

**LEXINGTON-FAYETTE URBAN COUNTY  
HUMAN RIGHTS COMMISSION**



**ORDINANCE NUMBER  
199-94 & 201-99**

**AN ORDINANCE RELATING TO DISCRIMINATION**

**342 WALLER AVE., SUITE 1A  
LEXINGTON, KENTUCKY 40504  
PHONE: (859) 252-4931  
FAX: (859) 252-7057  
E-MAIL: LFUCHRC@QX.NET  
WEB SITE: WWW.LFUCHRC.ORG**

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**ORDINANCE 199-94 and 201-99**

**AN ORDINANCE RELATING TO DISCRIMINATION**

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BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Sections 2-26 through 2-32 of Article II of Chapter 2 of the Code of Ordinances, Lexington-Fayette Urban County Government, be and hereby are enacted to read as follows:

**Sec. 2-26. Composition; appointment, term.**

- (1) The Lexington-Fayette Urban County Human Rights Commission established pursuant to the Inter-Local Cooperation Agreement between the City of Lexington and the Fiscal Court of Fayette County and Section 7.17 of the Urban County Charter shall be composed of fourteen (14) members, who are as nearly as possible representative of the several social, economic, cultural, ethnic and racial groups which compose the population of the County. Such members may reside anywhere in the County.
- (2) The appointment and term of the commission members shall be as provided in Section 7.02 of the Urban County Charter.

**Sec. 2-27. Administrative provisions.**

- (1) The Commission shall elect a chairperson, a vice-chairperson, a secretary and a treasurer from among its members.
- (2) All orders of the Commission shall be signed by the chairperson or vice-chairperson and attested by the secretary.
- (3) A simple majority of the total membership of the Commission shall constitute a quorum. The members of the Commission shall observe the Code of Ethics contained in Article XVI of the Urban County Charter. Any member of the Commission who has a disqualifying interest shall disclose such interest on the record of the Commission and shall disqualify himself from participating in any decision or vote relating thereto. A disqualified member may remain for quorum purposes only but shall not participate in any discussion or vote on the subject. A simple majority vote of all members present, where there is a properly constituted quorum, shall be necessary to transact any official business; except that in adopting bylaws, rules or regulations or in any elections, a simple majority of the total membership shall be necessary.
- (4) The Commission may appoint one (1) or more of its members to act as a hearing examiner or examiners to preside over hearings and make recommendations to the Commission based upon the record of proceedings, including testimony which shall be recorded in a form prescribed by the Commission.

- (5) The Commission shall meet as often as it deems necessary, but it shall not meet less than once each month.
- (6) Members shall serve without compensation. However, subject to the approval of the Commission and within the limitation imposed by the budget, they shall be allowed their necessary expenses, attendant upon their duties.
- (7) The chairperson of the Commission may appoint such committees as the rules of the Commission shall provide and such other committees from time to time as the Commission may deem necessary in order to carry out its purposes.

**Sec. 2-28. Executive director; other employees.**

- (1) The Commission shall employ an executive director with training and experience in intergroup and interracial relations, whose qualifications and compensation shall be approved by the Mayor. The executive director shall coordinate the activities of the Commission and its staff.
- (2) The Commission may, within the limits of funds made available, employ such attorneys, hearing examiners, clerks and other employees and agents as it deems necessary, and fix their compensation.

**Sec. 2-29. Report; fiscal year.**

- (1) The Commission shall submit an annual report as of July 1 of each year to the Mayor and Council, which report shall contain a summary of its activities for the preceding year, a physical inventory of all property, and audit of all receipts, expenditures and funds on hand.
- (2) The Commission shall prepare, annually, a budget for the ensuing fiscal year and submit by the date specified the same to the Mayor and Council for their approval.

**Sec. 2-30. Duties.**

- (1) The Commission shall endeavor to promote and secure mutual understanding and respect among all economic, social, religious and ethnic groups in the County and shall act as conciliator in controversies involving intergroup and interracial relations.
- (2) The Commission shall cooperate with Federal, state and other local agencies in efforts to develop harmonious intergroup and interracial relations and shall endeavor to enlist the support of civic, religious, laborer and commercial groups and leaders dedicated to the improvement of human relations and the elimination of discriminatory practices.
- (3) The Commission shall receive complaints, conduct investigations, hold hearings and have such studies made as will enable the Commission to carry out the purposes of this Article and the Kentucky Civil Rights Act [K.R.S. 344.010 et seq].

**Sec. 2-31. Adoption of state law.**

- (1) The provisions of KRS 207.130(1); 344.010(1), (4)-(16); 344.020; 344.030; 344.040; 344.045; 344.050; 344.060; 344.070; 344.080; 344.090; 344.100; 344.110; 344.120 and such discrimination on the basis of sex; 344.130; 344.140; 344.145; 344.280; 344.360; 344.362; 344.365; 344.367; 344.370; 344.375; 344.380; 344.400, and 344.680 as they relate to discrimination in employment, public accommodations and housing on the basis of race, color, religion, national origin, sex, disability or age forty (40) and over; in addition to the above, to discrimination in public accommodations and housing on the basis of familial status, and as they are in effect on July 15, 1994, are adopted by the urban county government.
- (2) The Commission is given jurisdiction over all complaints for violation of those laws adopted in subsection (1) of this section.
- (3) In the enforcement of this section, the Commission shall have the powers set forth in KRS 344.320; 344.330; 344.340 and 344.350, as they are in effect on July 15, 1994, as well as the power to meet and exercise its powers at any place within the county and to adopt, promulgate, amend and rescind rules and regulations to effectuate the purposes of this article, including regulations requiring the posting of notices prepared or approved by the Commission.

**Sec. 2-32. Procedures.**

- (1) The Commission shall follow the same procedures as the Kentucky Commission on Human Rights as set forth in KRS 344.200(6), pending final determination of proceedings hereunder; 344.230(3), (4); 344.250(1), (6), (7); 344.260(1), (3), (4); 344.385; 344.600 except as it relates to actions taken by the attorney general of Kentucky; 344.605; 344.610; 344.615; 344.620; 344.625; 344.630; 344.635; 344.640(1), (3)-(7); 344.645; 344.670; and 344.675(1), (3), (4); as they are in effect on July 15, 1994. In addition, the Commission shall follow the procedures set out in subsection (2) hereof.
- (2) Unless otherwise required by law, the following shall apply to complaints filed with the Commission:
  - (a) An individual claiming to be aggrieved by an unlawful practice, or a member of the Commission, may file with the Commission a verified complaint stating that an unlawful practice has been committed, setting forth the facts upon which the complaint is based, and setting forth facts sufficient to enable the Commission to identify the persons charged, hereinafter "the respondent". The complaint must be filed within one hundred eighty (180) days after the alleged unlawful practice occurs.
  - (b) The Commission shall make a prompt and full investigation of each complaint, unless a voluntary settlement agreement is entered into before a determination is reached.
  - (c) If it is determined that there is no probable cause to believe that the respondent has engaged in an unlawful practice, the Commission shall issue an order dismissing the complaint.

- (d) If it is determined, after investigation, that there is probable cause to believe the respondent has engaged in an unlawful practice, the Commission shall notify the parties of such determination and endeavor to eliminate the alleged unlawful practice by conference, conciliation and persuasion. The terms of a conciliation agreement reached with a respondent may require him to refrain from the Commission of unlawful discriminatory practices in the future and make such further provisions as may be agreed upon between the Commission or its staff and the respondent.
- (e) In any case of failure to eliminate the alleged unlawful practice by means of conference, conciliation and persuasion, the Commission shall hold a public hearing to determine whether or not an unlawful practice has been committed. The Commission shall serve upon the respondent a statement of the charges made in the complaint and a notice of the time and place of the hearing. The hearing shall be held not less than ten (10) days after the service of the statement of charges. The respondent shall have the right to file an answer, to appear at the hearing in person or to be represented by an attorney, and to examine and cross-examine witnesses.
- (f) If the Commission determines that the respondent has not engaged in an unlawful practice, the Commission shall state its findings of fact and conclusions of law and shall issue an order dismissing the complaint.
- (g) If the Commission determines that the respondent has engaged in an unlawful practice, the Commission shall state its findings of fact and conclusions of law and shall issue an order requiring the respondent to cease and desist from the unlawful practice and to take such remedial and affirmative action as in the judgment of the Commission will carry out the purposes of this article.

**Sec. 2-33**

- (1) It is the policy of the Lexington-Fayette Urban County Government to safeguard all individuals within Fayette County from discrimination in employment, public accommodation, and housing on the basis of sexual orientation or gender identity, as well as from discrimination on the basis of race, color, religion, national origin, sex, disability, and age forty (40) and over.
- (2) For purposes of this section, the provisions of KRS 344.010 (1), (5) – (13) and (16), 344.030 (2) – (5), 344.040, 344.045, 344.050, 344.060, 344.070, 344.080, 344.100, 344.110, 344.120, 344.130, 344.140, 344.145, 344.360 (1) – (8), 344.365 (1) – (4), 344.367, 344.370 (1), (2) and (4), 344.375, 344.380, 344.400 and 344.680, as they existed on July 15, 1998, are adopted and shall apply to prohibit discrimination on the basis of sexual orientation or gender identity within Fayette County.
- (3) The Commission shall have jurisdiction to receive, investigate, conciliate, hold hearings and issue orders relating to complaints filed alleging discrimination in employment, public accommodation or housing based on the sexual orientation or gender identity of the complaining party. The Commission is authorized to use the powers and procedures listed in sections 2-31 and 2-32 to carry out the purposes of this section, except that KRS 344.385, 344.635 and 344.670 shall not apply to the enforcement of this section.

- (4) For purposes of this section, "sexual orientation" shall mean an individual's actual or imputed heterosexuality, homosexuality, or bisexuality.
- (5) For purposes of this section, "gender identity" shall mean:
  - (a) having a gender identity as a result of a sex change surgery; or
  - (b) manifesting, for reasons other than dress, an identity not traditionally associated with one's biological maleness or femaleness.
- (6) Nothing in this section shall be construed to prevent an employer from:
  - (a) enforcing an employee dress policy which may include restricting employees from dress associated with the other gender; or
  - (b) designating appropriate gender specific restroom or shower facilities.
- (7) The provisions of this section shall not apply to a religious institution or to an organization operated for charitable or educational purposes, which is operated, supervised, or controlled by a religious corporation, association or society except that when such an institution or organization receives a majority of its annual funding from any federal, state, local or other government body or agency or any combination thereof, it shall not be entitled to this exemption.

Section 2 – That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: July 8, 1999

/s/ Pam Miller

MAYOR

ATTEST:

/s/ Liz Damrell

CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: July 15, 1999-It



## **207.130 Definitions for KRS 207.140 to 207.240**

(1) "Persons" means one (1) or more individuals, partnerships, municipalities, the state, or other political subdivisions within the state, associations, labor organizations, or corporations.

## **344.010 Definitions for chapter**

In this chapter:

(1) "Person" includes one (1) or more individuals, labor organizations, joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, fiduciaries, receivers, or other legal or commercial entity; the state, any of its political or civil subdivisions or agencies.

(4) "Disability" means, with respect to an individual:

(a) A physical or mental impairment that substantially limits one (1) or more of the major life activities of the individual;

(b) A record of such an impairment; or

(c) Being regarded as having such an impairment. Persons with current or past controlled substances abuse or alcohol abuse and persons excluded from coverage by the Americans with Disabilities Act of 1990 (P.L. 101-336) shall be excluded from this section.

(5) "Discrimination" means any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, or any other act or practice of differentiation or preference in the treatment of a person or persons, or the aiding, abetting, inciting, coercing, or compelling thereof made unlawful under this chapter.

(6) "Real property" includes buildings, structures, real estate, lands, tenements, leaseholds, cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest in the above.

(7) "Housing accommodations" includes improved and unimproved property and means any building, structure, lot or portion thereof, which is used or occupied, or is intended, arranged, or designed to be used or occupied as the home or residence of one (1) or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building or structure.

(8) "Real estate operator" means any individual or combination of individuals, labor organizations, joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees in bankruptcy, receivers, or other legal or commercial entity, the county, or any of its agencies, that is engaged in the business of selling, purchasing, exchanging, renting, or leasing real estate, or the improvements thereon, including options, or that derives income, in whole or in part, from the sale, purchase, exchange, rental, or lease of real estate; or an individual employed by or acting on behalf of any of these.

(9) "Real estate broker" or "real estate salesman" means any individual, whether licensed or not, who on behalf of others, for a fee, commission, salary, other valuable consideration, or who with the intention or expectation of receiving or collecting the same, lists, sells, purchases, exchanges, rents, or leases real estate, or the improvements thereon, including options, or who negotiates or attempts to negotiate on behalf of others such an activity; or who advertises or holds himself out as engaged in these activities; or who negotiates or attempts to negotiate on behalf of others a loan secured by mortgage or other encumbrance upon a transfer of real estate, or who is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with a contract whereby he undertakes to promote the sale, purchase, exchange, rental, or lease of real estate through its listing in a publication issued primarily for this purpose; or any person employed by or acting on behalf of any of these.

(10) "Financial institution" means bank, banking organization, mortgage company, insurance company, or other lender to whom application is made for financial assistance for the purchase, lease, acquisition, construction, rehabilitation, repair, maintenance, or improvement of real property, or an individual employed by or acting on behalf of any of these.

(11) "Licensing agency" means any public or private organization which has as one (1) of its duties the issuing of licenses or the setting of standards which an individual must hold or must meet as a condition to practicing a particular trade or profession or to obtaining certain employment within the state or as a condition to competing effectively with an individual who does hold a license or meet the standards.

(12) "Credit transaction" shall mean any open or closed end credit transaction whether in the nature of a loan, retail installment, credit card issue or charge, or otherwise, and whether for personal or for business purposes, in which a service, finance, or interest charge is imposed, or which provides for repayment in scheduled payments, when such credit is extended in the course of the regular course of any trade or commerce, including but not limited to transactions by banks, savings and loan associations, or other financial lending institutions of whatever nature, stock brokers, or by a merchant or mercantile establishment which as part of its ordinary business permits or provides that payment for purchases of property or services therefrom may be deferred.

(13) "To rent" means to lease, to sublease, to let, or otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(14) "Family" includes a single individual.

(15) (a) "Familial status" mean one (1) or more individuals who have not attained the age of eighteen (18) years and are domiciled with:

1. A parent or another person having legal custody of the individual or individuals;  
or
2. The designee of a parent or other person having custody, with the written permission of the parent or other person.

(b) The protection afforded against discrimination on the basis of familial status shall apply 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 eighteen (18) years.

(16) "Discriminatory housing practice" means an act that is unlawful under KRS 344.360, 344.367, 344.370, 344.380, or 344.680.

#### **344.020 Purposes and construction of chapter, effect**

(1) The general purposes of this chapter are:

(a) To provide for execution within the state of the policies embodied in the Federal Civil Rights Act of 1964 as amended (78 Stat. 241), Title VII of the Federal Civil Rights Act of 1968 (82 Stat. 8 1), The Fair Housing Act as amended (42 U. S. C. 3 60), the Federal Age Discrimination in Employment Act of 1967 (81 Stat. 602), the Americans with Disabilities Act of 1990 ( P.L. 101-336), and the Civil Rights Act of 1991 as amended (P.L. 102-166, amended by P.L. 102-392);

(b) To safeguard all individuals within the state from discrimination because of familial status, race, color, religion, national origin, sex, age forty (40) and over or because of the person's status as a qualified individual with a disability as defined in KRS 344.010 and Section 3 of this Act; thereby to protect their interest in person dignity and freedom from humiliation, to make available to the state their full productive capacities, to secure the state against domestic institutions, to preserve the public safety, health, and general welfare, and to further the interest, rights, and privileges of individuals within the state;

(c) To establish as the policy of the Commonwealth the safeguarding of the rights of an individual selling or leasing his primary residence through private sale without the aid of any real estate operator, broker, or salesman and without advertising or public display.

(2) This chapter shall be construed to further the general purposes stated in this section and the special purposes of the particular provision involved.

(3) Nothing in this chapter shall be construed as indicating an intent to exclude local laws on the same subject matter not inconsistent with this chapter.

(4) Nothing contained in this chapter shall be deemed to repeal any other law of this state relating to discrimination because of familial status, race, color, religion, national origin, sex, age forty (40) and over or because of the person's status as a qualified individual with a disability as defined in Section 3 of this Act.

### **344.030 Definitions**

(1) "Qualified individual with a disability" means an individual with a disability as defined in KRS 344.010 who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds or desires unless an employer demonstrates that he is unable to reasonably accommodate an employee's or prospective employee's disability without undue hardship on the conduct of the employers' business. Consideration shall be given to the employer's judgment as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.

2) "Employer" means a person who has eight (8) or more employees within the state in each of twenty (20) or more calendar weeks in the current or preceding calendar year and an agent of such a person, except for purposes of determining discrimination based on disability, employer means a person engaged in an industry affecting commerce who has fifteen (15) or more employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year, and any agent of that person, except that, for two (2) years following July 14, 1992, an employer means a person engaged in an industry affecting commerce who has twenty-five (25) or more employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding year, and any agent of that person. For the purposes of determining discrimination based on disability, employer shall not include:

(a) The United States, a corporation wholly owned by the government of the United States, or an Indian tribe; or

(b) A bona fide private membership club (other than a labor organization) that is exempt from taxation under Section 501(c) of the Internal Revenue Service Code of 1986.

(3) "Employment agency" means a person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such person.

(4) "Labor organization" means a labor organization and an agent of such an organization, and includes an organization of any kind, an agency or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and a conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.

(5) "Employee" means an individual employed by an employer, but does not include an individual employed by his parents, spouse, or child, or an individual employed to render services as a domestic in the home of the employer.

(6) "Reasonable accommodation" means making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

(7) "Religion" means all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.

(8) The terms "because of sex" or "on the basis of sex" include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected by similar in their ability to inability to work, and nothing in this section shall be interpreted to permit otherwise.

(9) "Undue hardship," for purposes of disability discrimination, means an action requiring significant difficulty or expense, when considered in light of the following factors:

(a) The nature and cost of the accommodation needed;

(b) The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; the number of persons employed at the facility; the effect on expenses and resources; or the impact otherwise of such accommodation upon the operation of the facility;

(c) The overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; and the number, type, and location of its facilities; and

(d) The type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in questions to the covered entity.

#### **344.040 Discrimination by employers**

It is unlawful practice for an employer:

(1) To fail or refuse to hire, or to discharge any individual, or otherwise to discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment, because of the individual's race, color, religion, national origin, sex, age forty (40) and over, because the person is a qualified individual with a disability, or because the individual is a smoker or nonsmoker, as long as the person complies with any workplace policy concerning smoking;

(2) To limit, segregate, or classify employees in any way which would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect status as an employee, because of the individual's race, color, religion, national origin, sex, or age forty (40) and over, because the person is a qualified individual with a disability, or because the individual is a smoker or nonsmoker, as long as the person complies with any workplace policy concerning smoking.

(3) To require as a condition of employment that any employee or applicant for employment abstain from smoking or using tobacco products outside the course of employment, as long as the person complies with any workplace policy concerning smoking.

#### **344.045 Employment practices prohibited**

In effectuating the purposes of this chapter no employer, as defined in KRS 344.030, shall establish any employment practices affecting the terms, conditions, and privileges of employment in derogation of an established seniority system or which contravenes an existing collective bargaining agreement.

#### **344.050 Discrimination by employment agencies**

(1) It is an unlawful practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, an individual because of his race, color, religion, national origin, sex, or age forty (40) and over, or because the person is a qualified individual with a disability, or to classify or refer for employment an individual on the basis of race, color, religion, national origin, sex, age forty (40) and over, or because the person is a qualified individual with a disability.

(2) It is unlawful practice for a licensing agency to refuse to license, or to bar or terminate from licensing an individual because of race, color, religion, national origin, sex, or age forty (40) and over, or because the person is a qualified individual with a disability.

#### **344.060 Discrimination by labor organizations**

It is unlawful practice for a labor organization:

(1) To exclude or to expel from its membership, or otherwise to discriminate against, a member or applicant for membership because of race, color, religion, national origin, sex, or age forty (40) and over, or because the person is a qualified individual with a disability.

(2) To limit, segregate, or classify its membership, or to classify or fail to refer for employment an individual, in any way which would deprive or tend to deprive an individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect the status as an employee or as an applicant for employment because of race, color, religion, national origin, sex, or age forty (40) and over, or because the person is a qualified individual with a disability.

(3) To cause or attempt to cause an employer to discriminate against an individual in violation of this section.

#### **344.070 Discrimination in apprenticeship or training**

It is unlawful practice for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against an individual because of race, color, religion, national origin, sex, or age forty (40) and over, or because the person is a qualified individual with a disability in admission to or employment in, any program established to provide apprenticeship or other training.

#### **344.080 Regulation of advertisement for employment**

It is an unlawful practice for an employer, labor organization, licensing agency, or employment agency to print or publish or cause to be printed or published a notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by the employment or licensing agency, indicating any preference, limitation, specification, or discrimination, based on race, color, religion, national origin, sex or age forty (40) and over, or because the person is a qualified individual with a

disability, except that such a notice or advertisement may indicate a preference, limitation, or specification based on religion, national origin, sex or age forty (40) and over, or because the person is a qualified individual with a disability, when religion, national origin, sex or age forty (40) and over, or because the person is a qualified individual with a disability is a bona fide occupational qualification for employment.

**344.090 Religion or national origin, employment discrimination not unlawful in certain cases**

Notwithstanding any other provision of KRS 344.030 to 344.110, it is not an unlawful practice for:

(1) An employer to hire and employ employees, or an employment agency to classify, or refer for employment an individual, for a labor organization to classify its membership or to classify or refer for employment an individual, or for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ an individual in any such program, on the basis of his religion or national origin in those certain instances where religion or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

(2) A religious corporation, association, or society to employ an individual on the basis of his religion to perform work connected with the carrying on by such corporation, association, or society of its religious activity.

(3) A school, college, university, or other educational institution to hire and employ employees of a particular religion if the school, college, university or other educational institution is, in whole or substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of the school, college, university, or other educational institution is directed toward the propagation of a particular religion and the choice of employees is calculated by such organization to promote the religious principles for which it is established or maintained.

**344.100 Discrimination in wages or conditions not unlawful when made on basis other than race, color, religion, national origin, sex, or age between forty (40) and seventy (70)**

Notwithstanding any other provision of this chapter, it is not an unlawful practice for an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, if the differences are not the result of an intention to discriminate because of race, color, religion, national origin, sex, or age forty (40) and over, or because the person is a qualified individual with a disability, nor is it an unlawful practice for an employer to give and to act upon the results of any professionally developed ability test provided that the test, its administration or action upon the results is not designed, intended or used to discriminate because of race, color, religion, national origin, sex, or age forty (40) and over, or because the person is a qualified individual with a disability.

**344.110 Preference because of imbalance in employment not required**

(1) Nothing contained in this chapter requires an employer, employment agency, labor organization, or joint labor-management committee subject to this chapter to grant preferential treatment to an individual or to a group because of the race, color, religion, national origin, sex,

or age forty (40) and over, or because the person is a qualified individual with a disability of the individual or group on account of an imbalance which may exist with respect to the total number of percentage or persons of any race, color, religion, national origin, sex, or age forty (40) and over, or because the person is a qualified individual with a disability employed by an employer, referred or classified for employment by an employment agency or labor organization, admitted to membership or classified by a labor organization, admitted to membership or classified by a labor organization, or admitted to, or employed in, an apprenticeship or other training program, in comparison with the total number or percentage of persons of race, color, religion, national origin, sex, or age forty (40) and over, or because the person is a qualified individual with a disability in the state or a community, section, or other area, or in the available workforce in the state or a community, section or other area.

(2) Nothing contained in the chapter regarding age prohibits:

(a) Minimum hiring ages otherwise provided by law.

(b) State compliance with federal regulations.

(c) Termination of the employment of any person who is unable to perform the job duties.

(d) Any physical or medical examinations of applicants or employees which an employer requires to determine fitness for the position sought or held.

(e) An employer, labor organization, or employment agency from observing the terms of a bona fide seniority system or any bona fide employee benefit plan such as a retirement, pension, or insurance plan which is not a subterfuge to evade the purposes of this chapter, except that no such employee benefit plan shall excuse the failure to hire any individual.

#### **344.120 Refusal to rent or sell public accommodations unlawful**

Except as otherwise provided in KRS 344.140 and 344.145, it is an unlawful practice for a person to deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation, resort, or amusement, as defined in KRS 344.130, on the ground of disability, race, color, religion, or national origin.

#### **344.130 "Place of public accommodation, resort or amusement" defined**

As used in this chapter unless the context requires otherwise:

"Place of public accommodation, resort or amusement" includes any place, store or other establishment, either licensed or unlicensed, which supplies goods or services to the general public or which solicits or accepts the patronage or trade of the general public or which is supported directly or indirectly by government funds: except that (1) a private club is not a place of public accommodation, resort or amusement if its policies are determined by its members and its facilities or services are available only to its members and their bona fide guests; and (2) "place of public accommodation, resort or amusement" does not include a rooming or boarding house containing not more than one room for rent or hire and which is within a building occupied by the proprietor as his residence.

#### **344.140 Regulation of advertisement of goods, services, and accommodations**

It is an unlawful practice for a person, directly or indirectly, to publish, circulate, issue, display, or mail, or cause to be published, circulated, issued, displayed, or mailed, a written, printed, oral, or visual communication, notice, or advertisement, which indicates that the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation, resort, or amusement will be refused, withheld from, or denied an individual on

account of disability, race, color, religion, national origin, or that the patronage of, or presence at, a place of public accommodation, resort, or amusement, of an individual, on account of disability, race, color, religion, or national origin is objectionable, unwelcome, unacceptable, or undesirable.

**344.145 Denial, because of sex, of equal enjoyment of restaurants, hotels, motels or facilities supported by government funds prohibited**

(1) It shall be unlawful practice to deny an individual, because of sex, the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a restaurant, hotel, motel, or any facility supported directly or indirectly by government funds.

(2) The provisions of this section shall not apply to:

(a) Restrooms, shower rooms, bath houses and similar facilities which are in their nature distinctly private;

(b) YMCA, YWCA and similar type dormitory lodging facilities;

(c) The exemptions contained in KRS 344.130;

(d) Hospitals, nursing homes, penal or similar facilities, to require that men and women be in the same room.

**344.200 Complaints of discrimination, procedure; conciliation agreements; enforcement**

(6) At any time after a complaint is filed, the commission may file an action in the Circuit Court in a county in which the subject of the complaint occurs, or in a country in which a respondent resides or has his principal place of business, seeking appropriate temporary relief against the respondent, pending final determination of proceedings including an order to decree restraining him from doing or procuring any act tending to render ineffectual any order the commission may enter with respect to the complaint. The court shall have power to grant temporary relief or a restraining order as it deems just and proper.

**344.230 Findings of commission; orders; nature of affirmative action**

(3) Affirmative action ordered under this section may include but is not limited to:

(a) Hiring, reinstatement or upgrading of employees with or without back pay. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowed.

(b) Admission or restoration of individuals to union membership, admission to or participation in a guidance program, apprenticeship training program, on-the-job training program, or other occupational training or retraining program, and the utilization of objective criteria in the admission of individuals to such programs.

(c) Admission of individuals to a place or public accommodation, resort, or amusement.

(d) The extension to all individuals of the full and equal enjoyment of the advantages, facilities, privileges and services of the respondent.

(e) Reporting as to the manner of compliance.

(f) Posting notices in conspicuous places in the respondent's place of business in for prescribed by the commission.

(g) Sale, exchange, lease, rental, assignment or sublease of real property to an individual.

(h) Payment to the complainant of damages for injury caused by an unlawful practice including compensation for humiliation and embarrassment and expense incurred by the complainant as a direct result of such unlawful practice.



(4) The commission may publish or cause to be published the names of persons who have been determined to have engaged in an unlawful practice.

#### **344.250 Investigations, powers, records, confidential nature of**

(1) In connection with an investigation of a complaint filed under this chapter, the commission or its designated representative at any reasonable time may request access to premises, records, and documents relevant to the complaint and the right to examine, photograph and copy evidence.

(6) It is unlawful for a commissioner or employee of the commission to make public with respect to a particular person without his consent information obtained by the commission pursuant to its authority under this section except as reasonably necessary to the conduct of a proceeding under this chapter.

(7) If a person fails to permit access, examination, photographing or copying or fails to make, keep, or preserve records or make reports in accordance with this section, the circuit court for the county in which such person is found, resides, or has his principal place of business, upon application of the commission, may issue an order requiring compliance.

#### **344.260 Issuance and enforcement of subpoenas; witness depositions and compensation**

(1) Upon written application to the commission a party to any administrative proceeding is entitled as of right to the issue of subpoenas in the name of the commission by an individual designated pursuant to its rules requiring attendance and the giving of testimony and the production of documents. A subpoena so issued shall show on its face the name and address of the party at whose request the subpoena was issued. On petition of the individual to whom the subpoena is directed and notice to the requesting party, the commission or an individual designated pursuant to its rules may vacate or modify the subpoena.

(3) If a person fails to comply with a subpoena, the Circuit Court for the county in which the person is found, resides, or has his principal place of business, upon application of the commission or the party requesting the subpoena, may issue an order requiring compliance. In any proceeding brought under this section, the court may modify or set aside the subpoena.

(4) Witnesses summoned by a subpoena in a discriminatory housing proceeding shall be entitled to the same witness and mileage fees as witnesses in proceedings in Circuit Court.

#### **344.280 Conspiracy to violate this chapter unlawful**

It shall be unlawful practice for a person, or for two (2) or more persons to conspire:

(1) To retaliate or discriminate in any manner against a person because he has opposed a practice declared unlawful by this chapter, or because he has made a charge, filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding, or hearing under this chapter; or

(2) To aid, abet, incite, compel, or coerce a person to engage in any of the acts or practices declared unlawful by this chapter; or

(3) To obstruct or prevent a person from complying with the provisions of this chapter or any order issued thereunder;

(4) To resist, prevent, impede, or interfere with the commission, or any of its members or representatives, in the lawful performance of duty under this chapter; or

(5) To coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or

encouraged any other person in the exercise or enjoyment of, any right granted or protected by KRS 344.360, 344.367, 344.370, 344.380, or 344.680.

#### **344.320 Powers of local commission**

A local commission may be authorized to:

(1) Receive, initiate, investigate, hear, and determine charges of violations of ordinances, orders, or resolutions forbidding discrimination adopted by the city or county.

(2) Compel the attendance of witnesses and the production of evidence before it by subpoena issued by the circuit court of the county wherein the local commission is authorized to act.

(3) Issue remedial orders, after notice and hearing, requiring cessation of violations.

(4) Issue such affirmative orders as in the judgment of the local commission will carry out the purposes of this chapter. Affirmative action ordered may include but is not limited to the remedies enumerated in subsection (3) of KRS 344.230.

(5) Employ an executive director, attorneys, hearing examiners, clerks and other employees and agents.

(6) Accept grants, gifts, or bequests, public or private, to help finance its activities.

#### **344.330 Additional powers of local commission**

A local commission established pursuant to this chapter may:

(1) Enter into cooperative working agreements with the United States Equal Employment Opportunity Commission created by section 705 of the federal Civil Rights Act of 1964 (78 Stat. 241) in order to achieve the purposes of that act; and with any federal or state agency in order to achieve the purposes of this chapter.

(2) In its discretion, or upon request of the commission, refer a matter under its jurisdiction to the commission for initial action or review.

(3) Refer to the commission for resolution of a dispute over jurisdiction or other matter with another local commission.

(4) Provide a copy of its annual report to the commission.

#### **344.340 Enforcement of local commission orders**

The proceeding for enforcement of a local commission order is initiated by filing a complaint in the circuit court. Copies of the complaint shall be served upon all parties of record. Within thirty (30) days after filing of the complaint by the local commission, or within such further time as the court may allow, the local commission shall transmit to the court the original or a certified copy of the entire record upon which the order is based, including a transcript of testimony, which need not be printed. By stipulation of all parties to the proceeding, the record may be shortened. The findings of fact of the local commission shall be conclusive unless clearly erroneous in view of the probative and substantial evidence on the whole record. The court shall have power to grant such temporary relief or restraining order as it deems just, and to enter an order enforcing, modifying and enforcing as modified, or setting aside in whole or in part the order of the local commission, or remanding the case to the local commission for further proceedings.

### **344.350 Cooperation between state and local commissions**

The commission may enter into cooperative working agreements with local commissions which have enforceable ordinances, orders, or resolutions and professional staff under the provisions of KRS 344.320.

### **344.360 Unlawful housing practices**

It is unlawful housing practice for a real estate operator, or for a real estate broker, real estate salesman, or any person employed by or acting on behalf of any of these:

(1) To refuse to sell, exchange, rent or lease or otherwise deny to or withhold real property from any person because of race, color, religion, sex, familial status, disability or national origin;

(2) To discriminate against any person because of race, color, religion, sex, familial status, disability, or national origin in the terms, conditions, or privileges of the sale, exchange, rental or lease of real property or in the furnishing of facilities or services in connection therewith;

(3) To refuse to receive or transmit a bona fide offer to purchase, rent or lease real property from any person because of race, color, religion, sex, familial status, disability, or national origin;

(4) To refuse to negotiate for the sale, rental or lease of real property to any person because of race, color, religion, sex, familial status, disability, or national origin;

(5) To represent to any person that real property is not available for inspection, sale, rental, or lease when it is so available, or to refuse to permit any person to inspect real property because of his race, color, religion, sex, familial status, disability, or national origin;

(6) To make, print, circulate, post or mail or cause to be printed, circulated, posted or mailed an advertisement or sign, or to use a form of application for the purchase, rental or lease of real property, or to make a record of inquiry in connection with the prospective purchase, rental or lease of real property, which indicates, directly or indirectly, a limitation, specification, or discrimination as to race, color, religion, sex, familial status, disability, or national origin or an intent to make such a limitation, specification, or discrimination;

(7) To offer, solicit, accept, use or retain a listing of real property for sale, rental or lease with the understanding that any person may be discriminated against in the sale, rental or lease of that real property or in the furnishings of facilities or services in connection therewith because of his race, color, religion, sex, familial status, disability, or national origin;

(8) To otherwise deny or to withhold real property from any person because of his race, color, religion, sex, familial status, disability, or national origin;

(9) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a housing accommodation to any buyer or renter because of a handicap of

(a) That buyer or renter;

(b) A person residing in or intending to reside in that housing accommodation after it is so sold, rented, or made available; or

(c) Any person associated with that buyer or renter; or

(10) 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 with such housing accommodation, because of a disability of

(a) That person; or

(b) A person residing in or intending to reside in that housing accommodation after it is so sold, rented, or made available; or

(c) Any person associated with that buyer or renter; or

(11) For purposes of this section, discrimination includes:

(a) A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by a person, if the modifications may be necessary to afford the 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.

(b) A refusal to make reasonable accommodations in rules, policies, practices, or services, when the accommodations may be necessary to afford the person equal opportunity to use and enjoy a housing accommodation; or

(c) In connections with the design and construction of covered multifamily housing accommodations for first occupancy after January 1, 1993, a failure to design and construct those housing accommodations in a manner ensuring that they have at least one (1) entrance on an accessible route unless impractical to do so because of the terrain or unusual characteristics of the site. Housing accommodations with a building entrance on an accessible route shall comply with the following requirements:

1. The public use and common use portions of the housing accommodations shall be readily accessible to and usable by disabled persons;

2. All the doors designed to allow passage into and within all premises within the housing accommodations shall be sufficiently wide to allow passage by disabled persons in wheelchairs; and

3. All premises within the housing accommodations shall contain the following features of adaptive design:

a. An accessible route into and through the housing accommodations;

b. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

c. Reinforcements in bathroom walls to allow later installations of grab bars; and

d. Usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space.

(12) Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically disabled persons, (commonly cited as "ANSI A117.1 - 1986") suffices to satisfy the requirements of subsections (11)(c)3, of this section.

(13) As used in subsection (11) of this section, the term "covered multifamily housing accommodation" means:

(a) Buildings consisting of four (4) or more units if the buildings have one (1) or more elevators; and

(b) Ground floor units in other buildings consisting of two (2) or more units.

(14) Nothing in this section requires that a housing accommodation 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.

#### **344.362 Exemptions to unlawful practice of discrimination because of sex**

(1) The YMCA, YWCA and similar type single sex dormitory rental properties, including, but not limited to, those dormitories operated by institutions of higher education;

(2) A landlord who refused to rent to an unmarried couple of opposite sex;

(3) A landlord who chooses to rent only to men or only to women; provided that the landlord engages in the rental to no more than ten (10) persons or of no more than ten (10) self-contained units in an owner occupied housing accommodation;

(4) Rooms or rental units where tenants would be required to share common bath or kitchen facilities; and

(5) To any housing accommodation where it can be demonstrated that gender-based exclusions are necessary for reasons of personal modesty or privacy.

### **344.365 Exemption from housing provisions**

(1) Nothing in Section 36 of this Act shall apply:

(a) To the rental of a housing accommodation in a building which contains housing accommodations for not more than two (2) families living independently of each other, if the owner or a member of his family resides in one of the housing accommodations;

(b) To the rental of one (1) room or one (1) rooming unit in a housing accommodation by an individual if he or a member of his family resides therein;

(c) To 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, which limits the sale, lease, rental, occupancy, assignment, or sublease of a housing accommodation which it owns or operates for other than commercial purpose to persons of the same religion, or from giving preference to those persons, unless membership in the religion is restricted on account of race, color, or national origin. Nor shall anything in this chapter 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 the lodgings to its members or from giving preference to its members.

(2) Nothing in this chapter shall require a real estate operator to negotiate with any individual who has not shown evidence of financial ability to consummate the purchase or rental of a housing accommodation.

(3) Nothing in this chapter shall limit the applicability of any reasonable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy a housing accommodation. No provision in this chapter regarding familial status shall apply with respect to "housing for older persons." as defined in the Federal Fair Housing Act, 42 U. S.C. 3 607.

### **344.367 Unlawful discrimination in insurance against hazards to a housing accommodation**

It is an unlawful practice for a person in the business of insuring against hazards to refuse to enter into, or discriminate in the terms, conditions, or privileges of, a contract of insurance against hazards to a housing accommodations because of the race, color, religion, national origin, familial status, disability or sex of persons owning, or residing in or near the housing accommodation.

### **344.370 Unlawful financial practices**

It is an unlawful practice for a financial institution or for any person or other entity whose business includes engaging in real estate-related transactions:

(1) To discriminate against an individual because of the race, color, religion, or national origin, familial status, disability, sex or age of the individual or the present or prospective owner, tenant or occupant of the real property or of a member, stockholder, director, officer employee, or representative of any of these, in the granting, withholding, extending, modifying or renewing, the rates, terms, conditions, privileges or other provisions of financial assistance or in the extension of services in connection therewith;

(2) To use a form of application for financial assistance or to make or keep a record or inquiry in connection with applications for financial assistance which indicate directly or indirectly, a limitation, specification, or discrimination as to race, color, religion, familial status, disability, or national origin or an intent to make such a limitation, specification, or discrimination;

(3) To discriminate by refusing to give full recognition, because of sex, to the income of each spouse or the total income and expenses of both spouses where both spouses become or are prepare to become joint or several obligors in real estate transactions; or

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

(a) The making or purchasing of loan or providing other financial assistance;

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

2. Secured by real estate.

(b) The selling, brokering, or appraising of real property except that a person engaged in the business of furnishing appraisals of real property may take into consideration factors other than race, color, religion, national origin, sex, disability, or familial status.

#### **344.375 Agency no defense in proceeding against real estate dealer**

It shall be no defense to a violation of this chapter by a real estate operator, real estate broker, real estate salesman, financial institution, or other person subject to the provisions of this chapter that the violation was requested, sought or otherwise procured by a person not subject to the provisions of this chapter.

#### **344.380 Block busting**

It is an unlawful practice for a real estate operator, a real estate broker, a real estate salesman, a financial institution, an employee of any of these, or any other person, for the purpose of including a real estate transaction from which a person may benefit financially:

(1) To represent that a change has occurred or will or may occur in the composition with respect to race, color, religion, sex, disability, familial status, or national origin of the owners or occupants in the block, neighborhood, or area in which the real property is located;

(2) To represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located; or

(3) 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, religion, sex, disability, familial status, or national origin.

#### **344.385 Notice of violation by real estate dealer to be given Real Estate Commission; notice of violation to state or federal licensing agency**

(1) Where a real estate broker or a real estate salesman has failed to comply with an order issued by the commission or has been found to have committed an unfair housing practice in violation o KRS 344.380, the commission shall notify in writing the Real Estate Commission of the Commonwealth of Kentucky of the failure to comply or violation.

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

(a) Send copies of the finding of fact, conclusions of law, and the order to that government agency; and

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

### **344.400 Unlawful practices in connection with credit transactions; exceptions**

(1) It shall be an unlawful practice for any person, whether acting for himself or another, in connection with any credit transaction because of race, color, religion, national origin or sex to:

- (a) deny credit to any person;
- (b) increase the charges or fees for or collateral required to secure any credit extended to any person;
- (c) restrict the amount or use of credit extended or impose different terms or conditions with respect to the credit extended to any person or any item or service related thereto;
- (d) attempt to do any of the unlawful practices defined in this section.

(2) The provisions of this section shall not prohibit any party to a credit transaction from considering the credit history of any individual applicant.

(3) The provisions of this section shall not prohibit any party to a credit transaction from considering the application of Kentucky law on dower, curtesy, descent and distribution to the particular case or from taking reasonable action thereon.

### **344.600 Complaint on discriminatory housing practice; investigation**

(1) (a) 1. An aggrieved person may, not later than one (1) year after an alleged discriminatory housing practice has occurred or terminated, file a complaint with the commission alleging a discriminatory housing practice. All other complaints of an alleged discrimination practice must be filed pursuant to the procedure described in KRS 344.200. The commission, on its own initiative, or the Attorney General may also file a complaint alleging a discriminatory housing practice.

2. The complaint shall be in writing and shall contain the information and be in a form required by the commission.

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

(b) Upon the filing of the discriminatory housing practice complaint:

1. The commission shall within five (5) days serve written notice upon the aggrieved person acknowledging the filing and advising the aggrieved person of the time limits and choice forums provided in KRS 344.635.

2. The commission shall, not later than ten (10) days after the filing or the identification of an additional respondent under subsection (2) of this section, serve on the respondent a written notice identifying the alleged discriminatory housing practice and advising the 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 ten (10) days after receipt of notice from the commission, an answer to the complaint; and

4. The commission shall commence an investigation of the alleged discriminatory housing practice within thirty (30) days of filing the complaint and complete the investigation within one hundred (100) days after the filing of the complaint, unless it is impracticable to do so.

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

(d) Complaints and answers shall be 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 upon written notice, under subsection (1) of this section, to that person, from the commission.

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

#### **344.605 Conciliation, agreement; final investigative report**

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

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

(3) A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any 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 commission determines that disclosure is not required to further the purposes of this chapter.

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

1. The names and dates of contacts with witnesses;
2. A summary and the date of correspondence and other contacts with the complainant and the respondent;
3. A summary description of other pertinent records;
4. A summary of witness statements; and
5. Answers to interrogatories.

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

#### **344.610 Breach of conciliation agreement**

(1) When the commission has probable cause to believe that a respondent has breached a conciliation agreement arising from a discriminatory housing practice, the commission shall reach an agreement for the respondent to voluntarily come into compliance or file an action in Circuit Court pursuant to KRS 344.665

(2) A civil action for breach shall be commenced within ninety (90) days of the commission receiving notice of the breach.

#### **344.615 Release and evidentiary use of conciliation information**

(1) Nothing said or done in the course of conciliation of a discriminatory housing practice may be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the respondent.

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



### **344.620 Civil action for preliminary or temporary relief; effect**

(1) If the commission concludes at any time following the filing of a discriminatory housing complaint that prompt judicial action is necessary to carry out the purposes of this chapter, the commission may initiate a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint under this section.

(2) The commission shall promptly commence and maintain an action.

(3) Any restraining order or other order granting preliminary or temporary relief shall be issued in accordance with the Kentucky Rules of Civil Procedure.

(4) The commencement of a civil action under this subsection does not effect the initiation or continuation of administrative proceedings under KRS 344.600, 344.605, 344.635, 344.640, 344.645.

### **344.625 Probable cause determination; issuance of charge**

(1) The commission shall determine, based on the facts, whether probable cause exists to believe that a discriminatory housing practice made unlawful under this chapter has occurred or is about to occur.

(2) The commission shall make the determination under subsection (1) of this section not later than the one hundredth day after the date a complaint is filed unless:

(a) It is impracticable to make the determination; or

(b) The commission has approved a conciliation agreement relating to the discriminatory housing complaint.

(3) If it is impracticable to make the determination within the time period provided by subsection (2) of this section, the commission shall notify the complainant and respondent in writing of the reasons for the delay.

(4) If the commission determines that probable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the commission shall, except as provided in subsection (6) of this section, immediately issue a charge on behalf of the aggrieved person for further proceeding under KRS 344.635.

(5) The charge:

(a) Shall consist of a concise statement of the facts upon which the commission has found probable cause to believe that a discriminatory housing practice has occurred or is about to occur;

(b) Shall be based on the final investigative report; and

(c) Need not be limited to the facts or grounds alleged in the complaint filed under KRS 344.600.

(6) If the commission determines that the matter involves the legality of any state or local zoning or other land use law or ordinance, the commission shall follow the procedures described in KRS 344.665.

(7) If the commission determines that no probable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the commission shall promptly dismiss the complaint. The commission shall make public disclosure of each dismissal at the request of the respondent.

(8) The commission 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 federal or state law seeking relief with respect to that discriminatory housing practice.

### **344.630 Service of charge**

After the commission issues a discriminatory housing charge under KRS 344.635, the commission shall cause a copy thereof, together with information as to how to make an election of an administrative or judicial choice of forum under KRS 344.63 5, and the effect of such election, to be served;

(1) On each respondent named in the charge, together with a written 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 discriminatory housing complaint was filed.

### **344.635 Election of method for securing relief**

When a discriminatory housing charge is filed under KRS 344.625, a complainant, a respondent, or the aggrieved person on whose behalf the complaint is filed, may elect to have the claims asserted in that charge decided in a civil action under KRS 344.670, in lieu of an administrative hearing before the commission under KRS 344.640.

(1) The election shall be made not later than twenty (20) days after the receipt by the electing person of service under KRS 344.630, from the commission or, in the case of the commission, not later than twenty (20) days after service to the respondent and complainant.

(2) The person making the election shall give written notice of doing so to the commission and to all other complainants and respondents to whom the charge relates.

### **344.640 Administrative proceedings**

(1) If a timely election of a judicial or administrative remedy is not made under KRS 344.635, with respect to a discriminatory housing charge, the commission shall provide an opportunity for an administrative hearing before one (1) or more members on the record with respect to the charge issued under KRS 344.625.

(3) 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.

(4) 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.

(5) The commission shall promulgate administrative regulations to implement subsections (3) and (4) of this section.

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

(7) The commission 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.

### **344.645 Conduct and timing of hearing; administrative order; civil penalty**

(1) The commission shall commence a hearing no later than one hundred twenty (120) days following the issuance of the discriminatory housing practice charge, unless it is impracticable to do so. If the commission is unable to commence the hearing within one hundred twenty (12) days after the issuance of the discriminatory housing charge, the commission shall notify the

aggrieved person on whose behalf the charge was filed, and the respondent, in writing of the reasons for not doing so and provide a new date for the hearing.

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

(3) If the commission finds that a respondent has engaged or is about to engage in a discriminatory housing practice, the commission shall promptly issue an order for appropriate relief, which may include actual damages suffered by the aggrieved person and injunctive or other equitable relief. The order may, to vindicate the public interest, assess a civil penalty against the respondent:

(a) In an amount not exceeding ten thousand dollars (\$10,000) if the respondent has not been adjudged to have committed any prior discriminatory housing practice;

(b) In an amount not exceeding twenty-five thousand dollars (\$25,000) if the respondent has been adjudged to have committed one (1) other discriminatory housing practice during the five (5) year period ending on the date of the filing of this charge; and

(c) In an amount not exceeding fifty thousand dollars (\$50,000) if the respondent has been adjudged to have committed two (2) or more discriminatory housing practices during the seven (7) year period ending on the date of the filing 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 paragraphs (b) or (c) of this subsection may be imposed without regard to the period of time within which any subsequent discriminatory housing practice occurred.

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

#### **344.670 Civil action by commission on behalf of aggrieved person electing judicial proceeding**

(1) If an election is made under KRS 344.635 for a judicial rather than an administrative proceeding, the commission shall not later than thirty (30) days after the election is made, commence and maintain a civil action on behalf of the aggrieved person in the appropriate Circuit Court seeking relief under this section.

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

(3) If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may grant as relief under KRS 344.660 which a court could grant with respect to a discriminatory housing practice in a civil action under KRS 344.650. Any relief granted under KRS 344.660 that would accrue to an aggrieved person in a civil action commenced by that aggrieved person under KRS 344.650 shall also accrue to that aggrieved person in a civil action under this section. 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 relief if that aggrieved person has not complied with discovery orders entered by the court.

### **344.675 Appointment of attorney and award of fees**

(1) In any administrative proceeding brought under KRS 344.640 or 344.645 or any court proceeding arising therefrom, including actions described in KRS 344.240 or any civil action, the commission or the court, as the case may be, upon application of either party, and in its discretion, may:

(a) Appoint an attorney for the person; or

(b) Award a reasonable attorney's fee and costs to the prevailing party to the same extent allowed in KRS 344.660, or both. The state shall not be liable in any event for fees and costs.

(3) Where the parties to an alleged discriminatory housing practice have elected an administrative determination rather than a civil adjudication, the commission staff attorney shall represent the complainant or aggrieved party before the commission,

### **344.680 Denying access to multiple listing service unlawful**

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 or renting housing accommodations, or to discriminate against a person in the terms or conditions of access, membership, or participation, on account of race, color, religion, sex, disability, familial status, or national origin.