

TITLE 6

CHAPTER 46. FAIR HOUSING ACT

§ 4600. Short title.

This chapter may be cited as the "Delaware Fair Housing Act."

§ 4601. Declaration of purpose and construction.

(a) Purpose. -- This chapter is intended to eliminate, as to housing offered to the public for sale, rent or exchange, discrimination based upon race, color, national origin, religion, creed, sex, marital status, familial status, age, sexual orientation or disability, and to provide an administrative procedure through which disputes concerning the same may effectively and expeditiously be resolved with fairness and due process for all parties concerned.

(b) Construction. -- This chapter shall be liberally construed to the end that its purposes may be accomplished and all persons may fully enjoy equal rights and access to housing for themselves and their families. Furthermore, in defining the scope or extent of any duty imposed by this chapter, including the duty of reasonable accommodation, higher or more comprehensive obligations established by otherwise applicable federal, state or local enactments may be considered.

§ 4602. Definitions.

As used in this chapter:

(1) "Age" -- For the purpose of defining what is a discriminatory housing practice, "age" means any age 18 years or older.

(2) "Aggrieved persons" includes any person who:

a. Claims to have been injured, directly or indirectly, by a discriminatory housing practice;

b. Believes that such person will be injured, directly or indirectly, by a discriminatory housing practice that is about to occur; or

c. Is associated with a person having a protected status under this chapter and claims to have been injured, directly or indirectly, as a result of a discriminatory housing practice against such person having the protected status.

(3) "Chairperson" means the Chairperson of the State Human Relations Commission.

(4) "Commission" means the State Human Relations Commission.

(5) "Complainant" means the person (including the Commission) who files a complaint under § 4610 of this title.

(6) "Conciliation" means the attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent and the Commission.

(7) "Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation.

(8) "Court" means the Superior Court of the State unless otherwise designated.

(9) "Covered multifamily dwellings" means:

a. Buildings consisting of 4 or more dwelling units if such buildings have 1 or more elevators; and

b. Ground floor dwelling units in other buildings consisting of 4 or more dwelling units.

(10) "Disability" means, with respect to a person:

a. A physical or mental impairment which substantially limits 1 or more of such person's major life activities;

b. A record of having such an impairment; or

c. Being regarded as having such an impairment, but such term does not include current, illegal use of a controlled substance as defined in § 102 of the Controlled Substances Act (21 U.S.C. 802) or Title 16 of Chapter 47, Uniform Controlled Substances Act.

(11) "Discriminatory housing practice" means an act that is unlawful under § 4603, § 4604, § 4605, § 4606 or § 4618 of this title.

(12) "Division" means the Division of Human Relations.

(13) "Dwelling" means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by 1 or more families, together with any land which is offered for sale, rent or exchange therewith and also means any vacant land which is offered for sale, lease or exchange for the construction or location thereon of any such building, structure or portion thereof. "Dwelling" also includes the public and common use areas associated therewith.

(14) "Familial status" means: 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; or

c. 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.

(15) "Family" includes a single individual.

(16) "Housing for older persons" means housing:

a. Provided under any state or federal program that the Commission determines is specifically designed and operated to assist elderly persons;

b. Intended for, and solely occupied by, persons 62 years of age or older; or

c. Intended and operated for occupancy by at least 1 person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the Commission shall develop regulations which shall require at least the following factors:

1. That at least 80 percent of the units are occupied by at least 1 person 55 years of age or older per unit; and

2. The publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

(17) "Marital status" means the legal relationship of parties as determined by the laws of marriage applicable to them or the absence of such a legal relationship.

(18) "Panel" means 3 or more Commissioners appointed by the Chair to perform any act authorized under this chapter.

(19) "Panel Chair": That Commissioner designated by the Commission Chair to preside at case hearings, and, further, to perform such other duties as may be specified by applicable laws and regulations.

(20) "Person" includes 1 or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock

companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy in cases under Title 11 of the United States Code, receivers, fiduciaries and land use commissions or boards.

(21) "Residential real estate-related transaction" means any of the following:

a. The making, brokering or purchasing of loans or providing other financial assistance:

1. For purchasing, constructing, improving, repairing or maintaining a dwelling; or

2. Secured by residential real estate; or

b. The selling, brokering or appraising of residential real property.

(22) "Respondent" means:

a. The person or other entity accused in a complaint of an unfair housing practice; and

b. Any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified under § 4610(a)(2)a. of this title.

(23) "Sexual orientation" exclusively means heterosexuality, homosexuality, or bisexuality.

(24) "Special Administration Fund" means the Fund established and maintained pursuant to § 3005 of Title 31.

(25) "To rent" includes to lease, to sublease, to assign a lease, to let and otherwise to grant, continue or renew for a consideration the right to occupy premises not owned by the occupant.

(26) "To sell" or "sale" includes a sale, gift, exchange or other means of conveyance.

§ 4603. Discrimination in sale or rental of housing and other prohibited practices.

(a) For purposes of paragraphs (b)(1)-(b)(5) of this section, the unlawful discrimination against a person on the basis of a specified protected status refers to the protected status of:

(1) That buyer, renter or aggrieved person;

(2) A person residing in or intending to reside in that dwelling after it is sold, rented or made available; or

(3) Any person associated with that buyer or renter.

(b) Except as exempted by § 4607 of this title, it shall be unlawful:

(1) To discriminate in the sale or rental, to refuse to sell or rent, to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, national origin, religion, creed, sex, marital status, familial status, age, sexual orientation or disability.

(2) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, national origin, religion, creed, sex, marital status, familial status, age, sexual orientation or disability.

(3) To make, print or publish, or cause to be made, printed or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, national origin, religion, creed, sex, marital status, familial status, age, sexual orientation or disability, or an intention to make any such preference, limitation or discrimination. However, nothing in this chapter restricts the inclusion of information about the availability of housing accessible to persons with a disability in advertising of dwellings.

(4) To represent to any person because of race, color, national origin, religion, creed, sex, marital status, familial status, age, sexual orientation or disability that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

(5) To 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, national origin, religion, creed, sex, marital status, familial status, age, sexual orientation or disability.

(6) [Repealed.]

(c) Nothing in this section requires that a dwelling be made available to persons with disabilities 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.

§ 4603A. Discrimination in sale or rental of housing and other prohibited practices; additional provisions relating to discrimination against persons with disabilities.

(a) For purposes of this chapter, discrimination on the basis of a individual's disability includes, but is not limited to:

(1) A refusal to permit, at the expense of the person with a disability, 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 a 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;

(2) 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;

(3)a. A failure to design and construct or alter those 2 categories of multifamily dwellings specified in paragraph (a)(3)b. of this section in such a manner that:

1. The dwellings have at least 1 building entrance on an accessible route, unless it is impractical to do so because of the terrain or unusual characteristics of the site;

2. With respect to dwellings with a building entrance on an accessible route:

A. The public use and common use portions of such dwellings are readily accessible to and usable by a person with a disability;

B. All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by a person in a wheelchair; and

C. 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 and make use of the facilities.

b. This paragraph applies to:

1. Covered multifamily dwellings for first occupancy after September 1, 1992; and

2. Covered multifamily dwellings after 1 year from September 1, 1992, undergoing alterations costing 50 percent or more of the replacement cost of the building unless to do so is structurally impracticable;

(4) To make an inquiry to determine whether an applicant for a dwelling, a person intending to reside in that dwelling after it is so sold, rented or made available, or

any person associated with that person, has a disability or to make inquiry as to the nature or severity of a disability of such a person. However, this paragraph does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they have a disability:

a. Inquiry into an applicant's ability to meet the requirements of ownership or tenancy;

b. Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with a particular type of disability;

c. Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to a person with a disability or to persons with a particular type of disability; or

d. Inquiry to determine whether an applicant for a dwelling is a current illegal user of a controlled substance.

(b) Compliance with the appropriate requirements of the American National Standard for Buildings and Facilities Providing Accessibility and Usability for Physically Handicapped People (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of paragraph (a)(3)a.2.C. of this section.

(c)(1) If an agency or a political subdivision of the State has incorporated into its laws the requirements set forth in paragraph (a)(3) of this section, compliance with such laws shall be deemed to satisfy the requirements of that paragraph.

(2) The State or a political subdivision thereof with a building code may review and approve newly constructed covered multifamily dwellings for the purpose of making determinations as to whether the design and construction requirements of paragraph (a)(3) of this section are met.

(3) The Division shall encourage, but may not require, any agency or political subdivision of the State to include in their existing procedures for the review and approval of newly constructed covered multifamily dwellings, determinations as to whether the design and construction of such dwellings are consistent with paragraph (a)(3) of this section, and may provide technical assistance to the State, political subdivisions thereof and other persons to implement the requirements of paragraph (a)(3) of this section.

(4) Nothing in this section shall be construed to require the Division to review or approve the plans, designs or construction of any covered multifamily dwellings, to determine whether the design and construction of such dwellings are consistent with the requirements of paragraph (a)(3) of this section.

(d)(1) Nothing in subsection (c) of this section shall be construed to affect the authority and responsibility of the Division to receive and process complaints or otherwise engage in enforcement activities under this chapter.

(2) Determinations by an agency or a political subdivision of the State under paragraphs (c)(1) and (c)(2) of this section shall not be conclusive in enforcement proceedings under this chapter.

(e) Nothing in this chapter shall be construed to invalidate or limit any law of the State or political subdivision thereof, that requires dwellings to be designed and constructed in a manner that affords a person with a disability greater access than is required by this chapter.

(f) Nothing in this section requires that a dwelling be made available to a person with a disability 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.

§ 4604. Discrimination in residential real estate-related transactions.

(a) In general. -- It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, national origin, religion, creed, sex, marital status, familial status, age, sexual orientation or disability.

(b) Appraisal exemption. -- Nothing in this chapter prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, national origin, religion, creed, sex, marital status, familial status, age, sexual orientation or disability.

§ 4605. Discrimination in provision of brokerage services.

It shall be unlawful to deny any person 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 selling, exchanging or renting dwellings, or to discriminate against the person in the terms or conditions of such access, membership, or participation, on account of race, color, national origin, religion, creed, sex, marital status, familial status, age, sexual orientation or disability.

§ 4606. Aiding discriminatory practices.

Notwithstanding the provisions enumerated in § 4619 of this title, it shall be unlawful to assist, induce, incite or coerce another person to commit any of the discriminatory housing practices prohibited by this chapter.

§ 4607. Exemptions in certain situations.

(a) Nothing in this chapter shall prohibit a religious organization, association or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color or national origin.

(b) Nothing in this chapter shall prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members, unless membership in such private club is restricted on account of race, color or national origin.

(c) Nothing in this chapter limits the applicability of any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling as long as they are applied to all occupants and do not operate to discriminate or have the effect of discriminating on the basis of race, color, national origin, religion, creed, sex, marital status, familial status, age, sexual orientation or disability. Nor does any provision in this chapter regarding familial status or age apply with respect to housing for older persons as defined in § 4602(15) of this title.

(d) Housing shall not fail to meet the requirements for housing for older persons by reason of:

(1) Persons residing in such housing as of September 1, 1992 who do not meet the age requirements of § 4602(15)b. or c. of this title; provided, that new occupants of such housing meet the age requirements of § 4602(15)b. or c.;

(2) Unoccupied units: provided, that such units are reserved for occupancy by persons who meet the age requirements of § 4602(15)b. or c.; or

(3) Persons under 18 years of age residing in such housing with a person or persons who do meet the age requirements of § 4602(15)b. or c. provided that:

a. Such person under 18 years of age must move into the housing by reason of death, serious injury or serious illness of the parent, guardian or person acting in the place of a parent with whom such person under 18 years of age resided immediately before the time of such death, serious injury or serious illness; and

b. Occupancy by the person under 18 years of age is of a temporary nature terminating when reasonably practicable.

(e) Nothing in § 4603 of this title, except paragraph (b)(3) thereof, or in § 4603A of this title, shall apply to rentals of rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than 4 families living independently of each other, if the owner actually maintains and occupies 1 of such living quarters as that owner's residence.

(f) Nothing in this chapter shall prohibit discrimination on the basis of sex for single sex student dormitories, fraternities, sororities, other housing or portion thereof of an educational institution certified, chartered, or established by the State and operated for students of that educational institution.

(g) Nothing in this chapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from discriminating on the basis of sex for single sex dormitories or portions thereof where such discrimination on the basis of sex is necessary for the safety of individuals in such dormitories or to preserve the personal privacy of such individuals, unless such organization, association, society or institution restricts its membership on account of race, color or national origin.

§ 4608. Administration.

(a) The State Human Relations Commission shall implement the provisions of this chapter not expressly vested in another entity.

(b)(1) The Commission may delegate to a panel of its members any power, duty, or function vested in it by this chapter. No panel to which any power, duty, or function of the Commission is delegated shall consist of fewer than 3 members of the Commission.

(2) The Commission may delegate, to the Division of Human Relations, any power, duty, or function vested in it by this chapter unless the delegation is expressly prohibited. If the Commission delegates to the Division a power, duty, or function vested in it by this chapter, the delegation shall specifically state the power, duty, or function being delegated. The Commission shall not delegate its power or duty to conduct public hearings or order relief to the Division.

(c) All executive departments and agencies of the State or any political subdivision thereof shall administer their programs and activities relating to housing and urban development (including, but not limited to, any agency having regulatory or supervisory authority over financial institutions) in a manner affirmatively to further the purposes of this chapter and shall cooperate with the Commission to further such purposes.

(d) The Commission, in connection with its enforcement of this chapter:

(1) May study the nature and extent of discriminatory housing practices in representative urban, suburban and rural communities throughout the State;

(2) May publish and disseminate reports, recommendations and information derived from such studies;

(3) Shall cooperate with and render technical assistance to federal and state agencies, organizations and institutions which are formulating or carrying on programs to prevent or eliminate discriminatory housing practices;

(4) May provide similar assistance to other local public or private agencies, organizations and institutions consistent with the purposes of this chapter; and

(5) Shall administer the programs and activities relating to eliminating discriminatory housing practices in a manner affirmatively to further the purpose of this chapter.

§ 4609. Education and conciliation.

(a) The Commission may commence such educational activities as, in its judgment, will further the purposes of this chapter. It may hold conferences for persons in the business industry and other interested parties to acquaint them with the provisions of this chapter and its suggested means of implementing it. The Commission may issue reports on such conferences as it deems appropriate.

(b) The Division may commence such conciliatory activities in order to further the purposes of this chapter. It may call conferences of persons in the business industry and other interested parties to acquaint them with the provisions of this chapter governing conciliation and the means it employs to implement those provisions. It shall endeavor, with their advice, to develop programs of voluntary compliance and enforcement. The Division may issue reports on such conferences as it deems appropriate.

(c) When undertaking their respective duties under this section, the Commission and the Division may consult with state and local officials and other interested parties to learn the extent, if any, to which discriminatory public accommodations practices exist in the State or locality, and whether and how state or local enforcement programs might be utilized to combat such discrimination. The Commission may issue reports on such consultations as it deems appropriate.

§ 4610. Administrative enforcement; preliminary matters.

(a) Complaints and answers. --

(1)a. An aggrieved person, not later than 1 year after an alleged discriminatory housing practice has occurred or terminated, or not later than 1 year after such practice has been discovered or reasonably should have been discovered by the aggrieved person, may file a complaint with the Division alleging such discriminatory housing practice. The Division on its own initiative may also file such a complaint subject to the same time limitations.

2. Such complaints shall be in writing and shall contain such information and be in such form as the Division requires.

3. The Division may also investigate housing practices to determine whether a complaint should be brought under this chapter.

b. Upon the filing of such a complaint:

1. The Division shall serve notice upon the aggrieved person acknowledging such filing and advising the aggrieved person of the time limits and choice of forums provided under this chapter;

2. The Division shall, not later than 10 days after such filing or the identification of an additional respondent under paragraph (2) of this subsection, serve on the respondent a notice identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of respondents under this chapter, together with a copy of the original complaint;

3. Each respondent may file, not later than 20 days after receipt of notice from the Division, an answer to such complaint; and

4. The Division shall make an investigation of the alleged discriminatory housing practice and complete such investigation within 100 days after the filing of the complaint unless it is impracticable to do so.

c. If the Division is unable to complete the investigation within 100 days after the filing of the complaint, the Division shall notify the complainant and respondent in writing of the reasons for not doing so.

d. Complaints and answers shall be verified under oath or affirmation, and may be reasonably and fairly amended at any time.

(2)a. A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent to the same extent such person could be joined in a civil action in Superior Court and upon written notice, under paragraph (1) of this subsection, to such person, from the Division.

b. Such notice, in addition to meeting the requirements of paragraph (1) of this subsection, shall explain the basis for the Division's belief that the person to whom the notice is addressed is properly joined as a respondent.

(b) Investigative report and conciliation. --

(1) During the period beginning with the filing of such complaint and ending with the filing of a charge or a dismissal by the Division, the Division shall, to the extent feasible, engage in conciliation with respect to such complaint.

(2) A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant, and shall be subject to approval by the Division.

(3) A conciliation agreement may provide binding arbitration of the dispute arising from the complaint. Any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief.

(4) Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Division determines that disclosure is not required to further the purpose of this chapter.

(5)a. At the end of each investigation under this section, the Division shall prepare a final investigative report containing:

1. The names and dates of contacts with witnesses;
2. A summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;
3. A summary description of other pertinent records;
4. A summary of witness statements;
5. Answers to interrogatories; and
6. Such other matters as the Division requires.

b. A final report under this paragraph may be amended if additional evidence is later discovered.

(c) Failure to comply with conciliation agreement. -- Whenever the Division has reasonable cause to believe that a respondent has breached a conciliation agreement, the shall refer the matter to the Attorney General with a recommendation that a civil action be filed under § 4614 of this title for the enforcement of such agreement.

(d) Prohibitions and requirements with respect to disclosure of information. --

(1) Nothing said or done for the purpose of promoting conciliation under this chapter may be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the persons whose words or actions are at issue.

(2) Notwithstanding paragraph (1) of this subsection, the Division shall make available to the aggrieved person and the respondent, at any time, upon request following completion of the Division's investigation, information derived from an investigation and any final investigative report relating to that investigation.

(e) Prompt judicial action. --

(1) If the Division concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this chapter, the Division may authorize a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint under this section. Upon receipt of such an authorization, the Attorney General, in the absence of any conflict of duty, shall commence and maintain such an action in the Court of Chancery on behalf of the Division in the name of the Division or the aggrieved person or persons. The commencement of a civil action under this subsection does not affect the initiation or continuation of administrative proceedings under this section or § 4612 of this title.

(2) If the Attorney General does not commence such an action, the Division shall employ special counsel to pursue such action in accordance with § 2507 of Title 29. Whenever an action under this subsection will be pursued by special counsel, such action shall be commenced promptly after the Division employs such counsel.

(3) Whenever the Division has reason to believe that a basis may exist for the commencement of proceedings against any respondent under § 4614(a) and (c) of this title or for proceedings by any governmental licensing or supervisory authorities, the Division shall transmit the information upon which such belief is based to the Attorney General, or to such authorities, as the case may be.

(f) Reasonable cause determination and effect. --

(1) The Division shall, within 100 days after the filing of the complaint, determine, based on the facts, whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, unless it is impracticable to do so, or unless the Division has approved a conciliation agreement with respect to the complaint. If the Division is unable to make the determination within 100 days after the filing of the complaint the Division shall notify the complainant and respondent in writing of the reasons for not doing so.

(2)a. If the Division determines that reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Division shall, except as provided in subparagraph c. of this paragraph, immediately issue a charge on behalf of the aggrieved person, for further proceedings under § 4612 of this title.

b. Such charge:

1. Shall consist of a short and plain statement of the facts upon which the Division has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur;

2. Shall be based on the final investigative report; and

3. Need not be limited to the facts or grounds alleged in the complaint filed under § 4610(a) of this title.

c. If the Division determines that the matter involves the legality of any state or local zoning or other land use law or ordinance, the Division shall immediately refer the matter to the Attorney General for appropriate action under § 4614 of this title, instead of issuing such charge.

(3) If the Division determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Division shall promptly dismiss the complaint. The Division shall make public disclosure of each such dismissal.

(4) The Division may not issue a charge under this section regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under a state or federal law, seeking relief with respect to that discriminatory housing practice.

(g) Service of copies of charge. -- After the Division issues a charge under this section, the Division shall cause a copy thereof, together with information as to how to make an election under § 4612(a) of this title and the effect of such an election, to be served:

(1) On each respondent named in such charge, together with a notice of opportunity for a hearing at a time and place specified in the notice, unless that election is made; and

(2) On each aggrieved person on whose behalf the complaint was filed.

§ 4611. Subpoenas; giving of evidence.

(a) In general. -- The Commission may, in accordance with this subsection, issue subpoenas and order discovery in aid of investigations and hearings under this chapter. Such subpoenas and discovery may be ordered to the same extent and subject to the same limitations as would apply if the subpoenas or discovery were ordered or served in aid of a civil action in the Superior Court.

(b) Witness fees. -- Witnesses summoned by a subpoena under this chapter shall be entitled to the same witness and mileage fees as witnesses in proceedings in Superior Court.

(c) Civil enforcement. -- Where any person fails or neglects to attend and testify or answer any lawful inquiry or to produce records, documents or other evidence, if it is in such person's power to do so, in obedience to the subpoena or other lawful order under subsection (a) of this section, the Commission may petition the Superior Court in the county where such person resides or conducts business for an order requiring such person to appear before the Commission to produce evidence if so ordered or to give testimony pertaining to the matter under investigation or in question. Any failure to obey such order may be punished by the Court as being in contempt of the Court.

(d) Criminal penalties. --

(1) Any person who wilfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents or other evidence, if it is in such person's power to do so, in obedience to the subpoena or other lawful order under subsection (a) of this section, shall in each instance be fined not more than \$2,500, or imprisoned not more than 1 year, or both.

(2) Any person who, with intent thereby to mislead another person in any proceeding under this chapter:

a. Makes or causes to be made any false entry or statement of fact in any report, account, record or other document produced pursuant to subpoena or other lawful order under subsection (a) of this section;

b. Wilfully neglects or fails to make or to cause to be made full, true and correct entries in such reports, accounts, records or other documents; or

c. Wilfully mutilates, alters or by any other means falsifies any documentary evidence; shall in each instance be fined not more than \$2,500, or imprisoned not more than 1 year, or both.

§ 4612. Enforcement by Commission.

(a) Election of judicial determination. -- When a charge is issued under § 4610 of this section, a complainant, a respondent or an aggrieved person on whose behalf the complaint was filed, may elect to have the claims asserted in that charge decided in a civil action under subsection (n) of this section in lieu of a hearing under subsection (b) of this section. The election must be made not later than 20 days after the receipt by the electing person of service under § 4610(g) of this title or, in the case of the Division, not later than 20 days after such service. The person making such election shall give notice of doing so to the Division and to all other parties to the proceeding to whom the charge relates.

(b) Administrative hearing on absence of election. -- If an election is not made under subsection (a) of this section with respect to a charge issued under § 4610 of this title, the Commission shall provide an opportunity for a hearing on the record. The

Commission shall delegate the conduct of a hearing under this section to an Administrative Hearing Officer or Panel appointed by the Commission Chairperson in accordance with regulations established by the Commission. The Administrative Hearing Officer or Panel shall conduct the hearing in the county in which the discriminatory housing practice is alleged to have occurred or to be about to occur.

(c) Rights of parties. -- At a hearing under this section, each party may appear in person, be represented by counsel, present evidence, cross-examine witnesses and obtain the issuance of subpoenas under § 4611 of this title. Any aggrieved person may intervene as a party in the proceeding. The Delaware Rules of Evidence shall apply to the presentation of evidence in such hearing as they would in an administrative hearing conducted in accordance with subchapter III of the Administrative Procedures Act in Title 29.

(d) Expedited discovery and hearing. --

(1) Discovery in administrative proceedings under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the need of all parties to obtain relevant evidence.

(2) A hearing under this section shall be conducted as expeditiously and inexpensively as possible consistent with the needs and rights of the parties to obtain a fair hearing and a complete record.

(3) [Repealed.]

(e) Resolution of charge. -- Any resolution of a charge before a final order under this section shall require the consent of the aggrieved person on whose behalf the charge is issued.

(f) Effect of trial of civil action on administrative proceedings. -- An Administrative Hearing Officer or Panel may not continue administrative proceedings under this section regarding any alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under a state or federal law, seeking relief with respect to that discriminatory housing practice.

(g) Hearings; findings and conclusions; orders. --

(1) The Administrative Hearing Officer or Panel shall commence the hearing under this section not later than 120 days following the issuance of the charge, unless it is impracticable to do so. If the Administrative Hearing Officer or Panel is unable to commence the hearing within 120 days after the issuance of the charge, the Administrative Hearing Officer or Panel Chair shall notify the Division, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing of the reasons for not doing so.

(2) The Administrative Hearing Officer or Panel shall make findings of fact and conclusions of law within 60 days after the end of the hearing under this section, unless it is impracticable to do so. If the Administrative Hearing Officer or Panel is unable to make findings of fact and conclusions of law within such period, or any succeeding 60-day period thereafter, the Administrative Hearing Officer or Panel Chair shall notify the Division, the aggrieved person on whose behalf the charge was filed and the respondent, in writing of the reasons for not doing so.

(3) If the Administrative Hearing Officer or Panel finds that a respondent has engaged or is about to engage in a discriminatory housing practice, such Administrative Hearing Officer or Panel shall promptly issue an order for such relief as may be appropriate, which may include actual damages suffered by the aggrieved person, costs, expenses, attorneys fees and injunctive or other equitable relief. Such order may, to vindicate the public interest, assess a civil penalty against the respondent to be paid to the Special Administration Fund:

a. In an amount not exceeding \$10,000 for each discriminatory practice if the respondent has not been adjudged to have committed any prior discriminatory housing practice;

b. In an amount not exceeding \$25,000 for each discriminatory practice if the respondent has been adjudged to have committed 1 other discriminatory housing practice during the 5-year period ending on the date of the filing of this charge; and

c. In an amount not exceeding \$50,000 for each discriminatory practice if the respondent has been adjudged to have committed 2 or more discriminatory housing practices during the 7-year period ending on the date of the issuing of this charge; except that if the acts constituting the discriminatory housing practice that is the object of the charge are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory housing practice, then the civil penalties set forth in subparagraphs b. and c. of this paragraph may be imposed without regard to the period of time within which any subsequent discriminatory housing practice occurred.

(4) No such order shall affect any contract, sale, encumbrance or lease consummated before the issuance of such order and involving a bona fide purchaser, encumbrancer or tenant without actual notice of the charge issued under this chapter.

(5) In the case of an order with respect to a discriminatory housing practice that occurred in the course of a business subject to a licensing or regulation by a governmental agency, the Division shall, not later than 30 days after the date of the issuance of such order (or, if such order is judicially reviewed, 30 days after such order is in substance affirmed upon such review):

a. Send copies of the findings of fact, conclusions of law and the order, to that governmental agency; and

b. Recommend to that governmental agency appropriate disciplinary action (including, where appropriate, a reprimand or the suspension or revocation of the license of the respondent).

(6) In the case of an order against a respondent against whom another order was issued within the preceding 5 years under this section, the Division shall send a copy of each such order to the Attorney General.

(7) If the Administrative Hearing Officer or Panel finds that the respondent has not engaged or is not about to engage in a discriminatory housing practice, as the case may be, such Administrative Hearing Officer or Panel shall enter an order dismissing the charge. The Division shall make public disclosure of each such dismissal.

(h) Service of final order. -- The Commission shall cause the findings of fact and conclusions of law made with respect to any final order for relief under this section, together with a copy of such order, to be served on each aggrieved person and each respondent in the proceeding.

(i) Judicial review. --

(1) Any party aggrieved by a final order for relief under this section granting or denying in whole or in part the relief sought may obtain a review of such order in the Superior Court in the county in which the discriminatory practice is alleged to have occurred pursuant to the civil rules of that Court and the Administrative Procedures Act [Chapter 101 of Title 29]. Filing of the petition for review shall be not later than 30 days after the order is entered.

(2) Any party to the proceeding before the Administrative Hearing Officer or Panel may intervene in the Superior Court in the appeal process.

(3) No objection not made before the Administrative Hearing Officer or Panel shall be considered by the Court, unless the failure or neglect to urge such objection is excused because of extraordinary circumstances or when the interests of justice so require.

(j) Court enforcement of administrative order upon petition by Commission. --

(1) The Commission may petition the Court of Chancery in the county in which the discriminatory housing practice is alleged to have occurred or in which any respondent resides or transacts business for the enforcement of the order of the Administrative Hearing Officer or Panel and for appropriate temporary relief or restraining order, by filing in such Court a written petition requesting that such order be enforced and for appropriate temporary relief or restraining order.

(2) The Commission shall file in Court with the petition the record in the proceeding. A copy of such petition shall be forthwith transmitted by the Register in

Chancery to the parties to the proceeding before the Administrative Hearing Officer or Panel.

(3) Upon the filing of a petition under this subsection, the Court may grant to the petitioner, or any other party, such temporary relief, restraining order or other order as the Court deems just and proper to enforce the Commission's order.

(4) Any party to the proceeding before the Administrative Hearing Officer or Panel may intervene in the Court of Chancery in the enforcement process.

(k) Enforcement decree in absence of petition for review. -- If no petition for review is filed under subsection (i) of this section before the expiration of 30 days after the date the order is entered, the findings of fact and order of the Administrative Hearing Officer or Panel shall be conclusive in connection with any petition for enforcement:

(1) Which is filed by the Commission under subsection (j) of this section after the end of such day; or

(2) Under subsection (l) of this section.

(l) Court enforcement of administrative order upon petition of any person entitled to relief. -- If before the expiration of 60 days after the date of the order of the Administrative Hearing Officer or Panel is entered, no petition for review has been filed under subsection (i) of this section, and the Commission has not sought enforcement of the order under subsection (j) of this section, any person entitled to relief under the order may petition for a decree enforcing the order in the Court of Chancery in the county in which the discriminatory housing practice has occurred or is about to occur.

(m) Entry of decree. -- The Register in Chancery for the Court in which a petition for enforcement is filed under subsection (k) or (l) of this section shall forthwith, upon order of the Court, enter a decree enforcing the order and shall transmit a copy of such decree to the Commission, the respondent named in the petition, and to any other parties to the proceeding before the Administrative Hearing Officer or Panel.

(n) Civil action for enforcement when election is made for such civil action. --

(1) If an election is made under subsection (a) of this section, the Commission shall authorize a civil action on behalf of the aggrieved person or persons in the county in which the discriminatory practice is alleged to have occurred. The Commission shall immediately refer the matter to the Attorney General for appropriate action.

(2) Not later than 30 days after the Commission's referral, the Attorney General, in the absence of any conflict of duty, shall pursue a civil action on behalf of the Commission in the name of the aggrieved person or persons.

(3) If the Attorney General does not commence a civil action, the Commission shall employ special counsel to pursue such action in accordance with § 2507 of Title 29. Whenever a civil action under this subsection will be pursued by special counsel, such action shall be commenced promptly after the Commission employs such counsel.

(4) Any aggrieved person with respect to the issues to be determined in a civil action under this subsection may intervene as of right in that civil action.

(5) In a civil action under this subsection, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may grant as relief any relief which a court could grant with respect to such discriminatory housing practice in a civil action under § 4613 or § 4614(d)(2)b. of this title. Any relief so granted that would accrue to an aggrieved person in a civil action commenced by that aggrieved person under § 4613 of this title shall also accrue to that aggrieved person in a civil action under this subsection. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court shall not award such relief if that aggrieved person has not complied with discovery orders entered by the court.

(o) Attorneys' fees and expenses. -- In any administrative proceeding brought under this section, or any court proceeding arising therefrom, the Administrative Hearing Officer, Panel or the court, as the case may be, in its discretion, may allow the prevailing aggrieved person or persons, which may include the State, costs, reasonable attorneys' fees and expenses. The Administrative Hearing Officer, Panel or the Court, as the case may be, may order that the attorneys' fees and expenses be paid directly to the attorney, who, when a court enters the order, may enforce the order in the attorneys' name.

§ 4613. Enforcement by private persons.

(a) Civil action. --

(1)a. An aggrieved person may commence a civil action in the county in which the discriminating housing practice is alleged to have occurred not later than 2 years after the occurrence or the termination of an alleged discriminatory housing practice, not later than 2 years after such practice has been discovered or reasonably should have been discovered by the aggrieved person, or not later than 2 years after the breach of a conciliation agreement entered into under this chapter, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice or breach.

b. The computation of such 2-year period shall not include any time during which an administrative proceeding under this chapter was pending with respect to a complaint or charge under this chapter based upon such discriminatory housing practice. This subparagraph does not apply to actions arising from a breach of a conciliation agreement.

(2) An aggrieved person may commence a civil action under this subsection whether or not a complaint has been filed under § 4610 of this title and without regard to

the status of any such complaint, but if the Division has obtained a conciliation agreement with the consent of an aggrieved person, no action may be filed under this subsection by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such an agreement.

(3) An aggrieved person may not commence a civil action under this subsection with respect to an alleged discriminatory housing practice which forms the basis of a charge issued by the Division if an Administrative Hearing Officer or Panel has commenced a hearing on the record under this chapter with respect to such charge.

(b) Appointment of attorney by court. -- Upon application by a person alleging under subsection (a) of this section, a discriminatory housing practice or a person against whom such a practice is alleged the court may:

(1) Appoint an attorney for such person; or

(2) Authorize the commencement or continuation of a civil action under subsection (a) of this section without the payment of fees, costs or security, if in the opinion of the court such person is financially unable to bear the expenses of such action.

(c) Relief which may be granted. --

(1) In a civil action under subsection (a) of this section in Superior Court, if a discriminatory housing practice is found to have occurred the aggrieved person may be awarded actual and punitive damages; and

(2) Subject to subsection (d) of this section, in a civil action under subsection (a) of this section, in the Court of Chancery, if the Court finds that a discriminatory housing practice has occurred or is about to occur, the Court, as the Court deems appropriate, may grant:

a. Any temporary, preliminary, permanent or mandatory injunctive relief enjoining the defendant from engaging in such practice;

b. Ordering such affirmative action as may be appropriate; and

c. Such other relief as the Court deems appropriate to the fullest extent of its jurisdiction.

(3) In a civil action under subsection (a) of this section, the Court, in its discretion, may allow the prevailing aggrieved person or persons, reasonable attorneys' fees, expenses and costs.

(d) Effect on certain sales, encumbrances, and rentals. -- Relief granted under this section shall not affect any lease consummated before the granting of such relief and involving a tenant without actual notice of the filing of a complaint with the Division or civil action under this chapter. Relief granted under this section shall not affect any contract, option, sale or encumbrance, consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer or optionee, without either actual notice of the filing of a complaint with the Division or civil action under this chapter, or notice by lis pendens when appropriate under Chapter 16 of Title 25.

(e) Intervention by Attorney General. -- Upon timely application, the Attorney General may intervene in such civil action, if the Attorney General certifies that the case is of general public importance. Upon such intervention the Attorney General may obtain such relief as would be available to the Attorney General under § 4614 of this title in a civil action to which such section applies.

§ 4614. Enforcement by the Attorney General.

(a) Pattern or practice cases. -- Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this chapter, or that any group of persons has been denied any of the rights granted by this chapter and such denial raises an issue of general public importance, the Attorney General may commence a civil action in the Superior Court, Court of Chancery or both in any county of the State.

(b) On referral of discriminatory housing practice or conciliation agreement for enforcement. --

(1)a. The Attorney General may commence a civil action in any state court of competent jurisdiction for appropriate relief with respect to a discriminatory housing practice referred to the Attorney General by the Division under § 4610(f)(2)c. of this title.

b. A civil action under this paragraph may be commenced not later than the expiration of 18 months after the date of the occurrence or the termination of the alleged discriminatory housing practice.

(2)a. The Attorney General may commence a civil action in any state court of competent jurisdiction for appropriate relief with respect to breach of a conciliation agreement referred to the Attorney General by the Division under § 4610(c) of this title.

b. A civil action may be commenced under this paragraph not later than the expiration of 90 days after the referral of the alleged breach under § 4610(c) of this title.

(c) Enforcement of subpoenas. -- The Attorney General, on behalf of the Commission, may enforce a subpoena issued by the Commission for itself or other party at whose request a subpoena is issued in appropriate proceedings in the Superior Court for the county in which the person to whom the subpoena was addressed resides, was served or transacts business.

(d) Relief which may be granted in civil actions under subsections (a) and (b) of this section. --

(1) In a civil action brought in the Court of Chancery, the Court:

a. May award such preventive relief, including a permanent or temporary injunction, restraining order or other order against the person responsible for a violation of this chapter as is necessary to assure the full enjoyment of the rights granted by this chapter;

b. May allow the prevailing aggrieved person or persons, which may include the State, reasonable attorney's fees, expenses and costs; and

c. May award such other relief as the Court deems appropriate, including monetary damages to persons aggrieved.

(2) In a civil action brought in the Superior Court, the Court:

a. May award monetary damages to the aggrieved person or persons;

b. May, to vindicate the public interest, assess a civil penalty against the respondent to be paid to the Special Administration Fund:

1. In an amount not exceeding \$50,000, for a 1st violation;

2. In an amount not exceeding \$100,000, for any subsequent violation;

c. May allow the prevailing aggrieved person or persons, which may include the State, reasonable attorneys' fees, expenses and costs; and

d. May award such other relief as the Court deems appropriate.

(3) In a civil action under subsection (b)(2) of this section, the court may award such relief as is enumerated in paragraphs (1) and (2) of this subsection as may be appropriate given the nature of the action initiated and the jurisdiction of the court.

(e) Limitation of fees. -- Where a civil action is initiated by the Attorney General, or by the Attorney General or special counsel on behalf of the Commission or any aggrieved person, pursuant to the applicable provisions of this chapter, no court or any

officer of such court shall charge fees of any kind in such proceeding to the Attorney General, the Commission, special counsel or such individual.

(f) Intervention in civil actions. -- Upon timely application, any person may intervene in a civil action commenced by the Attorney General under subsection (a) or (b) of this section which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person or a conciliation agreement to which such person is a party. The court may grant such appropriate relief to any such intervening party as is authorized to be granted to a plaintiff in a civil action under § 4613 of this title.

§ 4615. Fees, costs and expenses for respondent or defendant.

In any action, pleading or motion under this chapter, the Administrative Hearing Office, Panel or court hearing or reviewing the matter, may in its discretion, award attorneys' fees, costs and expenses to the respondent or defendant if an action was brought for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

§ 4616. Rules to implement chapter.

The Commission may make rules and regulations (including rules for the collection, maintenance and analysis of appropriate data) to carry out this chapter. The Commission shall give public notice and opportunity for comment with respect to all rules and regulations made under this section in accordance with the Administrative Procedures Act.

§ 4617. Effect on other laws.

Nothing in this chapter shall be construed to invalidate or limit any law of the State or any political subdivision thereof that grants, guarantees or protects the same rights as are granted by this chapter, but any law of the State or any political subdivision thereof that purports to require or permit any action that would be a discriminatory housing practice under this chapter shall to that extent be invalid.

§ 4618. Interference, coercion or intimidation.

It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of that person having exercised or enjoyed, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by § 4603, § 4604, § 4605 or § 4606 of this title.

§ 4619. Prohibition of intimidation, violations and penalties.

Whoever, whether or not acting under color of law, by force or threat of force wilfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with:

(1) Any person because of race, color, national origin, religion, creed, sex, sexual orientation, marital status, familial status, age or disability and because he or she is or has been selling, purchasing, renting, financing, occupying or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for participating in any service, organization or facility relating to the business of selling or renting dwellings; or

(2) Any person because he or she is or has been, or in order to intimidate such person or any other person or any class of persons from:

a. Participating, without discrimination on account of race, color, national origin, religion, creed, sex, sexual orientation, marital status, familial status, age or disability in any of the activities, services, organizations or facilities described in subdivision (1) of this section; or

b. Affording another person or class of persons opportunity or protection so to participate; or

(3) Because any citizen is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, national origin, religion, creed, sex, sexual orientation, marital status, familial status, age or disability in any of the activities, services, organizations or facilities described in subdivision (1) of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate, that citizen shall be fined for each such act not more than \$2,500, or imprisoned not more than 1 year, or both, and if bodily injury results shall be fined for each such act not more than \$10,000, or imprisoned not more than 10 years, or both; and, if death results, for each such act shall be subject to imprisonment for any term of years or for life.

§ 4620. Criminal jurisdiction.

The Superior Court shall have exclusive original jurisdiction over all criminal violations of this chapter.