

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

Legislative Session _____ 1990

Bill No. _____ CB-30-1990

Chapter No. _____ 46

Proposed and Presented by _____ The Chairman (by request -

County Executive)

Introduced by _____ Council Members Pemberton, Bell, Casula,

and Wineland

Co-Sponsors _____

Date of Introduction _____ July 3, 1990

BILL

AN ACT concerning

Human Relations Commission

FOR the purpose of prohibiting discriminatory housing practices based on handicap and familial status; establishing an administrative and judicial enforcement mechanism for cases where discriminatory housing practices cannot be resolved informally; providing for certain monetary penalties; providing for certain interim relief; and prohibiting discrimination in commercial real estate practices.

BY repealing and reenacting with amendments:

SUBTITLE 2. ADMINISTRATION.

Sections 2-185,

2-186,

2-189,

2-192,

2-193,

2-195,

2-201,

2-204, and

2-210,

The Prince George's County Code
(1987 Edition, 1989 Supplement).

BY adding:

SUBTITLE 2. ADMINISTRATION.

Sections 2-195.1, and

2-231.1,

The Prince George's County Code
(1987 Edition, 1989 Supplement).

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Sections 2-185, 2-186, 2-189, 2-192, 2-193, 2-195, 2-201, 2-204, and 2-210 of the Prince George's County Code be and the same are hereby repealed and reenacted with the following amendments:

SUBTITLE 2. ADMINISTRATION.

DIVISION 12. HUMAN RELATIONS COMMISSION.

Subdivision 1. General Provisions.

Sec. 2-185. Human Relations Commission; purpose.

(a) It shall be a function of the County government to foster and encourage the growth and development of the County in such a manner that all persons shall have an equal opportunity to pursue

their lives free of discrimination imposed because of race, [creed] religion, color, sex, national origin, age, occupation, marital status, political opinion, personal appearance, [or] physical or mental handicap, or familial status. Discriminatory practices based upon the foregoing criteria are declared to be contrary to the public policy of the County.

(b) The County government shall direct its efforts and resources toward eliminating discriminatory practices within the County in the areas of housing, employment, law enforcement, education, public accommodations, commercial real estate, and any other facets of the lives of its citizens where such practices may be found to exist.

(c) It is intended that the prohibitions in this Division are substantially similar, but not necessarily identical, to prohibitions in federal and State law. The intent is to assure that a complaint filed under this Division may proceed more promptly than possible under either federal or State law. It is not County policy, however, to create a duplicative or cumulative process to those existing under similar or identical federal or State laws. Once a complaint is fully adjudicated under a similar or identical federal or State law, the complaint should not be reprocessed under this Division if the effect is duplicative or cumulative.

Sec. 2-186. Definitions.

(a) As used in this Division:

* * * * *

(3) Discrimination shall mean acting, or failing to act,

or unduly delaying any action regarding any person because of race, [creed] religion, color, sex, national origin, age (except as required by state or federal law), occupation, familial status, marital status, political opinion, personal appearance, or physical or mental handicap, in such a way that such person is adversely affected in the areas of housing, employment, law enforcement, education, financial lending, [or] public accommodations, or commercial real estate.

* * * * *

(7) Executive Director shall mean a person appointed by the County Executive to supervise the staff and advise and assist the Human Relations Commission in its functions, and who shall serve at the pleasure of the County Executive.

(7.1) Familial status shall mean one or more individuals (who have not attained the age of 18 years) being domiciled with (a) a parent or another person having legal custody of such individual or individuals; or (b) the designee of such parent or other person having such custody, with the written permission of such parent or other person. The protections afforded against discrimination on the basis of familial status shall be extended to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

* * * * *

(14.1) Physical or mental handicap shall mean[s any physical disability, infirmity, malformation or disfigurement which is caused by bodily injury, birth defect or illness including

epilepsy, and] an impairment which substantially limits one or more of such person's major life activities, or (2) a record of having such an impairment, or (3) being regarded as having such an impairment, which shall include, but not be limited to, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impairment, deafness or hearing impairment, muteness or speech impediment or physical reliance on a seeing eye dog, wheelchair, or other remedial appliance or device; and any mental impairment or deficiency such as, but not limited to, retardation or such other condition which may have necessitated remedial or special education and related services but such term does not include current, illegal use of or addiction to a controlled dangerous substance as defined by Maryland law.

* * * * *

Subdivision 2. Administrative Provisions.

Sec. 2-189. Hearing Panels; subcommittees.

(a) The Commission may establish special Hearing Panels consisting of at least three (3) members in Housing, Employment, Law Enforcement, Education, Commercial Real Estate, and/or other areas as it deems necessary, operating under such rules as the Commission shall devise.

* * * * *

Sec. 2-192. Functions of the Commission.

* * * * *

(4) Investigate, and whenever necessary, hold hearings on any matter wherein an allegation has been made that an employee of a

County agency, department, or board, has denied a person his civil rights, civil liberties or has adversely affected that person in the areas of housing, employment, law enforcement, education, [or] public accommodations[.], or commercial real estate.

Sec. 2-193. Powers and duties of the Commission.

* * * * *

(e) If at any time after a complaint has been filed the Commission determines that appropriate civil action to preserve the status quo or to prevent such irreparable harm is necessary, the Commission may transmit the matter to the County Attorney for necessary action to preserve such status quo or to prevent such irreparable harm, including but not limited to temporary restraining orders and preliminary injunction.

Subdivision 3. Enforcement Procedures.

Sec. 2-195. Cease and desist orders; contents.

(a) If, upon all the evidence, the Commission by a majority vote of the full Commission finds that the respondent has engaged in any discriminatory action or wrongful practice within the scope of this Division, it shall so state its findings. The Commission shall issue and cause to be served upon the respondent an order requiring the respondent to cease and desist from the unlawful discriminatory action or prohibited practice and to take such affirmative action as equity and justice may require and prospective relief as is necessary to effectuate the purposes of the Division.

* * * * *

Subdivision 4. Investigative Procedures.

Sec. 2-201. Initiation of investigation.

[A] Except in cases of discrimination in housing, a Commission investigation into a suspected violation by any person of the provisions of this Division may be initiated no later than one hundred [and] eighty (180) days after the date of the alleged violation by filing with the Executive Director, upon a form to be provided by the Commission, a signed statement setting forth the suspected violation. In cases of discrimination in housing, the investigation shall be initiated before the end of the thirtieth (30th) day after the receipt of the statement. In all cases, [This] the statement shall contain the name and address of the complainant, who may be a member of the Commission or its staff, and such other information as may be required by the Commission. In cases alleging discriminatory housing practices, the Commission shall complete the investigation within one hundred (100) days after receipt of the complaint, unless it is impracticable to do so. Should the agency be unable to complete the investigation within one hundred (100) days it shall notify the complainant and respondent in writing of the reasons for not doing so. The Commission shall make final administrative disposition of a complaint within one (1) year of the date of receipt of a complaint, unless it is impracticable to do so. In such case, the Commission must notify the complainant and respondent in writing of its reasons therefor.

Sec. 2-204. Formal hearing; notice; assignment of case.

* * * * *

(b) The Chairman shall thereupon assign the case to be heard

before either the full Commission, or a tribunal consisting of the appropriate Committee or Panel of Commissioners as described in Section 2-189. A transcript of all testimony of the hearing shall be made. The case in support of the complaint shall be presented at the hearing by the Executive Director [or Counsel of the Commission]. No Commissioner who previously made or participated in the investigation or caused the complaint to be filed shall participate in the hearing as a witness, nor shall he participate in the deliberations of the tribunal in such case.

Subdivision 5. Prohibited Acts in Housing.

Sec. 2-210. Sale or rental of housing; exception.

(a) No person, whether acting for monetary gain or not, shall:

(1) Refuse to sell, lease, sublease, rent, assign or otherwise transfer, or refuse to negotiate for the sale, lease, sublease, rental, assignment or other transfer of the title, leasehold or other interest in any housing, or represent that housing is not available for inspection, sale, lease, sublease, rental, assignment or other transfer when in fact it is so available, or otherwise make a dwelling unavailable, deny or withhold any housing from any person because of [discrimination] race, religion, color, sex, national origin, age, occupation, marital status, political opinion, personal appearance, physical or mental handicap or familial status;

(2) Include in the terms, conditions or privileges of any sale, lease, sublease, rental, assignment or other transfer of any housing, any clause, condition or restriction discriminating against

any person in the use or occupancy of such housing because of
[discrimination] race, religion, color, sex, national origin, age,
occupation, marital status, political opinion, personal appearance,
physical or mental handicap or familial status; [or,]

(3) Discriminate in the furnishings of any facilities,
repairs, improvements, or services, or in the terms, conditions,
privileges, or tenure of occupancy of any person because of
[discrimination] race, religion, color, sex, national origin, age,
occupation, marital status, political opinion, personal appearance,
physical or mental handicap or familial status; [or,]

(4) Print or publish, or cause to be printed or
published, any notice, statement, listing or advertisement, or to
announce a policy, or use any form of application for purchase,
lease, rental or financing of any housing indicating any preference,
limitation or specification based upon [discrimination] race,
religion, color, sex, national origin, age, occupation, marital
status, political opinion, personal appearance, physical or mental
handicap or familial status [.];

(5) 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 or persons of a
particular race, color, religion, sex, national origin, age,
occupation, marital status, political opinion, personal appearance,
physical or mental handicap or familial status;

(6) Discriminate in the sale or rental, or otherwise make
unavailable or deny, a dwelling to any buyer or renter because of a

handicap of:

- (A) the buyer or renter;
 - (B) a person residing in or intending to reside in the dwelling after it is sold, rented, or made available; or
 - (C) any person associated with the buyer or renter.
- (7) Discriminate against any person in terms, conditions, or privileges of sale or rental of a dwelling, or in the provisions of services or facilities in connection with such dwelling, because of a handicap of:

- (A) the person; or
- (B) a person residing in or intending to reside in the dwelling after it is so sold, rented, or made available; or
- (C) any person associated with the person.

(8) For purposes of Subsections (6) and (7), above, discrimination includes:

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

(B) A refusal to make reasonable accommodations in

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

(C) In connection with the design and construction of covered multifamily dwellings, which means a building consisting of four (4) or more dwelling units if the building has one (1) or more elevators, and "ground floor" dwelling units in other buildings consisting of four (4) or more dwelling units, for first occupancy after March 13, 1991, a failure to design and construct those dwelling in such a manner that:

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

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

(iii) all premises within such dwellings contain the following features of adaptive design:

(I) an accessible route into and through the dwelling;

(II) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(III) reinforcements in bathroom walls to allow later installation of grab bars; and

(IV) usable kitchens and bathrooms such

that an individual in a wheelchair can maneuver about the space.

(iv) Nothing in this Subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

(b) Discrimination based on age or familial status as defined in Section 2-186 shall not be wrongful with regard to housing operated in connection with any medical, health or educational institution, or with regard to any domiciliary, retirement, or senior citizen home or housing, or with regard to any pre-school children's home or facility. Discrimination shall not be wrongful with regard to the leasing of a room(s) or apartment(s) in an owner-occupied dwelling consisting of not more than three (3) rental units except as specified in (a)(4) of this Section. The provisions regarding age or familial status shall not apply to housing provided under any Federal or State program that is specifically designed and operated to assist elderly persons, to housing intended for and solely occupied by persons sixty-two (62) years of age or older, or to housing intended and operated for occupancy by at least one person fifty-five (55) years of age or older per unit, provided that the housing satisfies the requirements of Title 24, Code of Federal Regulations, Section 100:304. [; and provided further, however, that discrimination based on physical or mental handicap as defined in Section 2-186 shall not be wrongful with regard to the failure or refusal of any person to renovate, alter, or modify and housing

facility or facilities in order to accommodate any person with a physical or mental handicap, as defined herein, except as otherwise required by the Building Code for Prince George's County, Maryland.

Notwithstanding the other provisions of this Section and in clarification of the provisions of this Division, a person may restrict occupancy of any dwelling or dwellings to a person or persons of any specified age group, provided a written report of such limitations of occupancy, identifying the specific units so affected, is filed with the Commission; and provided further, that the lease or tenure of occupancy of any person or persons occupying any dwelling which is designated as being restricted in occupancy to any specified age group shall not be terminated on the effective date of such designation because said person or persons do not meet such designated occupancy requirements, unless said person or persons shall have been offered another comparable dwelling for which said person or persons meet the designated occupancy requirements within the same building or within another building within the same complex of buildings. The Commission shall be authorized to periodically inspect any dwelling for which a designated occupancy restriction report has been filed, as provided above in order to determine whether such dwelling is being maintained in accordance with the provisions of such occupancy restriction report.]

SECTION 2. BE IT FURTHER ENACTED that new Sections 2-195.1 and 2-231.1 be and the same are hereby added to the Prince George's County Code to read as follows:

SUBTITLE 2. ADMINISTRATION.

DIVISION 12. HUMAN RELATIONS COMMISSION.

Subdivision 3. Enforcement Procedures.

Sec. 2-195.1. Other Awards and Remedies.

(a) In addition to the other awards and relief which are hereinafter provided, the Commission panel may, in accordance with the standards of proof set forth in Section 2-195 also make the following monetary orders determined by the Commission panel from the evidence of record as the actual damages, costs or losses involved or in such amounts as may be specified below:

(1) Should the complainant's personal property be damaged, the complainant may be awarded damages not exceeding any expenses actually incurred in repairing the damage or in replacing the property, if such replacement is found by the Commission panel to be necessary.

(2) If the complainant was required to incur travel expenses that would not have been incurred but for unlawful discriminatory acts or practices of the respondent, the complainant may be awarded damages not exceeding such expenses. The use of the complainant's automobile shall be compensated at the rate current at the time of the violation for County employees' use of a private automobile for official business. Expenses shall not be awarded to the extent that they have been reimbursed from another source.

(3) Damages may also be awarded to compensate complainant or respondent for humiliation and embarrassment suffered in an amount determined by the Commission panel to be appropriately and

reasonably warranted considering all of the circumstances, but in no event shall the amount be in excess of One Thousand Dollars (\$1,000.00).

(4) In the event an award of damages is made, the respondent may be ordered to pay to the complainant interest at the legal rate on the loss of the use of any monies arising from the act of discrimination, from the date of the Commission panel order.

Subdivision 9. Prohibited Acts in Commercial Real Estate.

Sec. 2-231.1. Prohibited Acts in Commercial Real Estate.

(a) It is an unlawful practice and a violation of this Division:

(1) For any person, real estate broker, or real estate salesperson, because of race, religion, color, sex, national origin, age, occupation, marital status, political opinion, personal appearance, physical or mental handicap or familial status, to:

(A) Refuse to sell, lease, sublease, rent, assign, or otherwise transfer, or refuse to negotiate for the sale, lease, sublease, rental, assignment, or other transfer of commercial real estate, or represent that commercial real estate is not available for inspection, sale, lease, sublease, rental, assignment, or other transfer when in fact it is so available, or otherwise deny or withhold commercial real estate from any person.

(B) Include in the terms, conditions, or privileges of any sale, lease, sublease, rental, assignment, or other transfer of commercial real estate any clause, condition, or restriction discriminating against any person in the use or occupancy of such

real estate.

(C) Discriminate in the furnishing of any facilities, repairs, improvements, or services, or in the terms, conditions, privileges, or tenure of occupancy.

(2) For any lending institution, because of race, religion, color, sex, national origin, age, occupation, marital status, political opinion, personal appearance, physical or mental handicap or familial status to:

(A) Discriminate in lending money, guaranteeing loans, accepting a deed of trust or mortgage, or otherwise making available funds to acquire, construct, alter, rehabilitate, repair, or maintain commercial real estate.

(B) Discriminate in fixing the rates, terms, conditions, or provisions of any such financial assistance, or in extending service in connection therewith.

(3) For any person, real estate broker or real estate salesperson, with respect to any act prohibited in Subsections (a) (1) or (2), to publish or circulate, or to cause to be published or circulated, any notice, statement, listing, or advertisement, or to announce a policy, or to use any form of application for the purchase, lease, rental, or financing of commercial real estate, or to make any record or business inquiry in connection with the prospective purchase, lease, rental, or financing of commercial real estate which indicates reliance on or a decision based on race, religion, color, sex, national origin, age, occupation, marital status, political opinion, personal appearance, physical or mental

handicap or familial status. However, this subsection does not preclude the use of a logo or other means of advertising to advise handicapped persons that any commercial real estate is suitable or adapted to use by handicapped persons.

(4) For any person to assist in, compel, or coerce the doing of any unlawful practice under this subdivision, to obstruct or prevent enforcement or compliance with this subdivision, or to attempt directly or indirectly to commit any unlawful practice.

(5) For any person, real estate broker or real estate salesperson, to:

(A) Induce or attempt to induce, by direct or indirect methods, any person to transfer commercial real estate by representations regarding the existing or potential proximity of real estate owned, used, or occupied by any person of any particular race, religion, color, sex, national origin, age, occupation, marital status, political opinion, personal appearance, physical or mental handicap or familial status.

(B) Represent to any prospective purchaser or lessee that any commercial real estate in a particular area may undergo, is undergoing, or has undergone a change with respect to race, religion, color, sex, national origin, age, occupation, marital status, political opinion, personal appearance, physical or mental handicap or familial status of occupants of such area.

(C) Place a sign or display any other device either purporting to offer for sale, lease, assignment, transfer, or other disposition, or tending to lead to the belief that a bona fide offer

is being made to sell, lease, assign, transfer or otherwise dispose of any commercial real estate that is not in fact available or offered for sale, lease, assignment, transfer, or other disposition, because of race, religion, color, sex, national origin, age, occupation, marital status, political opinion, personal appearance, physical or mental handicap or familial status.

(6) For any person, real estate broker, or real estate salesperson to deny any other person or real estate broker or real estate salesperson access to or membership or participation in any multiple-listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of buying, selling, or renting commercial real estate, or to discriminate against that person in the terms or conditions of such access, membership, or participation because of race, color, sex, national origin, age, occupation, marital status, political opinion, personal appearance, physical or mental handicap or familial status.

(7) This Section does not apply to religious institutions or organizations or charitable or educational organizations operated, supervised, or controlled by religious institutions or organizations which give preferences to members of the same religion in a commercial real estate transaction, as long as membership in such religion is not restricted by race, color, sex, national origin, age, occupation, marital status, political opinion, personal appearance, physical or mental handicap or familial status.

SECTION 3. BE IT FURTHER ENACTED that this Act shall take effect forty-five calendar days after the date it becomes law.

Adopted this 31th day of July, 1990.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Jo Ann T. Bell
Chairman

ATTEST:

Jean M. Schmuhl, CMC
Clerk of the Council

APPROVED:

DATE: August 10, 1990

BY: _____
Parris N. Glendening
County Executive

EFFECTIVE: SEPTEMBER 25, 1990

KEY:

Underscoring indicates language added to existing law.
[Brackets] indicate language deleted from existing law.
Asterisks *** indicate intervening existing Code provisions
that remain unchanged.