

As Introduced

131st General Assembly

Regular Session

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H. B. No. 149

Representatives Dever, Patterson

Cosponsors: Representatives Blessing, Hambley, Kraus, Manning

A BILL

To amend sections 4112.02, 4112.05, 4112.08, and 1
4112.14 and to enact section 4112.024 of the 2
Revised Code to make permissive actual damages 3
and attorney's fees, to limit certain civil 4
penalties, to allow respondents to recover 5
attorney's fees in certain instances, and to 6
exempt certain landlords from the housing 7
provisions of the Ohio Civil Rights Law. 8

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4112.02, 4112.05, 4112.08, and 9
4112.14 be amended and section 4112.024 of the Revised Code be 10
enacted to read as follows: 11

Sec. 4112.02. It shall be an unlawful discriminatory 12
practice: 13

(A) For any employer, because of the race, color, 14
religion, sex, military status, national origin, disability, 15
age, or ancestry of any person, to discharge without just cause, 16
to refuse to hire, or otherwise to discriminate against that 17
person with respect to hire, tenure, terms, conditions, or 18

privileges of employment, or any matter directly or indirectly related to employment.	19 20
(B) For an employment agency or personnel placement service, because of race, color, religion, sex, military status, national origin, disability, age, or ancestry, to do any of the following:	21 22 23 24
(1) Refuse or fail to accept, register, classify properly, or refer for employment, or otherwise discriminate against any person;	25 26 27
(2) Comply with a request from an employer for referral of applicants for employment if the request directly or indirectly indicates that the employer fails to comply with the provisions of sections 4112.01 to 4112.07 of the Revised Code.	28 29 30 31
(C) For any labor organization to do any of the following:	32
(1) Limit or classify its membership on the basis of race, color, religion, sex, military status, national origin, disability, age, or ancestry;	33 34 35
(2) Discriminate against, limit the employment opportunities of, or otherwise adversely affect the employment status, wages, hours, or employment conditions of any person as an employee because of race, color, religion, sex, military status, national origin, disability, age, or ancestry.	36 37 38 39 40
(D) For any employer, labor organization, or joint labor-management committee controlling apprentice training programs to discriminate against any person because of race, color, religion, sex, military status, national origin, disability, or ancestry in admission to, or employment in, any program established to provide apprentice training.	41 42 43 44 45 46

(E) Except where based on a bona fide occupational 47
qualification certified in advance by the commission, for any 48
employer, employment agency, personnel placement service, or 49
labor organization, prior to employment or admission to 50
membership, to do any of the following: 51

(1) Elicit or attempt to elicit any information concerning 52
the race, color, religion, sex, military status, national 53
origin, disability, age, or ancestry of an applicant for 54
employment or membership; 55

(2) Make or keep a record of the race, color, religion, 56
sex, military status, national origin, disability, age, or 57
ancestry of any applicant for employment or membership; 58

(3) Use any form of application for employment, or 59
personnel or membership blank, seeking to elicit information 60
regarding race, color, religion, sex, military status, national 61
origin, disability, age, or ancestry; but an employer holding a 62
contract containing a nondiscrimination clause with the 63
government of the United States, or any department or agency of 64
that government, may require an employee or applicant for 65
employment to furnish documentary proof of United States 66
citizenship and may retain that proof in the employer's 67
personnel records and may use photographic or fingerprint 68
identification for security purposes; 69

(4) Print or publish or cause to be printed or published 70
any notice or advertisement relating to employment or membership 71
indicating any preference, limitation, specification, or 72
discrimination, based upon race, color, religion, sex, military 73
status, national origin, disability, age, or ancestry; 74

(5) Announce or follow a policy of denying or limiting, 75

through a quota system or otherwise, employment or membership 76
opportunities of any group because of the race, color, religion, 77
sex, military status, national origin, disability, age, or 78
ancestry of that group; 79

(6) Utilize in the recruitment or hiring of persons any 80
employment agency, personnel placement service, training school 81
or center, labor organization, or any other employee-referring 82
source known to discriminate against persons because of their 83
race, color, religion, sex, military status, national origin, 84
disability, age, or ancestry. 85

(F) For any person seeking employment to publish or cause 86
to be published any advertisement that specifies or in any 87
manner indicates that person's race, color, religion, sex, 88
military status, national origin, disability, age, or ancestry, 89
or expresses a limitation or preference as to the race, color, 90
religion, sex, military status, national origin, disability, 91
age, or ancestry of any prospective employer. 92

(G) For any proprietor or any employee, keeper, or manager 93
of a place of public accommodation to deny to any person, except 94
for reasons applicable alike to all persons regardless of race, 95
color, religion, sex, military status, national origin, 96
disability, age, or ancestry, the full enjoyment of the 97
accommodations, advantages, facilities, or privileges of the 98
place of public accommodation. 99

(H) ~~For~~ Subject to section 4112.024 of the Revised Code, 100
for any person to do any of the following: 101

(1) Refuse to sell, transfer, assign, rent, lease, 102
sublease, or finance housing accommodations, refuse to negotiate 103
for the sale or rental of housing accommodations, or otherwise 104

deny or make unavailable housing accommodations because of race, 105
color, religion, sex, military status, familial status, 106
ancestry, disability, or national origin; 107

(2) Represent to any person that housing accommodations 108
are not available for inspection, sale, or rental, when in fact 109
they are available, because of race, color, religion, sex, 110
military status, familial status, ancestry, disability, or 111
national origin; 112

(3) Discriminate against any person in the making or 113
purchasing of loans or the provision of other financial 114
assistance for the acquisition, construction, rehabilitation, 115
repair, or maintenance of housing accommodations, or any person 116
in the making or purchasing of loans or the provision of other 117
financial assistance that is secured by residential real estate, 118
because of race, color, religion, sex, military status, familial 119
status, ancestry, disability, or national origin or because of 120
the racial composition of the neighborhood in which the housing 121
accommodations are located, provided that the person, whether an 122
individual, corporation, or association of any type, lends money 123
as one of the principal aspects or incident to the person's 124
principal business and not only as a part of the purchase price 125
of an owner-occupied residence the person is selling nor merely 126
casually or occasionally to a relative or friend; 127

(4) Discriminate against any person in the terms or 128
conditions of selling, transferring, assigning, renting, 129
leasing, or subleasing any housing accommodations or in 130
furnishing facilities, services, or privileges in connection 131
with the ownership, occupancy, or use of any housing 132
accommodations, including the sale of fire, extended coverage, 133
or homeowners insurance, because of race, color, religion, sex, 134

military status, familial status, ancestry, disability, or 135
national origin or because of the racial composition of the 136
neighborhood in which the housing accommodations are located; 137

(5) Discriminate against any person in the terms or 138
conditions of any loan of money, whether or not secured by 139
mortgage or otherwise, for the acquisition, construction, 140
rehabilitation, repair, or maintenance of housing accommodations 141
because of race, color, religion, sex, military status, familial 142
status, ancestry, disability, or national origin or because of 143
the racial composition of the neighborhood in which the housing 144
accommodations are located; 145

(6) Refuse to consider without prejudice the combined 146
income of both husband and wife for the purpose of extending 147
mortgage credit to a married couple or either member of a 148
married couple; 149

(7) Print, publish, or circulate any statement or 150
advertisement, or make or cause to be made any statement or 151
advertisement, relating to the sale, transfer, assignment, 152
rental, lease, sublease, or acquisition of any housing 153
accommodations, or relating to the loan of money, whether or not 154
secured by mortgage or otherwise, for the acquisition, 155
construction, rehabilitation, repair, or maintenance of housing 156
accommodations, that indicates any preference, limitation, 157
specification, or discrimination based upon race, color, 158
religion, sex, military status, familial status, ancestry, 159
disability, or national origin, or an intention to make any such 160
preference, limitation, specification, or discrimination; 161

(8) Except as otherwise provided in division (H) (8) or 162
(17) of this section, make any inquiry, elicit any information, 163
make or keep any record, or use any form of application 164

containing questions or entries concerning race, color, 165
religion, sex, military status, familial status, ancestry, 166
disability, or national origin in connection with the sale or 167
lease of any housing accommodations or the loan of any money, 168
whether or not secured by mortgage or otherwise, for the 169
acquisition, construction, rehabilitation, repair, or 170
maintenance of housing accommodations. Any person may make 171
inquiries, and make and keep records, concerning race, color, 172
religion, sex, military status, familial status, ancestry, 173
disability, or national origin for the purpose of monitoring 174
compliance with this chapter. 175

(9) Include in any transfer, rental, or lease of housing 176
accommodations any restrictive covenant, or honor or exercise, 177
or attempt to honor or exercise, any restrictive covenant; 178

(10) Induce or solicit, or attempt to induce or solicit, a 179
housing accommodations listing, sale, or transaction by 180
representing that a change has occurred or may occur with 181
respect to the racial, religious, sexual, military status, 182
familial status, or ethnic composition of the block, 183
neighborhood, or other area in which the housing accommodations 184
are located, or induce or solicit, or attempt to induce or 185
solicit, a housing accommodations listing, sale, or transaction 186
by representing that the presence or anticipated presence of 187
persons of any race, color, religion, sex, military status, 188
familial status, ancestry, disability, or national origin, in 189
the block, neighborhood, or other area will or may have results 190
including, but not limited to, the following: 191

(a) The lowering of property values; 192

(b) A change in the racial, religious, sexual, military 193
status, familial status, or ethnic composition of the block, 194

neighborhood, or other area;	195
(c) An increase in criminal or antisocial behavior in the block, neighborhood, or other area;	196 197
(d) A decline in the quality of the schools serving the block, neighborhood, or other area.	198 199
(11) 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 discriminate against any person in the terms or conditions of that access, membership, or participation, on account of race, color, religion, sex, military status, familial status, national origin, disability, or ancestry;	200 201 202 203 204 205 206 207
(12) Coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of that person's having exercised or enjoyed or having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by division (H) of this section;	208 209 210 211 212
(13) Discourage or attempt to discourage the purchase by a prospective purchaser of housing accommodations, by representing that any block, neighborhood, or other area has undergone or might undergo a change with respect to its religious, racial, sexual, military status, familial status, or ethnic composition;	213 214 215 216 217
(14) Refuse to sell, transfer, assign, rent, lease, sublease, or finance, or otherwise deny or withhold, a burial lot from any person because of the race, color, sex, military status, familial status, age, ancestry, disability, or national origin of any prospective owner or user of the lot;	218 219 220 221 222
(15) Discriminate in the sale or rental of, or otherwise	223

make unavailable or deny, housing accommodations to any buyer or	224
renter because of a disability of any of the following:	225
(a) The buyer or renter;	226
(b) A person residing in or intending to reside in the	227
housing accommodations after they are sold, rented, or made	228
available;	229
(c) Any individual associated with the person described in	230
division (H) (15) (b) of this section.	231
(16) Discriminate in the terms, conditions, or privileges	232
of the sale or rental of housing accommodations to any person or	233
in the provision of services or facilities to any person in	234
connection with the housing accommodations because of a	235
disability of any of the following:	236
(a) That person;	237
(b) A person residing in or intending to reside in the	238
housing accommodations after they are sold, rented, or made	239
available;	240
(c) Any individual associated with the person described in	241
division (H) (16) (b) of this section.	242
(17) Except as otherwise provided in division (H) (17) of	243
this section, make an inquiry to determine whether an applicant	244
for the sale or rental of housing accommodations, a person	245
residing in or intending to reside in the housing accommodations	246
after they are sold, rented, or made available, or any	247
individual associated with that person has a disability, or make	248
an inquiry to determine the nature or severity of a disability	249
of the applicant or such a person or individual. The following	250
inquiries may be made of all applicants for the sale or rental	251

of housing accommodations, regardless of whether they have	252
disabilities:	253
(a) An inquiry into an applicant's ability to meet the	254
requirements of ownership or tenancy;	255
(b) An inquiry to determine whether an applicant is	256
qualified for housing accommodations available only to persons	257
with disabilities or persons with a particular type of	258
disability;	259
(c) An inquiry to determine whether an applicant is	260
qualified for a priority available to persons with disabilities	261
or persons with a particular type of disability;	262
(d) An inquiry to determine whether an applicant currently	263
uses a controlled substance in violation of section 2925.11 of	264
the Revised Code or a substantively comparable municipal	265
ordinance;	266
(e) An inquiry to determine whether an applicant at any	267
time has been convicted of or pleaded guilty to any offense, an	268
element of which is the illegal sale, offer to sell,	269
cultivation, manufacture, other production, shipment,	270
transportation, delivery, or other distribution of a controlled	271
substance.	272
(18) (a) Refuse to permit, at the expense of a person with	273
a disability, reasonable modifications of existing housing	274
accommodations that are occupied or to be occupied by the person	275
with a disability, if the modifications may be necessary to	276
afford the person with a disability full enjoyment of the	277
housing accommodations. This division does not preclude a	278
landlord of housing accommodations that are rented or to be	279
rented to a disabled tenant from conditioning permission for a	280

proposed modification upon the disabled tenant's doing one or 281
more of the following: 282

(i) Providing a reasonable description of the proposed 283
modification and reasonable assurances that the proposed 284
modification will be made in a workerlike manner and that any 285
required building permits will be obtained prior to the 286
commencement of the proposed modification; 287

(ii) Agreeing to restore at the end of the tenancy the 288
interior of the housing accommodations to the condition they 289
were in prior to the proposed modification, but subject to 290
reasonable wear and tear during the period of occupancy, if it 291
is reasonable for the landlord to condition permission for the 292
proposed modification upon the agreement; 293

(iii) Paying into an interest-bearing escrow account that 294
is in the landlord's name, over a reasonable period of time, a 295
reasonable amount of money not to exceed the projected costs at 296
the end of the tenancy of the restoration of the interior of the 297
housing accommodations to the condition they were in prior to 298
the proposed modification, but subject to reasonable wear and 299
tear during the period of occupancy, if the landlord finds the 300
account reasonably necessary to ensure the availability of funds 301
for the restoration work. The interest earned in connection with 302
an escrow account described in this division shall accrue to the 303
benefit of the disabled tenant who makes payments into the 304
account. 305

(b) A landlord shall not condition permission for a 306
proposed modification upon a disabled tenant's payment of a 307
security deposit that exceeds the customarily required security 308
deposit of all tenants of the particular housing accommodations. 309

(19) Refuse to make reasonable accommodations in rules,	310
policies, practices, or services when necessary to afford a	311
person with a disability equal opportunity to use and enjoy a	312
dwelling unit, including associated public and common use areas;	313
(20) Fail to comply with the standards and rules adopted	314
under division (A) of section 3781.111 of the Revised Code;	315
(21) Discriminate against any person in the selling,	316
brokering, or appraising of real property because of race,	317
color, religion, sex, military status, familial status,	318
ancestry, disability, or national origin;	319
(22) Fail to design and construct covered multifamily	320
dwellings for first occupancy on or after June 30, 1992, in	321
accordance with the following conditions:	322
(a) The dwellings shall have at least one building	323
entrance on an accessible route, unless it is impractical to do	324
so because of the terrain or unusual characteristics of the	325
site.	326
(b) With respect to dwellings that have a building	327
entrance on an accessible route, all of the following apply:	328
(i) The public use areas and common use areas of the	329
dwellings shall be readily accessible to and usable by persons	330
with a disability.	331
(ii) All the doors designed to allow passage into and	332
within all premises shall be sufficiently wide to allow passage	333
by persons with a disability who are in wheelchairs.	334
(iii) All premises within covered multifamily dwelling	335
units shall contain an accessible route into and through the	336
dwelling; all light switches, electrical outlets, thermostats,	337

and other environmental controls within such units shall be in 338
accessible locations; the bathroom walls within such units shall 339
contain reinforcements to allow later installation of grab bars; 340
and the kitchens and bathrooms within such units shall be 341
designed and constructed in a manner that enables an individual 342
in a wheelchair to maneuver about such rooms. 343

For purposes of division (H) (22) of this section, "covered 344
multifamily dwellings" means buildings consisting of four or 345
more units if such buildings have one or more elevators and 346
ground floor units in other buildings consisting of four or more 347
units. 348

(I) For any person to discriminate in any manner against 349
any other person because that person has opposed any unlawful 350
discriminatory practice defined in this section or because that 351
person has made a charge, testified, assisted, or participated 352
in any manner in any investigation, proceeding, or hearing under 353
sections 4112.01 to 4112.07 of the Revised Code. 354

(J) For any person to aid, abet, incite, compel, or coerce 355
the doing of any act declared by this section to be an unlawful 356
discriminatory practice, to obstruct or prevent any person from 357
complying with this chapter or any order issued under it, or to 358
attempt directly or indirectly to commit any act declared by 359
this section to be an unlawful discriminatory practice. 360

~~(K) (1) Nothing in division (H) of this section shall bar 361
any religious or denominational institution or organization, or 362
any nonprofit charitable or educational organization that is 363
operated, supervised, or controlled by or in connection with a 364
religious organization, from limiting the sale, rental, or 365
occupancy of housing accommodations that it owns or operates for 366
other than a commercial purpose to persons of the same religion, 367~~

~~or from giving preference in the sale, rental, or occupancy of such housing accommodations to persons of the same religion, unless membership in the religion is restricted on account of race, color, or national origin.~~ 368
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~~(2) Nothing in division (H) of this section shall bar any bona fide private or fraternal organization that, incidental to its primary purpose, owns or operates lodgings 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.~~ 372
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~~(3) Nothing in division (H) of this section limits the applicability of any reasonable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy housing accommodations. Nothing in that division prohibits the owners or managers of housing accommodations from implementing reasonable occupancy standards based on the number and size of sleeping areas or bedrooms and the overall size of a dwelling unit, provided that the standards are not implemented to circumvent the purposes of this chapter and are formulated, implemented, and interpreted in a manner consistent with this chapter and any applicable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy housing accommodations.~~ 378
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~~(4) Nothing in division (H) of this section requires that housing accommodations 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.~~ 391
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~~(5) Nothing in division (H) of this section pertaining to discrimination on the basis of familial status shall be~~ 396
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~~construed to apply to any of the following:~~ 398

~~(a) Housing accommodations provided under any state or federal program that have been determined under the "Fair Housing Amendments Act of 1988," 102 Stat. 1623, 42 U.S.C.A. 3607, as amended, to be specifically designed and operated to assist elderly persons;~~ 399
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~~(b) Housing accommodations intended for and solely occupied by persons who are sixty two years of age or older;~~ 404
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~~(c) Housing accommodations intended and operated for occupancy by at least one person who is fifty five years of age or older per unit, as determined under the "Fair Housing Amendments Act of 1988," 102 Stat. 1623, 42 U.S.C.A. 3607, as amended.~~ 406
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~~(L) Nothing in divisions (A) to (E) of this section shall be construed to require a person with a disability to be employed or trained under circumstances that would significantly increase the occupational hazards affecting either the person with a disability, other employees, the general public, or the facilities in which the work is to be performed, or to require the employment or training of a person with a disability in a job that requires the person with a disability routinely to undertake any task, the performance of which is substantially and inherently impaired by the person's disability.~~ 411
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~~(M) Nothing in divisions (H) (1) to (18) of this section shall be construed to require any person selling or renting property to modify the property in any way or to exercise a higher degree of care for a person with a disability, to relieve any person with a disability of any obligation generally imposed on all persons regardless of disability in a written lease,~~ 421
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~~rental agreement, or contract of purchase or sale, or to forbid- 427
distinctions based on the inability to fulfill the terms and 428
conditions, including financial obligations, of the lease, 429
agreement, or contract. 430~~

~~(N)~~ (L) An aggrieved individual may enforce the 431
individual's rights relative to discrimination on the basis of 432
age as provided for in this section by instituting a civil 433
action, within one hundred eighty days after the alleged 434
unlawful discriminatory practice occurred, in any court with 435
jurisdiction for any legal or equitable relief that will 436
effectuate the individual's rights. 437

A person who files a civil action under this division is 438
barred, with respect to the practices complained of, from 439
instituting a civil action under section 4112.14 of the Revised 440
Code and from filing a charge with the commission under section 441
4112.05 of the Revised Code. 442

~~(O)~~ (M) With regard to age, it shall not be an unlawful 443
discriminatory practice and it shall not constitute a violation 444
of division (A) of section 4112.14 of the Revised Code for any 445
employer, employment agency, joint labor-management committee 446
controlling apprenticeship training programs, or labor 447
organization to do any of the following: 448

(1) Establish bona fide employment qualifications 449
reasonably related to the particular business or occupation that 450
may include standards for skill, aptitude, physical capability, 451
intelligence, education, maturation, and experience; 452

(2) Observe the terms of a bona fide seniority system or 453
any bona fide employee benefit plan, including, but not limited 454
to, a retirement, pension, or insurance plan, that is not a 455

subterfuge to evade the purposes of this section. However, no 456
such employee benefit plan shall excuse the failure to hire any 457
individual, and no such seniority system or employee benefit 458
plan shall require or permit the involuntary retirement of any 459
individual, because of the individual's age except as provided 460
for in the "Age Discrimination in Employment Act Amendment of 461
1978," 92 Stat. 189, 29 U.S.C.A. 623, as amended by the "Age 462
Discrimination in Employment Act Amendments of 1986," 100 Stat. 463
3342, 29 U.S.C.A. 623, as amended. 464

(3) Retire an employee who has attained sixty-five years 465
of age who, for the two-year period immediately before 466
retirement, is employed in a bona fide executive or a high 467
policymaking position, if the employee is entitled to an 468
immediate nonforfeitable annual retirement benefit from a 469
pension, profit-sharing, savings, or deferred compensation plan, 470
or any combination of those plans, of the employer of the 471
employee, which equals, in the aggregate, at least forty-four 472
thousand dollars, in accordance with the conditions of the "Age 473
Discrimination in Employment Act Amendment of 1978," 92 Stat. 474
189, 29 U.S.C.A. 631, as amended by the "Age Discrimination in 475
Employment Act Amendments of 1986," 100 Stat. 3342, 29 U.S.C.A. 476
631, as amended; 477

(4) Observe the terms of any bona fide apprenticeship 478
program if the program is registered with the Ohio 479
apprenticeship council pursuant to sections 4139.01 to 4139.06 480
of the Revised Code and is approved by the federal committee on 481
apprenticeship of the United States department of labor. 482

~~(P)~~(N) Nothing in this chapter prohibiting age 483
discrimination and nothing in division (A) of section 4112.14 of 484
the Revised Code shall be construed to prohibit the following: 485

(1) The designation of uniform age the attainment of which 486
is necessary for public employees to receive pension or other 487
retirement benefits pursuant to Chapter 145., 742., 3307., 488
3309., or 5505. of the Revised Code; 489

(2) The mandatory retirement of uniformed patrol officers 490
of the state highway patrol as provided in section 5505.16 of 491
the Revised Code; 492

(3) The maximum age requirements for appointment as a 493
patrol officer in the state highway patrol established by 494
section 5503.01 of the Revised Code; 495

(4) The maximum age requirements established for original 496
appointment to a police department or fire department in 497
sections 124.41 and 124.42 of the Revised Code; 498

(5) Any maximum age not in conflict with federal law that 499
may be established by a municipal charter, municipal ordinance, 500
or resolution of a board of township trustees for original 501
appointment as a police officer or firefighter; 502

(6) Any mandatory retirement provision not in conflict 503
with federal law of a municipal charter, municipal ordinance, or 504
resolution of a board of township trustees pertaining to police 505
officers and firefighters; 506

(7) Until January 1, 1994, the mandatory retirement of any 507
employee who has attained seventy years of age and who is 508
serving under a contract of unlimited tenure, or similar 509
arrangement providing for unlimited tenure, at an institution of 510
higher education as defined in the "Education Amendments of 511
1980," 94 Stat. 1503, 20 U.S.C.A. 1141(a). 512

~~(e)~~ (O) (1) (a) Except as provided in division ~~(e)~~ (O) (1) (b) 513
of this section, for purposes of divisions (A) to (E) of this 514

section, a disability does not include any physiological 515
disorder or condition, mental or psychological disorder, or 516
disease or condition caused by an illegal use of any controlled 517
substance by an employee, applicant, or other person, if an 518
employer, employment agency, personnel placement service, labor 519
organization, or joint labor-management committee acts on the 520
basis of that illegal use. 521

(b) Division ~~(E)~~(O)(1)(a) of this section does not apply 522
to an employee, applicant, or other person who satisfies any of 523
the following: 524

(i) The employee, applicant, or other person has 525
successfully completed a supervised drug rehabilitation program 526
and no longer is engaging in the illegal use of any controlled 527
substance, or the employee, applicant, or other person otherwise 528
successfully has been rehabilitated and no longer is engaging in 529
that illegal use. 530

(ii) The employee, applicant, or other person is 531
participating in a supervised drug rehabilitation program and no 532
longer is engaging in the illegal use of any controlled 533
substance. 534

(iii) The employee, applicant, or other person is 535
erroneously regarded as engaging in the illegal use of any 536
controlled substance, but the employee, applicant, or other 537
person is not engaging in that illegal use. 538

(2) Divisions (A) to (E) of this section do not prohibit 539
an employer, employment agency, personnel placement service, 540
labor organization, or joint labor-management committee from 541
doing any of the following: 542

(a) Adopting or administering reasonable policies or 543

procedures, including, but not limited to, testing for the 544
illegal use of any controlled substance, that are designed to 545
ensure that an individual described in division ~~(e)~~(O)(1)(b)(i) 546
or (ii) of this section no longer is engaging in the illegal use 547
of any controlled substance; 548

(b) Prohibiting the illegal use of controlled substances 549
and the use of alcohol at the workplace by all employees; 550

(c) Requiring that employees not be under the influence of 551
alcohol or not be engaged in the illegal use of any controlled 552
substance at the workplace; 553

(d) Requiring that employees behave in conformance with 554
the requirements established under "The Drug-Free Workplace Act 555
of 1988," 102 Stat. 4304, 41 U.S.C.A. 701, as amended; 556

(e) Holding an employee who engages in the illegal use of 557
any controlled substance or who is an alcoholic to the same 558
qualification standards for employment or job performance, and 559
the same behavior, to which the employer, employment agency, 560
personnel placement service, labor organization, or joint labor- 561
management committee holds other employees, even if any 562
unsatisfactory performance or behavior is related to an 563
employee's illegal use of a controlled substance or alcoholism; 564

(f) Exercising other authority recognized in the 565
"Americans with Disabilities Act of 1990," 104 Stat. 327, 42 566
U.S.C.A. 12101, as amended, including, but not limited to, 567
requiring employees to comply with any applicable federal 568
standards. 569

(3) For purposes of this chapter, a test to determine the 570
illegal use of any controlled substance does not include a 571
medical examination. 572

(4) Division ~~(Q)~~(O) of this section does not encourage, 573
prohibit, or authorize, and shall not be construed as 574
encouraging, prohibiting, or authorizing, the conduct of testing 575
for the illegal use of any controlled substance by employees, 576
applicants, or other persons, or the making of employment 577
decisions based on the results of that type of testing. 578

~~(R)~~(P) This section does not apply to a religious 579
corporation, association, educational institution, or society 580
with respect to the employment of an individual of a particular 581
religion to perform work connected with the carrying on by that 582
religious corporation, association, educational institution, or 583
society of its activities. 584

The unlawful discriminatory practices defined in this 585
section do not make it unlawful for a person or an appointing 586
authority administering an examination under section 124.23 of 587
the Revised Code to obtain information about an applicant's 588
military status for the purpose of determining if the applicant 589
is eligible for the additional credit that is available under 590
that section. 591

Sec. 4112.024. (A) Nothing in division (H) of section 592
4112.02 of the Revised Code shall bar any religious or 593
denominational institution or organization, or any nonprofit 594
charitable or educational organization that is operated, 595
supervised, or controlled by or in connection with a religious 596
organization, from limiting the sale, rental, or occupancy of 597
housing accommodations that it owns or operates for other than a 598
commercial purpose to persons of the same religion, or from 599
giving preference in the sale, rental, or occupancy of such 600
housing accommodations to persons of the same religion, unless 601
membership in the religion is restricted on account of race, 602

color, or national origin. 603

(B) Nothing in division (H) of section 4112.02 of the 604
Revised Code shall bar any bona fide private or fraternal 605
organization that, incidental to its primary purpose, owns or 606
operates lodgings for other than a commercial purpose, from 607
limiting the rental or occupancy of the lodgings to its members 608
or from giving preference to its members. 609

(C) Nothing in division (H) of section 4112.02 of the 610
Revised Code limits the applicability of any reasonable local, 611
state, or federal restrictions regarding the maximum number of 612
occupants permitted to occupy housing accommodations. Nothing in 613
that division prohibits the owners or managers of housing 614
accommodations from implementing reasonable occupancy standards 615
based on the number and size of sleeping areas or bedrooms and 616
the overall size of a dwelling unit, provided that the standards 617
are not implemented to circumvent the purposes of this chapter 618
and are formulated, implemented, and interpreted in a manner 619
consistent with this chapter and any applicable local, state, or 620
federal restrictions regarding the maximum number of occupants 621
permitted to occupy housing accommodations. 622

(D) Nothing in division (H) of section 4112.02 of the 623
Revised Code requires that housing accommodations be made 624
available to an individual whose tenancy would constitute a 625
direct threat to the health or safety of other individuals or 626
whose tenancy would result in substantial physical damage to the 627
property of others. 628

(E) Nothing in division (H) of section 4112.02 of the 629
Revised Code pertaining to discrimination on the basis of 630
familial status shall be construed to apply to any of the 631
following: 632

(1) Housing accommodations provided under any state or federal program that have been determined under the "Fair Housing Amendments Act of 1988," 102 Stat. 1623, 42 U.S.C.A. 3607, as amended, to be specifically designed and operated to assist elderly persons;

(2) Housing accommodations intended for and solely occupied by persons who are sixty-two years of age or older;

(3) Housing accommodations intended and operated for occupancy by at least one person who is fifty-five years of age or older per unit, as determined under the "Fair Housing Amendments Act of 1988," 102 Stat. 1623, 42 U.S.C.A. 3607, as amended.

(F) Except as otherwise provided in division (F) of this section, divisions (H)(1), (2), (4), (7), (9), (10), (11), (15), (16), (18), (19), (20), and (22) of section 4112.02 of the Revised Code and division (H)(8) of that section as it applies to the sale or lease of housing accommodations do not apply to either of the following:

(1) Any single-family residential dwelling sold or rented by an owner if all of the following apply:

(a) The private individual owner does not own more than three such single-family residential dwellings at any one time.

(b) The bona fide private individual owner does not own any interest in, nor is there owned or reserved on the owner's behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of more than three such single-family residential dwellings at any one time.

(c) The single-family residential dwelling is sold or

rented without both of the following: 662

(i) The use, in any manner, of the sales or rental 663
facilities or services of any real estate broker, agent, or 664
salesperson; the facilities or services of any person in the 665
business of selling or renting dwellings; or any employee or 666
agent of any such broker, agent, salesperson, or person; 667

(ii) The printing, publishing, or circulating of any 668
statement or advertisement, or making or causing to be made any 669
statement or advertisement in violation of division (H) (7) of 670
section 4112.02 of the Revised Code. 671

In the case of the sale of any such single-family 672
residential dwelling by a private individual owner not residing 673
in the dwelling at the time of the sale or who was not the most 674
recent resident of the dwelling prior to the sale, the exemption 675
granted by this division applies only with respect to one such 676
sale within any twenty-four month period. Nothing in this 677
division prohibits the use of attorneys, escrow agents, 678
abstractors, title companies, and other such professional 679
assistance as necessary to perfect or transfer the title of a 680
dwelling. As used in this section, "person in the business of 681
selling or renting dwellings" has the same meaning as in 42 682
U.S.C. 3603. 683

(2) Rooms or units in dwellings containing living quarters 684
occupied or intended to be occupied by not more than four 685
families living independently of each other, if the owner 686
actually maintains and occupies the living quarters as the 687
owner's residence. 688

(G) Nothing in divisions (H) (1) to (18) of section 4112.02 689
of the Revised Code shall be construed to require any person 690

selling or renting property to modify the property in any way or 691
to exercise a higher degree of care for a person with a 692
disability, to relieve any person with a disability of any 693
obligation generally imposed on all persons regardless of 694
disability in a written lease, rental agreement, or contract of 695
purchase or sale, or to forbid distinctions based on the 696
inability to fulfill the terms and conditions, including 697
financial obligations, of the lease, agreement, or contract. 698

Sec. 4112.05. (A) The commission, as provided in this 699
section, shall prevent any person from engaging in unlawful 700
discriminatory practices, provided that, before instituting the 701
formal hearing authorized by division (B) of this section, it 702
shall attempt, by informal methods of conference, conciliation, 703
and persuasion, to induce compliance with this chapter. 704

(B) (1) Any person may file a charge with the commission 705
alleging that another person has engaged or is engaging in an 706
unlawful discriminatory practice. In the case of a charge 707
alleging an unlawful discriminatory practice described in 708
division (A), (B), (C), (D), (E), (F), (G), (I), or (J) of 709
section 4112.02 or in section 4112.021 or 4112.022 of the 710
Revised Code, the charge shall be in writing and under oath and 711
shall be filed with the commission within six months after the 712
alleged unlawful discriminatory practice was committed. In the 713
case of a charge alleging an unlawful discriminatory practice 714
described in division (H) of section 4112.02 of the Revised 715
Code, the charge shall be in writing and under oath and shall be 716
filed with the commission within one year after the alleged 717
unlawful discriminatory practice was committed. 718

(2) Upon receiving a charge, the commission may initiate a 719
preliminary investigation to determine whether it is probable 720

that an unlawful discriminatory practice has been or is being 721
engaged in. The commission also may conduct, upon its own 722
initiative and independent of the filing of any charges, a 723
preliminary investigation relating to any of the unlawful 724
discriminatory practices described in division (A), (B), (C), 725
(D), (E), (F), (I), or (J) of section 4112.02 or in section 726
4112.021 or 4112.022 of the Revised Code. Prior to a 727
notification of a complainant under division (B)(4) of this 728
section or prior to the commencement of informal methods of 729
conference, conciliation, and persuasion under that division, 730
the members of the commission and the officers and employees of 731
the commission shall not make public in any manner and shall 732
retain as confidential all information that was obtained as a 733
result of or that otherwise pertains to a preliminary 734
investigation other than one described in division (B)(3) of 735
this section. 736

(3) (a) Unless it is impracticable to do so and subject to 737
its authority under division (B)(3)(d) of this section, the 738
commission shall complete a preliminary investigation of a 739
charge filed pursuant to division (B)(1) of this section that 740
alleges an unlawful discriminatory practice described in 741
division (H) of section 4112.02 of the Revised Code, and shall 742
take one of the following actions, within one hundred days after 743
the filing of the charge: 744

(i) Notify the complainant and the respondent that it is 745
not probable that an unlawful discriminatory practice described 746
in division (H) of section 4112.02 of the Revised Code has been 747
or is being engaged in and that the commission will not issue a 748
complaint in the matter; 749

(ii) Initiate a complaint and schedule it for informal 750

methods of conference, conciliation, and persuasion; 751

(iii) Initiate a complaint and refer it to the attorney 752
general with a recommendation to seek a temporary or permanent 753
injunction or a temporary restraining order. If this action is 754
taken, the attorney general shall apply, as expeditiously as 755
possible after receipt of the complaint, to the court of common 756
pleas of the county in which the unlawful discriminatory 757
practice allegedly occurred for the appropriate injunction or 758
order, and the court shall hear and determine the application as 759
expeditiously as possible. 760

(b) If it is not practicable to comply with the 761
requirements of division (B) (3) (a) of this section within the 762
one-hundred-day period described in that division, the 763
commission shall notify the complainant and the respondent in 764
writing of the reasons for the noncompliance. 765

(c) Prior to the issuance of a complaint under division 766
(B) (3) (a) (ii) or (iii) of this section or prior to a 767
notification of the complainant and the respondent under 768
division (B) (3) (a) (i) of this section, the members of the 769
commission and the officers and employees of the commission 770
shall not make public in any manner and shall retain as 771
confidential all information that was obtained as a result of or 772
that otherwise pertains to a preliminary investigation of a 773
charge filed pursuant to division (B) (1) of this section that 774
alleges an unlawful discriminatory practice described in 775
division (H) of section 4112.05 of the Revised Code. 776

(d) Notwithstanding the types of action described in 777
divisions (B) (3) (a) (ii) and (iii) of this section, prior to the 778
issuance of a complaint or the referral of a complaint to the 779
attorney general and prior to endeavoring to eliminate an 780

unlawful discriminatory practice described in division (H) of 781
section 4112.02 of the Revised Code by informal methods of 782
conference, conciliation, and persuasion, the commission may 783
seek a temporary or permanent injunction or a temporary 784
restraining order in the court of common pleas of the county in 785
which the unlawful discriminatory practice allegedly occurred. 786

(4) If the commission determines after a preliminary 787
investigation other than one described in division (B)(3) of 788
this section that it is not probable that an unlawful 789
discriminatory practice has been or is being engaged in, it 790
shall notify any complainant under division (B)(1) of this 791
section that it has so determined and that it will not issue a 792
complaint in the matter. If the commission determines after a 793
preliminary investigation other than the one described in 794
division (B)(3) of this section that it is probable that an 795
unlawful discriminatory practice has been or is being engaged 796
in, it shall endeavor to eliminate the practice by informal 797
methods of conference, conciliation, and persuasion. 798

(5) Nothing said or done during informal methods of 799
conference, conciliation, and persuasion under this section 800
shall be disclosed by any member of the commission or its staff 801
or be used as evidence in any subsequent hearing or other 802
proceeding. If, after a preliminary investigation and the use of 803
informal methods of conference, conciliation, and persuasion 804
under this section, the commission is satisfied that any 805
unlawful discriminatory practice will be eliminated, it may 806
treat the charge involved as being conciliated and enter that 807
disposition on the records of the commission. If the commission 808
fails to effect the elimination of an unlawful discriminatory 809
practice by informal methods of conference, conciliation, and 810
persuasion under this section and to obtain voluntary compliance 811

with this chapter, the commission shall issue and cause to be 812
served upon any person, including the respondent against whom a 813
complainant has filed a charge pursuant to division (B) (1) of 814
this section, a complaint stating the charges involved and 815
containing a notice of an opportunity for a hearing before the 816
commission, a member of the commission, or a hearing examiner at 817
a place that is stated in the notice and that is located within 818
the county in which the alleged unlawful discriminatory practice 819
has occurred or is occurring or in which the respondent resides 820
or transacts business. The hearing shall be held not less than 821
thirty days after the service of the complaint upon the 822
complainant, the aggrieved persons other than the complainant on 823
whose behalf the complaint is issued, and the respondent, unless 824
the complainant, an aggrieved person, or the respondent elects 825
to proceed under division (A) (2) of section 4112.051 of the 826
Revised Code when that division is applicable. If a complaint 827
pertains to an alleged unlawful discriminatory practice 828
described in division (H) of section 4112.02 of the Revised 829
Code, the complaint shall notify the complainant, an aggrieved 830
person, and the respondent of the right of the complainant, an 831
aggrieved person, or the respondent to elect to proceed with the 832
administrative hearing process under this section or to proceed 833
under division (A) (2) of section 4112.051 of the Revised Code. 834

(6) The attorney general shall represent the commission at 835
any hearing held pursuant to division (B) (5) of this section and 836
shall present the evidence in support of the complaint. 837

(7) Any complaint issued pursuant to division (B) (5) of 838
this section after the filing of a charge under division (B) (1) 839
of this section shall be so issued within one year after the 840
complainant filed the charge with respect to an alleged unlawful 841
discriminatory practice. 842

(C) Any complaint issued pursuant to division (B) of this section may be amended by the commission, a member of the commission, or the hearing examiner conducting a hearing under division (B) of this section, at any time prior to or during the hearing. The respondent has the right to file an answer or an amended answer to the original and amended complaints and to appear at the hearing in person, by attorney, or otherwise to examine and cross-examine witnesses.

(D) The complainant shall be a party to a hearing under division (B) of this section, and any person who is an indispensable party to a complete determination or settlement of a question involved in the hearing shall be joined. Any aggrieved person who has or claims an interest in the subject of the hearing and in obtaining or preventing relief against the unlawful discriminatory practices complained of shall be permitted to appear only for the presentation of oral or written arguments, to present evidence, perform direct and cross-examination, and be represented by counsel. The commission shall adopt rules, in accordance with Chapter 119. of the Revised Code governing the authority granted under this division.

(E) In any hearing under division (B) of this section, the commission, a member of the commission, or the hearing examiner shall not be bound by the Rules of Evidence but, in ascertaining the practices followed by the respondent, shall take into account all reliable, probative, and substantial statistical or other evidence produced at the hearing that may tend to prove the existence of a predetermined pattern of employment or membership, provided that nothing contained in this section shall be construed to authorize or require any person to observe the proportion that persons of any race, color, religion, sex, military status, familial status, national origin, disability,

age, or ancestry bear to the total population or in accordance 874
with any criterion other than the individual qualifications of 875
the applicant. 876

(F) The testimony taken at a hearing under division (B) of 877
this section shall be under oath and shall be reduced to writing 878
and filed with the commission. Thereafter, in its discretion, 879
the commission, upon the service of a notice upon the 880
complainant and the respondent that indicates an opportunity to 881
be present, may take further testimony or hear argument. 882

(G) (1) (a) If, upon all reliable, probative, and 883
substantial evidence presented at a hearing under division (B) 884
of this section, the commission determines that the respondent 885
has engaged in, or is engaging in, any unlawful discriminatory 886
practice, whether against the complainant or others, the 887
commission shall state its findings of fact and conclusions of 888
law and shall issue and, subject to the provisions of Chapter 889
119. of the Revised Code, cause to be served on the respondent 890
an order requiring the respondent to ~~cease~~ do all of the 891
following: 892

(i) Cease and desist from the unlawful discriminatory 893
practice, ~~requiring the respondent to take~~ i 894

(ii) Take any further affirmative or other action that 895
will effectuate the purposes of this chapter, including, but not 896
limited to, hiring, reinstatement, or upgrading of employees 897
with or without back pay, or admission or restoration to union 898
membership, ~~and requiring the respondent to report~~ i 899

(iii) Report to the commission the manner of compliance. 900
~~if~~ 901

If the commission directs payment of back pay, it shall 902

make allowance for interim earnings. ~~If it~~ 903

(b) If the commission finds a violation of division (H) of 904
section 4112.02 of the Revised Code, in addition to the action 905
described in division (G)(1)(a) of this section, the commission 906
additionally ~~shall~~ may require the respondent to pay actual 907
damages and reasonable attorney's fees, and ~~may award to the~~ 908
~~complainant punitive damages, to vindicate the public interest,~~ 909
assess a civil penalty against the respondent as follows: 910

~~(a)(i)~~ If division ~~divisions~~ (G)(1)(b)(ii) or ~~(c)(iii)~~ of 911
this section ~~does~~ do not apply, ~~punitive damages a civil penalty~~ 912
in an amount not to exceed ~~ten~~ two thousand dollars; 913

~~(b)(ii)~~ If division ~~(G)(1)(c)~~ (G)(1)(b)(iii) of this 914
section does not apply and if the respondent has been determined 915
by a final order of the commission or by a final judgment of a 916
court to have committed one violation of division (H) of section 917
4112.02 of the Revised Code during the five-year period 918
immediately preceding the date on which a complaint was issued 919
pursuant to division (B) of this section, ~~punitive damages a~~ 920
civil penalty in an amount not to exceed ~~twenty-five-five~~ 921
thousand dollars; 922

~~(c)(iii)~~ If the respondent has been determined by a final 923
order of the commission or by a final judgment of a court to 924
have committed two or more violations of division (H) of section 925
4112.02 of the Revised Code during the seven-year period 926
immediately preceding the date on which a complaint was issued 927
pursuant to division (B) of this section, punitive damages a 928
civil penalty in an amount not to exceed ~~fifty-ten~~ thousand 929
dollars. 930

(2) Upon the submission of reports of compliance, the 931

commission may issue a declaratory order stating that the 932
respondent has ceased to engage in particular unlawful 933
discriminatory practices. 934

(H) If the commission finds that no probable cause exists 935
for crediting charges of unlawful discriminatory practices or 936
if, upon all the evidence presented at a hearing under division 937
(B) of this section on a charge, the commission finds that a 938
respondent has not engaged in any unlawful discriminatory 939
practice against the complainant or others, it shall state its 940
findings of fact and shall issue and cause to be served on the 941
complainant an order dismissing the complaint as to the 942
respondent. A copy of the order shall be delivered in all cases 943
to the attorney general and any other public officers whom the 944
commission considers proper. 945

If, upon all the evidence presented at a hearing under 946
division (B) of this section on a charge, the commission finds 947
that a respondent has not engaged in any unlawful discriminatory 948
practice against the complainant or others, it may award to the 949
respondent reasonable attorney's fees to the extent provided in 950
5 U.S.C. 504 and accompanying regulations. 951

(I) Until the time period for appeal set forth in division 952
(H) of section 4112.06 of the Revised Code expires, the 953
commission, subject to the provisions of Chapter 119. of the 954
Revised Code, at any time, upon reasonable notice, and in the 955
manner it considers proper, may modify or set aside, in whole or 956
in part, any finding or order made by it under this section. 957

Sec. 4112.08. This chapter shall be construed liberally 958
for the accomplishment of its purposes, and any law inconsistent 959
with any provision of this chapter shall not apply. Nothing 960
contained in this chapter shall be considered to repeal any of 961

the provisions of any law of this state relating to 962
discrimination because of race, color, religion, sex, military 963
status, familial status, disability, national origin, age, or 964
ancestry, except that any person filing a charge under division 965
(B) (1) of section 4112.05 of the Revised Code, with respect to 966
the unlawful discriminatory practices complained of, is barred 967
from instituting a civil action under section 4112.14 or 968
division ~~(N)~~(L) of section 4112.02 of the Revised Code. 969

Sec. 4112.14. (A) No employer shall discriminate in any 970
job opening against any applicant or discharge without just 971
cause any employee aged forty or older who is physically able to 972
perform the duties and otherwise meets the established 973
requirements of the job and laws pertaining to the relationship 974
between employer and employee. 975

(B) Any person aged forty or older who is discriminated 976
against in any job opening or discharged without just cause by 977
an employer in violation of division (A) of this section may 978
institute a civil action against the employer in a court of 979
competent jurisdiction. If the court finds that an employer has 980
discriminated on the basis of age, the court shall order an 981
appropriate remedy which shall include reimbursement to the 982
applicant or employee for the costs, including reasonable 983
attorney's fees, of the action, or to reinstate the employee in 984
the employee's former position with compensation for lost wages 985
and any lost fringe benefits from the date of the illegal 986
discharge and to reimburse the employee for the costs, including 987
reasonable attorney's fees, of the action. The remedies 988
available under this section are coexistent with remedies 989
available pursuant to sections 4112.01 to 4112.11 of the Revised 990
Code; except that any person instituting a civil action under 991
this section is, with respect to the practices complained of, 992

thereby barred from instituting a civil action under division 993
~~(N)~~(L) of section 4112.02 of the Revised Code or from filing a 994
charge with the Ohio civil rights commission under section 995
4112.05 of the Revised Code. 996

(C) The cause of action described in division (B) of this 997
section and any remedies available pursuant to sections 4112.01 998
to 4112.11 of the Revised Code shall not be available in the 999
case of discharges where the employee has available to the 1000
employee the opportunity to arbitrate the discharge or where a 1001
discharge has been arbitrated and has been found to be for just 1002
cause. 1003

Section 2. That existing sections 4112.02, 4112.05, 1004
4112.08, and 4112.14 of the Revised Code are hereby repealed. 1005