



1 access to places of public accommodations, and equal opportunity in  
2 the sale, purchase, lease, rental and financing of housing  
3 accommodations or real property. Equal opportunity in the areas of  
4 employment and public accommodations is hereby declared to be a  
5 human right or civil right of all persons without regard to race,  
6 religion, color, national origin, ancestry, sex, age, sexual  
7 orientation, blindness or disability. Equal opportunity in housing  
8 accommodations or real property is hereby declared to be a human  
9 right or civil right of all persons without regard to race,  
10 religion, color, national origin, ancestry, sex, blindness, sexual  
11 orientation, disability or familial status.

12 The denial of these rights to properly qualified persons by  
13 reason of race, religion, color, national origin, ancestry, sex,  
14 age, sexual orientation, blindness, disability or familial status  
15 is contrary to the principles of freedom and equality of  
16 opportunity and is destructive to a free and democratic society.

17 **§5-11-3. Definitions.**

18 When used in this article:

19 (a) The term "person" means one or more individuals,  
20 partnerships, associations, organizations, corporations, labor  
21 organizations, cooperatives, legal representatives, trustees,  
22 trustees in bankruptcy, receivers and other organized groups of  
23 persons;

24 (b) The term "commission" means the West Virginia Human Rights

1 Commission;

2 (c) The term "director" means the executive director of the  
3 commission;

4 (d) The term "employer" means the state, or any political  
5 subdivision thereof, and any person employing twelve or more  
6 persons within the state for twenty or more calendar weeks in the  
7 calendar year in which the act of discrimination allegedly took  
8 place or the preceding calendar year: *Provided*, That ~~such~~ the  
9 terms ~~shall~~ may not be taken, understood or construed to include a  
10 private club: Provided, however, That this article, with regards  
11 to sexual orientation, shall not apply to a corporation,  
12 association, educational institution or institution of learning, or  
13 society that is exempt from the religious discrimination provisions  
14 of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et  
15 seq.) pursuant to section 702(a) or 703(e)(2) of such Act (42  
16 U.S.C. 2000e-1(a), 2000e-2(e)(2)), except in the operation of a  
17 program funded by the state;

18 (e) The term "employee" ~~shall~~ does not include any individual  
19 employed by his or her parents, spouse or child;

20 (f) The term "labor organization" includes any organization  
21 which exists for the purpose, in whole or in part, of collective  
22 bargaining or of dealing with employers concerning grievances,  
23 terms or conditions of employment or for other mutual aid or  
24 protection in relation to employment;

1 (g) The term "employment agency" includes any person  
2 undertaking, with or without compensation, to procure, recruit,  
3 refer or place employees. A newspaper engaged in the activity of  
4 advertising in the normal course of its business shall not be  
5 deemed to be an employment agency;

6 (h) The term "discriminate" or "discrimination" means to  
7 exclude from, or fail or refuse to extend to, a person equal  
8 opportunities because of race, religion, color, national origin,  
9 ancestry, sex, age, sexual orientation, blindness, disability or  
10 familial status and includes to separate or segregate;

11 (i) The term "unlawful discriminatory practices" includes only  
12 those practices specified in section nine of this article;

13 (j) The term "place of public accommodations" means any  
14 establishment or person, as defined herein, including the state, or  
15 any political or civil subdivision thereof, which offers its  
16 services, goods, facilities or accommodations to the general  
17 public, but ~~shall~~ does not include any accommodations which are in  
18 their nature private. To the extent that any ~~penitentiary,~~  
19 correctional facility, detention center, regional jail or county  
20 jail is a place of public accommodation, the rights, remedies and  
21 requirements provided by this article for any violation of  
22 subdivision (6), section nine of this article ~~shall~~ do not apply to  
23 any person other than: (1) Any person employed at a ~~penitentiary,~~  
24 correctional facility, detention center, regional jail or county

1 jail; (2) any person employed by a law-enforcement agency; or (3)  
2 any person visiting any such employee or visiting any person  
3 detained in custody at ~~such~~ the facility;

4 (k) The term "age" means the age of forty or above;

5 (l) For the purpose of this article, a person shall be  
6 considered to be blind only if his or her central visual acuity  
7 does not exceed twenty/two hundred in the better eye with  
8 correcting lenses, or if his or her visual acuity is greater than  
9 twenty/two hundred but is occasioned by a limitation in the fields  
10 of vision such that the widest diameter of the visual field  
11 subtends an angle no greater than twenty degrees; and

12 (m) The term "disability" means:

13 (1) A mental or physical impairment which substantially limits  
14 one or more of ~~such~~ the person's major life activities. The term  
15 "major life activities" includes functions such as caring for one's  
16 self, performing manual tasks, walking, seeing, hearing, speaking,  
17 breathing, learning and working;

18 (2) A record of such impairment; or

19 (3) Being regarded as having such an impairment.

20 For the purposes of this article, this term does not include  
21 persons whose current use of or addiction to alcohol or drugs  
22 prevents ~~such persons~~ the individual from performing the duties of  
23 the job in question or whose employment, by reason of such current  
24 alcohol or drug abuse, would constitute a direct threat to property

1 or the safety of others; and

2 (n) The term "sexual orientation" means heterosexuality,  
3 bisexuality, homosexuality or gender identity or expression,  
4 whether actual or perceived.

5 **§5-11-4. Powers and objectives.**

6 The commission ~~shall have~~ has the power and authority and  
7 shall perform the functions and services as in this article  
8 prescribed and as otherwise provided by law. The commission shall  
9 encourage and endeavor to bring about mutual understanding and  
10 respect among all racial, religious and ethnic groups within the  
11 state and shall strive to eliminate all discrimination in  
12 employment and places of public accommodations by virtue of race,  
13 religion, color, national origin, ancestry, sex, age, sexual  
14 orientation, blindness or ~~handicap~~ disability and shall strive to  
15 eliminate all discrimination in the sale, purchase, lease, rental  
16 or financing of housing and other real property by virtue of race,  
17 religion, color, national origin, ancestry, sex, age, sexual  
18 orientation, blindness, ~~handicap~~ disability or familial status.

19 **§5-11-8. Commission powers; functions; services.**

20 The commission is hereby authorized and empowered:

21 (a) To cooperate and work with federal, state and local  
22 government officers, units, activities and agencies in the  
23 promotion and attainment of more harmonious understanding and  
24 greater equality of rights between and among all racial, religious

1 and ethnic groups in this state;

2 (b) To enlist the cooperation of racial, religious and ethnic  
3 units, community and civic organizations, industrial and labor  
4 organizations and other identifiable groups of the state in  
5 programs and campaigns devoted to the advancement of tolerance,  
6 understanding and the equal protection of the laws of all groups  
7 and peoples;

8 (c) To receive, investigate and pass upon complaints alleging  
9 discrimination in employment or places of public accommodations,  
10 because of race, religion, color, national origin, ancestry, sex,  
11 age, sexual orientation, blindness or disability, and complaints  
12 alleging discrimination in the sale, purchase, lease, rental and  
13 financing of housing accommodations or real property because of  
14 race, religion, color, national origin, ancestry, sex, age, sexual  
15 orientation, blindness, disability or familial status, and to  
16 initiate its own consideration of any situations, circumstances or  
17 problems, including therein any racial, religious or ethnic group  
18 tensions, prejudice, disorder or discrimination reported or  
19 existing within the state relating to employment, places of public  
20 accommodations, housing accommodations and real property;

21 (d) To hold and conduct public and private hearings, in the  
22 county where the respondent resides or transacts business or where  
23 agreed to by the parties or where the acts complained of occurred,  
24 on complaints, matters and questions before the commission and, in

1 connection therewith, relating to discrimination in employment or  
2 places of public accommodations, housing accommodations or real  
3 property and during the investigation of any formal complaint  
4 before the commission relating to employment, places of public  
5 accommodations, housing accommodations or real property to:

6       (1) Issue subpoenas and subpoenas duces tecum upon the  
7 approval of the executive director or the chairperson of the  
8 commission; administer oaths; take the testimony of any person  
9 under oath; and make reimbursement for travel and other reasonable  
10 and necessary expenses in connection with such attendance;

11       (2) Furnish copies of public hearing records to parties  
12 involved therein upon their payment of the reasonable costs thereof  
13 to the commission;

14       (3) Delegate to an administrative law judge who shall be an  
15 attorney, duly licensed to practice law in West Virginia, the power  
16 and authority to hold and conduct hearings, as herein provided, to  
17 determine all questions of fact and law presented during the  
18 hearing and to render a final decision on the merits of the  
19 complaint, subject to the review of the commission as hereinafter  
20 set forth.

21       Any respondent or complainant who shall feel aggrieved at any  
22 final action of an administrative law judge shall file a written  
23 notice of appeal with the commission by serving such notice on the  
24 executive director and upon all other parties within thirty days



1 after receipt of the administrative law judge's decision. The  
2 commission shall limit its review upon such appeals to whether the  
3 administrative law judge's decision is:

4 (A) In conformity with the Constitution and the laws of the  
5 state and the United States;

6 (B) Within the commission's statutory jurisdiction or  
7 authority;

8 (C) Made in accordance with procedures required by law or  
9 established by appropriate rules of the commission;

10 (D) Supported by substantial evidence on the whole record; or

11 (E) Not arbitrary, capricious or characterized by abuse of  
12 discretion or clearly unwarranted exercise of discretion.

13 (4) To enter into conciliation agreements and consent orders.

14 Each conciliation agreement shall include provisions requiring  
15 the respondent to refrain from the commission of unlawful  
16 discriminatory practices in the future and shall contain such  
17 further provisions as may be agreed upon by the commission and the  
18 respondent.

19 If the respondent and the commission agree upon conciliation  
20 terms, the commission shall serve upon the complainant a copy of  
21 the proposed conciliation agreement. If the complainant agrees to  
22 the terms of the agreement or fails to object to such terms within  
23 fifteen days after its service upon him or her, the commission  
24 shall issue an order embodying such conciliation agreement. If the

1 complainant objects to the agreement, he or she shall serve a  
2 specification of his or her objections upon the commission within  
3 ~~such~~ this period. Unless such objections are met or withdrawn  
4 within ten days after service thereof, the commission shall notice  
5 the complaint for hearing.

6 Notwithstanding any other provisions of this section, the  
7 commission may, where it finds the terms of the conciliation  
8 agreement to be in the public interest, execute such agreement, and  
9 limit the hearing to the objections of the complainant.

10 If a conciliation agreement is entered into, the commission  
11 shall serve a copy of the order embodying such agreement upon all  
12 parties to the proceeding.

13 Not later than one year from the date of a conciliation  
14 agreement, the commission shall investigate whether the respondent  
15 is complying with the terms of such agreement. Upon a finding of  
16 noncompliance, the commission shall take appropriate action to  
17 assure compliance;

18 (5) To apply to the circuit court of the county where the  
19 respondent resides or transacts business for enforcement of any  
20 conciliation agreement or consent order by seeking specific  
21 performance of such agreement or consent order;

22 (6) To issue cease and desist orders against any person found,  
23 after a public hearing, to have violated the provisions of this  
24 article or the rules of the commission;

1           (7) To apply to the circuit court of the county where the  
2 respondent resides or transacts business for an order enforcing any  
3 lawful cease and desist order issued by the commission;

4           (e) To recommend to the Governor and Legislature policies,  
5 procedures, practices and legislation in matters and questions  
6 affecting human rights;

7           (f) To delegate to its executive director such powers, duties  
8 and functions as may be necessary and expedient in carrying out the  
9 objectives and purposes of this article;

10          (g) To prepare a written report on its work, functions and  
11 services for each year ending on June 30 and to deliver copies  
12 thereof to the Governor on or before December 1, next thereafter;

13          (h) To do all other acts and deeds necessary and proper to  
14 carry out and accomplish effectively the objects, functions and  
15 services contemplated by the provisions of this article, including  
16 the promulgation of legislative rules in accordance with the  
17 provisions of article three, chapter twenty-nine-a of this code,  
18 implementing the powers and authority hereby vested in the  
19 commission;

20          (i) To create such advisory agencies and conciliation  
21 councils, local, regional or statewide, as in its judgment will aid  
22 in effectuating the purposes of this article, to study the problems  
23 of discrimination in all or specific fields or instances of  
24 discrimination because of race, religion, color, national origin,

1 ancestry, sex, age, sexual orientation, blindness, disability or  
2 familial status; to foster, through community effort or otherwise,  
3 goodwill, cooperation and conciliation among the groups and  
4 elements of the population of this state, and to make  
5 recommendations to the commission for the development of policies  
6 and procedures, and for programs of formal and informal education,  
7 which the commission may recommend to the appropriate state agency.  
8 Such advisory agencies and conciliation councils shall be composed  
9 of representative citizens serving without pay. The commission may  
10 itself make the studies and perform the acts authorized by this  
11 subdivision. It may, by voluntary conferences with parties in  
12 interest, endeavor by conciliation and persuasion to eliminate  
13 discrimination in all the stated fields and to foster goodwill and  
14 cooperation among all elements of the population of the state;

15 (j) To accept contributions from any person to assist in the  
16 effectuation of the purposes of this section and to seek and enlist  
17 the cooperation of private, charitable, religious, labor, civic and  
18 benevolent organizations for the purposes of this section;

19 (k) To issue such publications and such results of  
20 investigation and research as in its judgment will tend to promote  
21 goodwill and minimize or eliminate discrimination: *Provided*, That  
22 the identity of the parties involved ~~shall~~ may not be disclosed.

23 **§5-11-9. Unlawful discriminatory practices.**

24 It shall be an unlawful discriminatory practice, unless based

1 upon a bona fide occupational qualification, or except where based  
2 upon applicable security regulations established by the United  
3 States or the State of West Virginia or its agencies or political  
4 subdivisions:

5 (1) For any employer to discriminate against an individual  
6 with respect to compensation, hire, tenure, terms, conditions or  
7 privileges of employment if the individual is able and competent to  
8 perform the services required even if ~~such~~ the individual is blind  
9 or disabled: *Provided*, That it ~~shall~~ may not be an unlawful  
10 discriminatory practice for an employer to observe the provisions  
11 of any bona fide pension, retirement, group or employee insurance  
12 or welfare benefit plan or system not adopted as a subterfuge to  
13 evade the provisions of this subdivision;

14 (2) For any employer, employment agency or labor organization,  
15 prior to the employment or admission to membership, to: (A) Elicit  
16 any information or make or keep a record of or use any form of  
17 application or application blank containing questions or entries  
18 concerning the race, religion, color, national origin, ancestry,  
19 sex, sexual orientation or age of any applicant for employment or  
20 membership; (B) print or publish or cause to be printed or  
21 published any notice or advertisement relating to employment or  
22 membership indicating any preference, limitation, specifications or  
23 discrimination based upon race, religion, color, national origin,  
24 ancestry, sex, sexual orientation, disability or age; or (C) deny

1 or limit, through a quota system, employment or membership because  
2 of race, religion, color, national origin, ancestry, sex, age,  
3 sexual orientation, blindness or disability;

4 (3) For any labor organization because of race, religion,  
5 color, national origin, ancestry, sex, age, sexual orientation,  
6 blindness or disability of any individual to deny full and equal  
7 membership rights to any individual or otherwise to discriminate  
8 against such individual with respect to hire, tenure, terms,  
9 conditions or privileges of employment or any other matter,  
10 directly or indirectly, related to employment;

11 (4) For an employer, labor organization, employment agency or  
12 any joint labor-management committee controlling apprentice  
13 training programs to:

14 (A) Select individuals for an apprentice training program  
15 registered with the State of West Virginia on any basis other than  
16 their qualifications as determined by objective criteria which  
17 permit review;

18 (B) Discriminate against any individual with respect to his or  
19 her right to be admitted to or participate in a guidance program,  
20 an apprenticeship training program, on-the-job training program or  
21 other occupational training or retraining program;

22 (C) Discriminate against any individual in his or her pursuit  
23 of ~~such~~ these programs or to discriminate against such a person in  
24 the terms, conditions or privileges of such programs;

1 (D) Print or circulate or cause to be printed or circulated  
2 any statement, advertisement or publication, or to use any form of  
3 application for these programs or to make any inquiry in connection  
4 with a program which expresses, directly or indirectly,  
5 discrimination or any intent to discriminate unless based upon a  
6 bona fide occupational qualification;

7 (5) For any employment agency to fail or refuse to classify  
8 properly, refer for employment or otherwise to discriminate against  
9 any individual because of his or her race, religion, color,  
10 national origin, ancestry, sex, age, sexual orientation, blindness  
11 or disability;

12 (6) For any person being the owner, lessee, proprietor,  
13 manager, superintendent, agent or employee of any place of public  
14 accommodations to:

15 (A) Refuse, withhold from or deny to any individual because of  
16 his or her race, religion, color, national origin, ancestry, sex,  
17 age, sexual orientation, blindness or disability, either directly  
18 or indirectly, any of the accommodations, advantages, facilities,  
19 privileges or services of the place of public accommodations;

20 (B) Publish, circulate, issue, display, post or mail, either  
21 directly or indirectly, any written or printed communication,  
22 notice or advertisement to the effect that any of the  
23 accommodations, advantages, facilities, privileges or services of  
24 any such place shall be refused, withheld from or denied to any

1 individual on account of race, religion, color, national origin,  
2 ancestry, sex, age, sexual orientation, blindness or disability, or  
3 that the patronage or custom thereof of any individual, belonging  
4 to or purporting to be of any particular race, religion, color,  
5 national origin, ancestry, sex, sexual orientation or age, or who  
6 is blind or disabled, is unwelcome, objectionable, not acceptable,  
7 undesired or not solicited; or

8       (7) For any person, employer, employment agency, labor  
9 organization, owner, real estate broker, real estate salesman or  
10 financial institution to:

11       (A) Engage in any form of threats or reprisal, or to engage  
12 in, or hire, or conspire with others to commit acts or activities  
13 of any nature, the purpose of which is to harass, degrade,  
14 embarrass or cause physical harm or economic loss or to aid, abet,  
15 incite, compel or coerce any person to engage in any of the  
16 unlawful discriminatory practices defined in this section;

17       (B) Willfully obstruct or prevent any person from complying  
18 with the provisions of this article, or to resist, prevent, impede  
19 or interfere with the commission or any of its members or  
20 representatives in the performance of a duty under this article; or

21       (C) Engage in any form of reprisal or otherwise discriminate  
22 against any person because he or she has opposed any practices or  
23 acts forbidden under this article or because he or she has filed a  
24 complaint, testified or assisted in any proceeding under this



1 article.

2 **§5-11-13. Exclusiveness of remedy; exceptions.**

3 (a) Except as provided in subsection (b), nothing contained in  
4 this article shall be ~~deemed~~ considered to repeal or supersede any  
5 of the provisions of any existing or hereafter adopted municipal  
6 ordinance, municipal charter or of any law of this state relating  
7 to discrimination because of race, religion, color, national  
8 origin, ancestry, sex, age, sexual orientation, blindness or  
9 disability, but as to acts declared unlawful by section nine of  
10 this article the procedure herein provided shall, when invoked, be  
11 exclusive and the final determination therein shall exclude any  
12 other action, civil or criminal, based on the same grievance of the  
13 complainant concerned. If such complainant institutes any action  
14 based on such grievance without resorting to the procedure provided  
15 in this article, he or she may not subsequently resort to the  
16 procedure herein. In the event of a conflict between the  
17 interpretation of a provision of this article and the  
18 interpretation of a similar provision contained in any municipal  
19 ordinance authorized by charter, the interpretation of the  
20 provision in this article shall apply to such municipal ordinance.

21 (b) Notwithstanding the provisions of subsection (a) of this  
22 section, a complainant may institute an action against a respondent  
23 in the county wherein the respondent resides or transacts business  
24 at any time within ninety days after the complainant is given

1 notice of a right to sue pursuant to this subsection or, if the  
2 statute of limitations on the claim has not expired at the end of  
3 such ninety-day period, then at any time during which such statute  
4 of limitations has not expired. If a suit is filed under this  
5 section the proceedings pending before the commission shall be  
6 deemed concluded.

7       The commission shall give a complainant who has filed a  
8 complaint a notice of a right to sue upon: (1) The dismissal of  
9 the complaint for any reason other than an adjudication of the  
10 merits of the case; or (2) the request of a complainant at any time  
11 after the timely filing of the complaint in any case which has not  
12 been determined on its merits or has not resulted in a conciliation  
13 agreement to which the complainant is a party. Upon the issuance  
14 of a right to sue letter pursuant to subdivision (1) or (2), the  
15 commission may dismiss the complaint.

16       Notice of right to sue shall be given immediately upon  
17 complainant being entitled thereto, by personal service or  
18 certified mail, return receipt requested, which notice shall inform  
19 the complainant in plain terms of his or her right to institute a  
20 civil action as provided in this section within ninety days of the  
21 giving of such notice. Service of the notice shall be complete  
22 upon mailing.

23       (c) In any action filed under this section, if the court finds  
24 that the respondent has engaged in or is engaging in an unlawful

1 discriminatory practice charged in the complaint, the court shall  
2 enjoin the respondent from engaging in such unlawful discriminatory  
3 practice and order affirmative action which may include, but is not  
4 limited to, reinstatement or hiring of employees, granting of back  
5 pay or any other legal or equitable relief as the court deems  
6 appropriate. In actions brought under this section, the court in  
7 its discretion may award all or a portion of the costs of  
8 litigation, including reasonable attorney fees and witness fees, to  
9 the complainant.

10 (d) The provisions of this section shall be available to all  
11 complainants whose active cases are pending before the Human Rights  
12 Commission as well as those complainants who file after the  
13 effective date of this section.

14 **ARTICLE 11A. WEST VIRGINIA FAIR HOUSING ACT.**

15 **§5-11A-3. Definitions.**

16 As used in this article:

17 (a) "Commission" means the West Virginia Human Rights  
18 Commission;

19 (b) "Dwelling" means any building, structure or portion  
20 thereof which is occupied as, or designed or intended for occupancy  
21 as, a residence or sleeping place by one or more persons or  
22 families and any vacant land which is offered for sale or lease for  
23 the construction or location thereon of any such building,  
24 structure or portion thereof;

1 (c) "Family" includes a single individual;

2 (d) "Person" includes one or more individuals, corporations,  
3 partnerships, associations, labor organizations, legal  
4 representatives, mutual companies, joint-stock companies, trusts,  
5 unincorporated organizations, trustees, trustees in cases under  
6 Title 11 of the United States Code, receivers and fiduciaries;

7 (e) "To rent" includes to lease, to sublease, to let and  
8 otherwise to grant for a consideration the right to occupy premises  
9 not owned by the occupant;

10 (f) "Discriminatory housing practice" means an act that is  
11 unlawful under section five, six, seven or nineteen of this  
12 article;

13 (g) ~~"Handicap"~~ "Disability" means, with respect to a person:

14 (1) A physical or mental impairment which substantially limits  
15 one or more of such person's major life activities;

16 (2) A record of having such an impairment; or

17 (3) Being regarded as having such an impairment, but such term  
18 does not include current, illegal use of or addiction to a  
19 controlled substance, as defined in Section 102 of the Controlled  
20 Substances Act, Title 21, United States Code, Section 802;

21 (h) "Aggrieved person" includes any person who:

22 (1) Claims to have been injured by a discriminatory housing  
23 practice; or

24 (2) Believes that such person will be injured by a

1 discriminatory housing practice that is about to occur;

2 (i) "Complainant" means the person, including the commission,  
3 who files a complaint under section eleven of this article;

4 (j) "Familial status" means:

5 (1) One or more individuals who have not attained the age of  
6 eighteen years being domiciled with:

7 (A) A parent or another person having legal custody of such  
8 individual or individuals; or

9 (B) The designee of such parent or other person having such  
10 custody with the written permission of such parent or other person;  
11 or

12 (2) Any person who is pregnant or is in the process of  
13 securing legal custody of any individual who has not attained the  
14 age of eighteen years;

15 (k) "Conciliation" means the attempted resolution of issues  
16 raised by a complaint or by the investigation of such complaint  
17 through informal negotiations involving the aggrieved person, the  
18 respondent and the commission;

19 (l) "Conciliation agreement" means a written agreement setting  
20 forth the resolution of the issues in conciliation;

21 (m) "Sexual orientation" is defined as heterosexuality,  
22 bisexuality, homosexuality or gender identity or expression,  
23 whether actual or perceived;

24 ~~(m)~~ (n) "Respondent" means:

1 (1) The person or other entity accused in a complaint of an  
2 unfair housing practice; and

3 (2) Any other person or entity identified in the course of  
4 investigation and notified as required with respect to respondents  
5 so identified under subsection (a), section eleven of this article;

6 ~~(n)~~ (o) The term "rooming house" means a house or building  
7 where there are one or more bedrooms which the proprietor can spare  
8 for the purpose of giving lodgings to such persons as he or she  
9 chooses to receive; and

10 ~~(o)~~ (p) The term "basic universal design" means the design of  
11 products and environments to be useable by all people, to the  
12 greatest extent possible, without the need for adaptation or  
13 specialization.

14 **§5-11A-5. Discrimination in sale or rental of housing and other**  
15 **prohibited practices.**

16 As made applicable by section four of this article and except  
17 as exempted by sections four and eight of this article, it ~~shall be~~  
18 is unlawful:

19 (a) To refuse to sell or rent after the making of a bona fide  
20 offer, or to refuse to negotiate for the sale or rental of, or  
21 otherwise make unavailable or deny, a dwelling to any person  
22 because of race, color, religion, ancestry, sex, age, sexual  
23 orientation, familial status, blindness, ~~handicap~~ disability or  
24 national origin;

1 (b) To discriminate against any person in the terms,  
2 conditions or privileges of sale or rental of a dwelling, or in the  
3 provision of services or facilities in connection therewith,  
4 because of race, color, religion, ancestry, sex, age, sexual  
5 orientation, familial status, blindness, ~~handicap~~ disability or  
6 national origin;

7 (c) To make, print or publish, or cause to be made, printed or  
8 published any notice, statement or advertisement, with respect to  
9 the sale or rental of a dwelling that indicates any preference,  
10 limitation or discrimination based on race, color, religion, sex,  
11 age, sexual orientation, blindness, ~~handicap~~ disability, familial  
12 status, ancestry or national origin, or an intention to make any  
13 such preference, limitation or discrimination;

14 (d) To represent to any person because of race, color,  
15 religion, sex, age, sexual orientation, blindness, ~~handicap~~  
16 disability, familial status, ancestry or national origin that any  
17 dwelling is not available for inspection, sale or rental when ~~such~~  
18 the dwelling is in fact so available;

19 (e) For profit, to induce or attempt to induce any person to  
20 sell or rent any dwelling by representations regarding the entry or  
21 prospective entry into the neighborhood of a person or persons of  
22 a particular race, color, religion, sex, age, sexual orientation,  
23 blindness, ~~handicap~~ disability, familial status, ancestry or  
24 national origin; or

1           (f) (1) To discriminate in the sale or rental, or to otherwise  
2 make unavailable or deny, a dwelling to any buyer or renter because  
3 of a handicap of: (A) That buyer or renter; (B) a person residing  
4 in or intending to reside in that dwelling after it is so sold,  
5 rented or made available; or (C) any person associated with that  
6 buyer or renter.

7           (2) To discriminate against any person in the terms,  
8 conditions or privileges of sale or rental of a dwelling, or in the  
9 provision of services or facilities in connection with such  
10 dwelling, because of a ~~handicap~~ disability of: (A) That person;  
11 (B) a person residing in or intending to reside in that dwelling  
12 after it is so sold, rented or made available; or (C) any person  
13 associated with that person.

14           (3) For purposes of this subdivision, discrimination includes:

15           (A) A refusal to permit, at the expense of the handicapped  
16 person, reasonable modifications of existing premises occupied or  
17 to be occupied by such person if such modifications may be  
18 necessary to afford such person full enjoyment of the premises,  
19 except that, in the case of a rental, the landlord may where it is  
20 reasonable to do so condition permission for a modification on the  
21 renter agreeing to restore the interior of the premises to the  
22 condition that existed before the modification, reasonable wear and  
23 tear excepted;

24           (B) A refusal to make reasonable accommodations in rules,



1 policies, practices or services when such accommodations may be  
2 necessary to afford such person equal opportunity to use and enjoy  
3 a dwelling; or

4 (C) In connection with the design and construction of covered  
5 multifamily dwellings for first occupancy after the date that is  
6 thirty months after the date of enactment of the West Virginia fair  
7 housing act, a failure to design and construct those dwellings in  
8 such a manner that:

9 (i) The public use and common use portions of such dwellings  
10 are readily accessible to and usable by handicapped persons;

11 (ii) All the doors designed to allow passage into and within  
12 all premises within such dwellings are sufficiently wide to allow  
13 passage by handicapped persons in wheelchairs; and

14 (iii) All premises within such dwellings contain the following  
15 features of adaptive design: (I) An accessible route into and  
16 through the dwelling; (II) light switches, electrical outlets,  
17 thermostats and other environmental controls in accessible  
18 locations; (III) reinforcements in bathroom walls to allow later  
19 installation of grab bars; and (IV) usable kitchens and bathrooms  
20 such that an individual in a wheelchair can maneuver about the  
21 space.

22 (4) Compliance with the appropriate requirements of the  
23 American national standard for buildings and facilities providing  
24 accessibility and usability for physically handicapped people,

1 commonly cited as ANSI A117.1, suffices to satisfy the requirements  
2 of subparagraph (3) (C) (iii) of this subdivision.

3 (5) (A) If a unit of general local government has incorporated  
4 into its laws the requirements set forth in subparagraph (3) (C) of  
5 this subdivision, compliance with such laws shall be deemed to  
6 satisfy the requirements of that subparagraph.

7 (B) The commission or unit of general local government may  
8 review and approve newly constructed covered multifamily dwellings  
9 for the purpose of making determinations as to whether the design  
10 and construction requirements of subparagraph (3) (C) of this  
11 subdivision are met.

12 (C) The commission shall encourage, but may not require, units  
13 of local government to include in their existing procedures for the  
14 review and approval of newly constructed covered multifamily  
15 dwellings, determinations as to whether the design and construction  
16 of such dwellings are consistent with subparagraph (3) (C) of this  
17 subdivision, and may provide technical assistance to units of local  
18 government and other persons to implement the requirements of ~~such~~  
19 that subparagraph.

20 (D) Nothing in this article ~~shall~~ may be construed to require  
21 the commission to review or approve the plans, designs or  
22 construction of all covered multifamily dwellings to determine  
23 whether the design and construction of ~~such~~ the dwellings are  
24 consistent with the requirements of subparagraph (3) (C) of this

1 subdivision.

2 (6) (A) Nothing in paragraph (5) of this subdivision ~~shall~~ may  
3 be construed to affect the authority and responsibility of the  
4 commission or a local public agency to receive and process  
5 complaints or otherwise engage in enforcement activities under this  
6 article.

7 (B) Determinations by a unit of general local government under  
8 subparagraphs (5) (A) and (B) of this subdivision ~~shall not be~~ are  
9 not conclusive in enforcement proceedings under this article.

10 (7) As used in this section, the term "covered multifamily  
11 dwellings" means: (A) Buildings consisting of four or more units  
12 if such buildings have one or more elevators; and (B) ground floor  
13 units in other buildings consisting of four or more units.

14 (8) Nothing in this article ~~shall~~ may be construed to  
15 invalidate or limit any law of this state or any political  
16 subdivision hereof that requires dwellings to be designed and  
17 constructed in a manner that affords handicapped persons greater  
18 access than is required by this article.

19 (9) Nothing in this section requires that a dwelling be made  
20 available to an individual whose tenancy would constitute a direct  
21 threat to the health or safety of other individuals or whose  
22 tenancy would result in substantial physical damage to the property  
23 of others. The burden of proving such threat to health or safety  
24 or the likelihood of such damage shall be upon the respondent.

1 **§5-11A-6. Discrimination in residential real estate-related**  
2 **transactions.**

3 (a) It shall be unlawful for any person or other entity whose  
4 business includes engaging in residential real estate-related  
5 transactions to discriminate against any person in making available  
6 such a transaction or in the terms or conditions of such a  
7 transaction because of race, color, religion, sex, age, sexual  
8 orientation, blindness, ~~handicap~~ disability, familial status,  
9 ancestry or national origin.

10 (b) As used in this section, the term "residential real  
11 estate-related transaction" means any of the following:

12 (1) The making or purchasing of loans or providing other  
13 financial assistance: (A) For purchasing, constructing, improving,  
14 repairing or maintaining a dwelling; or (B) secured by residential  
15 real estate; or

16 (2) The selling, brokering or appraising of residential real  
17 property.

18 (c) Nothing in this article prohibits a person engaged in the  
19 business of furnishing appraisals of real property to take into  
20 consideration factors other than race, color, religion, national  
21 origin, ancestry, sex, age, sexual orientation, blindness, ~~handicap~~  
22 disability or familial status.

23 **§5-11A-7. Discrimination in provision of brokerage services.**

24 It ~~shall be~~ is unlawful to deny any person access to or

1 membership or participation in any multiple listing service, real  
2 estate broker's organization or other service, organization or  
3 facility relating to the business of selling or renting dwellings,  
4 or to discriminate against him or her in the terms or conditions of  
5 ~~such~~ the access, membership or participation on account of race,  
6 color, religion, sex, age, sexual orientation, blindness, ~~handicap~~  
7 disability, familial status, ancestry or national origin.

NOTE: The purpose of this bill is to add "sexual orientation"  
to the categories covered by the Human Rights Act, prohibiting  
discrimination in employment and places of public accommodation;  
add "age" and "sexual orientation" to the categories covered by the  
Fair Housing Act prohibiting discrimination in housing; and define  
"sexual orientation".

Strike-throughs indicate language that would be stricken from  
the present law, and underscoring indicates new language that would  
be added.