

Act No. 124
Public Acts of 1992
Approved by the Governor
June 29, 1992
Filed with the Secretary of State
June 29, 1992

**STATE OF MICHIGAN
86TH LEGISLATURE
REGULAR SESSION OF 1992**

Introduced by Reps. Harrison, Joe Young, Sr., Wallace, Bennane, O'Neill, DeMars, Varga, Stallworth, Dobronski, Hood, Keith, Perry Bullard, Kilpatrick, Yokich, Profit and Clarke

ENROLLED HOUSE BILL No. 5030

AN ACT to amend the title and sections 102, 103, 502, 503, 504, 505, 506, 605, and 701 of Act No. 453 of the Public Acts of 1976, entitled as amended "An act to define civil rights; to prohibit discriminatory practices, policies, and customs in the exercise of those rights based upon religion, race, color, national origin, age, sex, height, weight, or marital status; to preserve the confidentiality of records regarding arrest, detention, or other disposition in which a conviction does not result; to prescribe the powers and duties of the civil rights commission and the department of civil rights; to provide remedies and penalties; and to repeal certain acts and parts of acts," section 102 as amended by Act No. 45 of the Public Acts of 1982, section 103 as amended by Act No. 202 of the Public Acts of 1980, and section 505 as amended by Act No. 170 of the Public Acts of 1980, being sections 37.2102, 37.2103, 37.2502, 37.2503, 37.2504, 37.2505, 37.2506, 37.2605, and 37.2701 of the Michigan Compiled Laws; and to add section 506a.

The People of the State of Michigan enact:

Section 1. The title and sections 102, 103, 502, 503, 504, 505, 506, 605, and 701 of Act No. 453 of the Public Acts of 1976, section 102 as amended by Act No. 45 of the Public Acts of 1982, section 103 as amended by Act No. 202 of the Public Acts of 1980, and section 505 as amended by Act No. 170 of the Public Acts of 1980, being sections 37.2102, 37.2103, 37.2502, 37.2503, 37.2504, 37.2505, 37.2506, 37.2605, and 37.2701 of the Michigan Compiled Laws, are amended and section 506a is added to read as follows:

TITLE

An act to define civil rights; to prohibit discriminatory practices, policies, and customs in the exercise of those rights based upon religion, race, color, national origin, age, sex, height, weight, familial status, or marital status; to preserve the confidentiality of records regarding arrest, detention, or other disposition in which a conviction does not result; to prescribe the powers and duties of the civil rights commission and the department of civil rights; to provide remedies and penalties; and to repeal certain acts and parts of acts.

Sec. 102. (1) The opportunity to obtain employment, housing and other real estate, and the full and equal utilization of public accommodations, public service, and educational facilities without discrimination because of religion, race, color, national origin, age, sex, height, weight, familial status, or marital status as prohibited by this act, is recognized and declared to be a civil right.

(2) This section shall not be construed to prevent an individual from bringing or continuing an action arising out of sex discrimination before July 18, 1980 which action is based on conduct similar to or identical to harassment.

(3) This section shall not be construed to prevent an individual from bringing or continuing an action arising out of discrimination based on familial status before the effective date of the amendatory act that added this subsection which action is based on conduct similar to or identical to discrimination because of the age of persons residing with the individual bringing or continuing the action.

Sec. 103. As used in this act:

(a) "Age" means chronological age except as otherwise provided by law.

(b) "Commission" means the civil rights commission established by section 29 of article 5 of the state constitution of 1963.

(c) "Commissioner" means a member of the commission.

(d) "Department" means the department of civil rights or its employees.

(e) "Familial status" means 1 or more individuals under the age of 18 residing with a parent or other person having custody or in the process of securing legal custody of the individual or individuals or residing with the designee of the parent or other person having or securing custody, with the written permission of the parent or other person. For purposes of this definition, "parent" includes a person who is pregnant.

(f) "National origin" includes the national origin of an ancestor.

(g) "Person" means an individual, agent, association, corporation, joint apprenticeship committee, joint stock company, labor organization, legal representative, mutual company, partnership, receiver, trust, trustee in bankruptcy, unincorporated organization, the state or a political subdivision of the state or an agency of the state, or any other legal or commercial entity.

(h) "Political subdivision" means a county, city, village, township, school district, or special district or authority of the state.

(i) Discrimination because of sex includes sexual harassment which means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communication of a sexual nature when:

(i) Submission to such conduct or communication is made a term or condition either explicitly or implicitly to obtain employment, public accommodations or public services, education, or housing.

(ii) Submission to or rejection of such conduct or communication by an individual is used as a factor in decisions affecting such individual's employment, public accommodations or public services, education, or housing.

(iii) Such conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or public services, education, or housing, or creating an intimidating, hostile, or offensive employment, public accommodations, public services, educational, or housing environment.

Sec. 502. (1) A person engaging in a real estate transaction, or a real estate broker or salesman, shall not on the basis of religion, race, color, national origin, age, sex, familial status, or marital status of a person or a person residing with that person:

(a) Refuse to engage in a real estate transaction with a person.

(b) Discriminate against a person in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection with a real estate transaction.

(c) Refuse to receive from a person or transmit to a person a bona fide offer to engage in a real estate transaction.

(d) Refuse to negotiate for a real estate transaction with a person.

(e) Represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or knowingly fail to bring a property listing to a person's attention, or refuse to permit a person to inspect real property, or otherwise make unavailable or deny real property to a person.

(f) Make, print, circulate, post, mail, or otherwise cause to be made or published a statement, advertisement, notice, or sign, or use a form of application for a real estate transaction, or make a record of inquiry in connection with a prospective real estate transaction, which indicates, directly or indirectly, an intent to make a preference, limitation, specification, or discrimination with respect to the real estate transaction.

(g) Offer, solicit, accept, use, or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection therewith.

(h) Discriminate against a person in the brokering or appraising of real property.

(2) A person shall not 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 real property or to discriminate against him or her in the terms or conditions of that access, membership, or participation because of religion, race, color, national origin, age, sex, familial status, or marital status.

(3) This section is subject to section 503.

Sec. 503. (1) Section 502 does not apply to any of the following:

(a) The rental of a housing accommodation in a building that contains housing accommodations for not more than 2 families living independently of each other if the owner or a member of the owner's immediate family resides in 1 of the housing accommodations, or to the rental of a room or rooms in a single family dwelling by a person if the lessor or a member of the lessor's immediate family resides in the dwelling.

(b) The rental of a housing accommodation for not more than 12 months by the owner or lessor if it was occupied by him or her and maintained as his or her home for at least 3 months immediately preceding occupancy by the tenant and is maintained as the owner's or lessor's legal residence.

(c) With respect to the age provision and the familial status provision only, the sale, rental, or lease of housing accommodations meeting the requirements of federal, state, or local housing programs for senior citizens, or accommodations otherwise intended, advertised, designed or operated, bona fide, for the purpose of providing housing accommodations for persons 50 years of age or older.

(2) As used in subsection (1), "immediate family" means a spouse, parent, child, or sibling.

(3) Information relative to the marital status of an individual may be obtained when necessary for the preparation of a deed or other instrument of conveyance.

Sec. 504. (1) A person to whom application is made for financial assistance or financing in connection with a real estate transaction or in connection with the construction, rehabilitation, repair, maintenance, or improvement of real property, or a representative of that person, shall not:

(a) Discriminate against the applicant because of the religion, race, color, national origin, age, sex, familial status, or marital status of the applicant or a person residing with the applicant.

(b) Use a form of application for financial assistance or financing or make or keep a record or inquiry in connection with an application for financial assistance or financing which indicates, directly or indirectly, a preference, limitation, specification, or discrimination as to the religion, race, color, national origin, age, sex, familial status, or marital status of the applicant or a person residing with the applicant.

(2) A person whose business includes engaging in real estate transactions shall not discriminate against a person because of religion, race, color, national origin, age, sex, familial status, or marital status, in the purchasing of loans for acquiring, constructing, improving, repairing, or maintaining a dwelling or the making or purchasing of loans or the provision of other financial assistance secured by residential real estate.

(3) Subsection (1)(b) does not apply to a form of application for financial assistance prescribed for the use of a lender regulated as a mortgagee under the national housing act, chapter 847, 48 Stat. 1246, or by a regulatory board or officer acting under the statutory authority of this state or the United States.

Sec. 505. (1) A condition, restriction, or prohibition, including a right of entry or possibility of reverter, that directly or indirectly limits the use or occupancy of real property on the basis of religion, race, color, national origin, age, sex, familial status, or marital status is void, except a limitation of use as provided in section 503(1)(c) or on the basis of religion relating to real property held by a religious institution or organization, or by a religious or charitable organization operated, supervised, or controlled by a religious institution or organization, and used for religious or charitable purposes.

(2) A person shall not insert in a written instrument relating to real property a provision that is void under this section or honor such a provision in the chain of title.

Sec. 506. A person shall not represent, for the purpose of inducing a real estate transaction from which the person may benefit financially, that a change has occurred or will or may occur in the composition with respect to religion, race, color, national origin, age, sex, familial status, or marital status of the owners or occupants in the block, neighborhood, or area in which the real property is located, or represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located.

Sec. 506a. This article does not preclude the use by a landlord of reasonable accommodations as required by section 102(2) of the Michigan handicappers' civil rights act, Act No. 220 of the Public Acts of 1976, being section 37.1102 of the Michigan Compiled Laws.

Sec. 605. (1) If the commission, after a hearing on a charge issued by the department, determines that the respondent has violated this act or the handicappers' civil rights act, Act No. 220 of the Public Acts of 1976, being sections 37.1101 to 37.1607 of the Michigan Compiled Laws, the commission shall state its findings of fact and conclusions of law and shall issue a final order requiring the respondent to cease and desist from the discriminatory practice and to take such other action as it deems necessary to secure equal enjoyment and protection of civil rights. If at a hearing on a charge, a pattern or practice of discrimination prohibited by this act or Act No. 220 of the Public Acts of 1976 appears in the evidence, the commission may, upon its own motion or on motion of the claimant, amend the pleadings to conform to the proofs, make findings, and issue an order based on those findings. A copy of the order shall be delivered to the respondent, the claimant, the attorney general, and to other public officers and persons as the commission deems proper.

(2) Action ordered under this section may include, but is not limited to:

(a) Hiring, reinstatement, or upgrading of employees with or without back pay.

(b) Admission or restoration of individuals to labor organization membership, admission to or participation in a guidance program, apprenticeship training program, on the job training program, or other occupational training or retraining program, with the utilization of objective criteria in the admission of persons to those programs.

(c) Admission of persons to a public accommodation or an educational institution.

(d) Sale, exchange, lease, rental, assignment, or sublease of real property to a person.

(e) Extension to all persons of the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of the respondent.

(f) Reporting as to the manner of compliance.

(g) Requiring the posting of notices in a conspicuous place which the commission may publish or cause to be published setting forth requirements for compliance with civil rights law or other relevant information which the commission determines necessary to explain those laws.

(h) Payment to an injured party of profits obtained by the respondent through a violation of section 506 of this act or of Act No. 220 of the Public Acts of 1976.

(i) Payment to the complainant of damages for an injury or loss caused by a violation of this act, including a reasonable attorney's fee.

(j) Payment to the complainant of all or a portion of the costs of maintaining the action before the commission, including reasonable attorney fees and expert witness fees, if the commission determines that award to be appropriate.

(k) Payment of a civil fine for a violation of article 5 of this act, an amount directly related to the cost to the state for enforcing this statute not to exceed:

(i) \$10,000.00 for the first violation.

(ii) \$25,000.00 for the second violation within a 5-year period.

(iii) \$50,000.00 for 2 or more violations within a 7-year period.

(l) Other relief the commission deems appropriate.

(3) In the case of a respondent operating by virtue of a license issued by the state, a political subdivision, or an agency of the state or political subdivision, if the commission, upon notice and hearing, determines that the respondent has violated this act and that the violation was authorized, requested, commanded, performed, or knowingly permitted by the board of directors of the respondent or by an officer or executive agent acting within the scope of his or her employment, the commission shall so certify to the licensing agency. Unless the commission's finding is reversed in the course of judicial review, the finding of the commission may be grounds for revocation of the respondent's license.

(4) In the case of a respondent who violates this act in the course of performing under a contract or subcontract with the state, a political subdivision, or an agency of the state or political subdivision, where the violation was authorized, requested, commanded, performed, or knowingly permitted by the board of directors of the respondent or by an officer or executive agent acting within the scope of his or her employment, the commission shall so certify to the contracting agency. Unless the commission's finding is reversed in the course of judicial review, the finding is binding on the contracting agency.

Sec. 701. Two or more persons shall not conspire to, or a person shall not:

(a) Retaliate or discriminate against a person because the person has opposed a violation of this act, or because the person has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under this act.

(b) Aid, abet, incite, compel, or coerce a person to engage in a violation of this act.

(c) Attempt directly or indirectly to commit an act prohibited by this act.

(d) Willfully interfere with the performance of a duty or the exercise of a power by the commission or 1 of its members or authorized representatives.

(e) Willfully obstruct or prevent a person from complying with this act or an order issued or rule promulgated under this act.

(f) Coerce, intimidate, threaten, or interfere with a person in the exercise or enjoyment of, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this act.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.