) *The term "housing accommodations" includes (1) any building or structure or portion thereof which is used or occupied or is intended, arranged or designed to be used or occupied as the home residence or sleeping place of one or more individuals, groups or families whether or not living independently of each other; and (2) any vacant land offered for sale or lease for commercial housing.*

(j) *The term "commercial housing" means housing accommodations held or offered for sale or rent (1) by a real estate broker, salesman or agent, or by any other person pursuant to authorization of the owner; (2) by the owner himself; or (3) by legal representatives, but shall not include any personal residence offered for sale or rent by the owner or by his broker, salesman, agent or employe.*

(k) The term "personal residence" means a building or structure containing living quarters occupied or intended to be occupied by no more than two individuals, two groups or two families living independently of each other and used by the owner thereof as a bona fide residence for himself and any members of his family forming his household.

(l) The term "place of public accommodation, resort or amusement" means any place which is open to, accepts or solicits the patronage of the general public, including but not limited to inns, taverns, roadhouses, hotels, motels, whether conducted for the entertainment of transient guests or for the accommodation of those seeking health, recreation or rest, or restaurants or eating houses, or any place where food is sold for consumption on the premises, buffets, saloons, barrooms or any store, park or enclosure where spirituous or malt liquors are sold, ice cream parlors, *confectioneries, soda fountains and all stores where ice cream, ice and fruit preparations or their derivatives, or where beverages of any kind are retailed for consumption on the premises, drug stores, dispensaries, clinics, hospitals, bathhouses, swimming pools, barber shops, beauty parlors, retail stores and establishments, theatres, motion picture houses, airdromes, roof gardens, music halls, race courses, skating rinks, amusement and recreation parks, fairs, bowling alleys, gymnasiums, shooting galleries, billiard and pool parlors, public libraries, kindergartens, primary and secondary schools, high schools, academies, colleges and universities, extension courses and all educational institutions under the supervision of this Commonwealth, garages and all public conveyances operated on land or water or in the air as well as the stations, terminals and airports thereof, but shall not include any accommodations which are in their nature distinctly private.

Subsections (a) and (b), section 5 of the act amended March 28, 1956, P. L. 1354, further amended.

Unlawful Discriminatory Practices.

Section 2. Section 5 of the act, subsections (a) and (b), amended March 28, 1956 (P. L. 1354), is amended to read:

Section 5. Unlawful [Employment] *Discriminatory Practices*.—It shall be an unlawful [employment] *discriminatory* practice, unless based upon a bona fide occupational qualification, or except where based upon applicable security regulations established by the United States or the Commonwealth of Pennsylvania:

(a) For any employer because of the race, color, religious creed, ancestry, age or national origin of any individual to refuse to hire or employ, or to bar or to discharge from employment such individual, or to otherwise discriminate against such individual with respect to compensation, hire, tenure, terms, conditions or privi-

* "confectionaries" in original.

leges of employment, if the individual is the best able and most competent to perform the services required. The provision of this paragraph shall not apply, to (1) termination of employment because of the terms or conditions of any bona fide retirement or pension plan, (2) operation of the terms or conditions of any bona fide retirement or pension plan which have the effect of a minimum service requirement, (3) operation of the terms or conditions of any bona fide group or employe insurance plan.

(b) For any employer, employment agency or labor organization, prior to the employment or admission to membership, to

(1) Elicit any information or make or keep a record of or use any form of application or application blank containing questions or entries concerning the race, color, religious creed, ancestry or national origin of any applicant for employment or membership.

(2) Print or publish or cause to be printed or published any notice or advertisement relating to employment or membership indicating any preference, limitation, specification or discrimination based upon race, color, religious creed, ancestry, age or national origin.

(3) Deny or limit, through a quota system, employment or membership because of race, color, religious creed, ancestry, age, national origin or place of birth.

(4) Substantially confine or limit recruitment or hiring of individuals, with intent to circumvent the spirit and purpose of this act, to any employment agency, employment service, labor organization, training school or training center or any other employe-referring source which services individuals who are predominantly of the same race, color, religious creed, ancestry, age or national origin.

(c) For any labor organization because of the race, color, religious creed, ancestry, age or national origin of any individual to deny full and equal membership rights to any individual or otherwise to discriminate against such individuals with respect to hire, tenure, terms, conditions or privileges of employment or any other matter, directly or indirectly, related to employment.

(d) For any employer, employment agency or labor organization to discriminate in any manner against any individual because such individual has opposed any practice forbidden by this act, or because such individual has made a charge, testified or assisted, in any manner, in any investigation, proceeding or hearing under this act.

(e) For any person, whether or not an employer, employment agency, labor organization or employe, to aid, abet, incite, compel or coerce the doing of any act declared by this section to be an unlawful [employment]

discriminatory practice, or to obstruct or prevent any person from complying with the provisions of this act or any order issued thereunder, or to attempt, directly or indirectly, to commit any act declared by this section to be unlawful [employment] *discriminatory* practice.

(f) For any employment agency to fail or refuse to classify properly, refer for employment or otherwise to discriminate against any individual because of his race, color, religious creed, ancestry, age or national origin.

(g) For any individual seeking employment to publish or cause to be published any advertisement which specifies or in any manner expresses his race, color, religious creed, ancestry, age or national origin, or in any manner expresses a limitation or preference as to the race, color, religious creed, ancestry, age or national origin of any prospective employer.

(h) For any person to:

(1) Refuse to sell, lease, finance or otherwise to deny or withhold commercial housing from any person because of the race, color, religious creed, ancestry or national origin of any prospective owner, occupant or user of such commercial housing.

(2) Refuse to lend money, whether or not secured by mortgage or otherwise for the acquisition, *construction, rehabilitation, repair or maintenance of commercial housing or otherwise withhold financing of commercial housing from any person because of the race, color, religious creed, ancestry or national origin of any present or prospective owner, occupant or user of such commercial housing.

(3) Discriminate against any person in the terms or conditions of selling or leasing any commercial housing or in furnishing facilities, services or privileges in connection **with the ownership, occupancy or use of any commercial housing because of the race, color, religious creed, ancestry or national origin of any present or prospective owner, occupant or user of such commercial housing.

(4) Discriminate against any person in the terms or conditions of any loan of money, whether or not secured by mortgage or otherwise for the acquisition, construction, rehabilitation, repair or maintenance of commercial housing because of the race, color, religious creed, ancestry or national origin of any present or prospective owner, occupant or user of such commercial housing.

(5) Print, publish or circulate any statement or advertisement relating to the sale, lease or acquisition of any commercial housing or the loan of money, whether or not secured by mortgage, or otherwise for the ac-

* "construction" in original.

** "wth" in original.

quisition, construction, rehabilitation, repair or maintenance of commercial housing which indicates any preference, limitation, specification, or discrimination based upon race, color, religious creed, ancestry or national origin.

(6) Make any inquiry, elicit any information, make or keep any record or use any form of application, containing questions or entries concerning race, color, religious creed, ancestry or national origin in connection with the sale or lease of any commercial housing or loan of any money, whether or not secured by mortgage or otherwise for the acquisition, construction, rehabilitation, repair or maintenance of commercial housing.

(i) For any person being the owner, lessee, proprietor, manager, superintendent, agent or employe of any place of public accommodation, resort or amusement to

(1) Refuse, withhold from, or deny to any person because of his race, color, religious creed, ancestry or national origin, either directly or indirectly, any of the accommodations, advantages, facilities or privileges of such place of public accommodation, resort or amusement.

(2) Publish, circulate, issue, display, post or mail, either directly or indirectly, any written or printed communication, notice or advertisement to the effect that any of the accommodations, advantages, facilities and privileges of any such place shall be refused, withheld from or denied to any person on account of race, color, religious creed, ancestry or national origin or that the patronage or custom thereof of any person, belonging to or purporting to be of any particular race, color, religious creed, ancestry or national origin is unwelcome, objectionable or not acceptable, desired or solicited.

Nothing in subsection (h) of this section shall bar any religious or denominational institution or organization or any charitable or educational organization, which is operated, supervised or controlled by or in connection with a religious organization or any bona fide private or fraternal organization from giving preference to persons of the same religion or denomination or to members of such private or fraternal organization or from making such selection as is calculated by such organization to promote the religious principles or the aims, purposes or fraternal principles for which it is established or maintained.

Section 3. The first paragraph of section 6, subsection (f) of section 7, sections 9 and 10 and subsection (b) of section 12 of the act are amended to read:

First paragraph section 6, subsection (f), section 7, sections 9 and 10, and subsection (b), section 12 of the act, amended,

Pennsylvania
Human Relations
Commission.

Section 6. Pennsylvania [Fair Employment Practice] *Human Relations* Commission.—There shall be, and there is hereby established in the Department of Labor and Industry a non-partisan, departmental administrative commission for the administration of this act, which shall be known as the “Pennsylvania [Fair Employment Practice] *Human Relations* Commission,” and which is hereinafter referred to as the “Commission.”

* * * * *

Powers and
duties of
Commission.

Section 7. Powers and Duties of the Commission.—The Commission shall have the following powers and duties:

* * * * *

(f) To initiate, receive, investigate and pass upon complaints charging unlawful [employment] *discriminatory* practices.

* * * * *

Procedure before
the Commission
by initiating
action, investi-
gating facts,
making deter-
minations, and
enforcing com-
pliance of act.

Section 9. Procedure.—Any individual claiming to be aggrieved by an alleged unlawful [employment] *discriminatory* practice may make, sign and file with the Commission a verified complaint, in writing, which shall state the name and address of the person, employer, labor organization or employment agency alleged to have committed the unlawful [employment] *discriminatory* practice complained of, and which shall set forth the particulars thereof and contain such other information as may be required by the Commission. The Commission upon its own initiative or the Attorney General may, in like manner, make, sign and file such complaint. Any employer whose employes, or some of them, hinder or threaten to hinder compliance with the provisions of this act may file with the Commission a verified complaint, asking for assistance by conciliation or other remedial action and, during such period of conciliation or other remedial action, no hearings, orders or other actions shall be taken by the Commission against such employer.

After the filing of any complaint, or whenever there is reason to believe that an unlawful [employment] *discriminatory* practice has been committed, the Commission shall make a prompt investigation in connection therewith.

If it shall be determined after such investigation that no probable cause exists for crediting the allegations of the complaint, the Commission shall, within ten days from such determination, cause to be issued and served upon the complainant written notice of such determination, and the said complainant or his attorney may, within ten days after such service, file with the Commission a written request for a preliminary hearing before the Commission to determine probable cause for

crediting the allegations of the complaint. If it shall be determined after such investigation that probable cause exists for crediting the allegations of the complaint, the Commission shall immediately endeavor to eliminate the unlawful [employment] *discriminatory* practice complained of by conference, conciliation and persuasion. The members of the Commission and its staff shall not disclose what has transpired in the course of such endeavors: Provided, That the Commission may publish the facts in the case of any complaint which has been dismissed, and the terms of conciliation when the complaint has been adjusted, without disclosing the identity of the parties involved.

In case of failure so to eliminate such practice or in advance thereof, if in the judgment of the Commission circumstances so warrant, the Commission shall cause to be issued and served a written notice, together with a copy of such complaint as the same may have been amended, requiring the person, employer, labor organization or employment agency named in such complaint, hereinafter referred to as respondent, to answer the charges of such complaint at a hearing before the Commission at a time and place to be specified in such notice. The place of any such hearing shall be in the county in which the alleged offense was committed.

The case in support of the complaint shall be presented before the Commission by one of its attorneys or agents. The respondent may file a written, verified answer to the complaint and appear at such hearing in person or otherwise, with or without counsel, and submit testimony. The complainant may likewise appear at such hearing in person or otherwise, with or without counsel, and submit testimony. The Commission or the complainant shall have the power reasonably and fairly to amend any complaint, and the respondent shall have like power to amend his answer. The Commission shall not be bound by the strict rules of evidence prevailing in courts of law or equity. The testimony taken at the hearing shall be under oath and be transcribed.

If, upon all the evidence at the hearing, the Commission shall find that a respondent has engaged in or is engaging in any unlawful [employment] *discriminatory* practice as defined in this act, the Commission shall state its findings of fact, and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such unlawful [employment] *discriminatory* practice and to take such affirmative action including but not limited to hiring, reinstatement or upgrading of employes, with or without back pay, admission or restoration to membership in any respondent labor organization, or *selling or leasing specified commercial housing upon such equal terms and con-*

ditions and with such equal facilities, services and privileges or lending money, whether or not secured by mortgage or otherwise for the acquisition, construction, rehabilitation, repair or maintenance of commercial housing, upon such equal terms and conditions to any person discriminated against or all persons as, in the judgment of the Commission, will effectuate the purposes of this act, and including a requirement for report of the manner of compliance. If, upon all the evidence, the Commission shall find that a respondent has not engaged in any such unlawful [employment] discriminatory practice, the Commission shall state its findings of fact, and shall issue and cause to be served on the complainant an order dismissing the said complaint as to such respondent.

The Commission shall establish rules or practice to govern, expedite and effectuate the foregoing procedure and its own actions thereunder. Any complaint filed pursuant to this section must be so filed within ninety days after the alleged act of discrimination. Any complaint may be withdrawn at any time by the party filing the complaint.

Section 10. Enforcement and Judicial Review.—The complainant, the Attorney General or the Commission may secure enforcement of the order of the Commission or other appropriate relief by the Court of Common Pleas of Dauphin County. [Such proceeding] *When the Commission has heard and decided any complaint brought before it, enforcement of its order shall be initiated by the filing of a petition in such court, together with a transcript of the record of the hearing before the Commission, and issuance and service of a copy of said petition as in proceedings in equity. [The court shall have power to grant such temporary relief or restraining order as it deems just and proper, and to] When enforcement of a Commission order is sought, the court may make and enter, upon the pleadings, testimony and proceedings set forth in such transcript, an order or decree enforcing, modifying and enforcing as so modified, or setting aside, in whole or in part, the order of the Commission, and the jurisdiction of the court shall not be limited by acts pertaining to equity jurisdiction of the courts. An appeal may be taken as in other civil actions.*

Any failure to obey an order of the court may be punished by said court as a contempt thereof.

The Commission's copy of the testimony shall be available at all reasonable times to all parties for examination without cost, and for the purpose of enforcement or judicial review of the order. The case shall be heard without requirement of printing.

Any order of the Commission may be reviewed under the provisions of the act of June four, one thousand nine hundred forty-five (Pamphlet Laws 1388), known as the "Administrative Agency Law," and its amendments.

Section 12. Construction and Exclusiveness of Remedy.—

* * * * *

(b) Nothing contained in this act shall be deemed to repeal or supersede any of the provisions of any *existing or hereafter adopted* municipal ordinance, municipal charter or of any law of this Commonwealth relating to discrimination because of race, color, religious creed, ancestry, age or national origin, but as to acts declared unlawful by section five of this act the procedure herein provided shall, when invoked, be exclusive and the final determination therein shall exclude any other action, civil or criminal, based on the same grievance of the complainant concerned. If such complainant institutes any action based on such grievance without resorting to the procedure provided in this act, he may not subsequently resort to the procedure herein. In the event of a conflict between the interpretation of a provision of this act and the interpretation of a similar provision contained in any municipal ordinance, the interpretation of the provision in this act shall apply to such municipal ordinance.

APPROVED—The 28th day of February, A. D. 1961.

DAVID L. LAWRENCE

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No. 20

AN ACT

Amending the act of March 10, 1949 (P. L. 30), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," increasing the debt limit of school districts of the first class.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The second paragraph of section 631, the first paragraph of section 632 and sections 637 and 666, act of March 10, 1949 (P. L. 30), known as the "Public School Code of 1949," are amended to read:

Section 631. Power to Incur Debt; Limitations.—

* * *

Public School Code of 1949.

Second paragraph, section 631, first paragraph, section 632, sections 637 and 666, act of March 10, 1949, P. L. 30, further amended.