

A LOCAL LAW amending the Laws of Westchester County in relation to the adoption of the Westchester County Fair Housing Law.

BE IT ENACTED by the Board of Legislators of the County of Westchester as follows:

Section 1. The heading of Chapter 700 of the Laws of Westchester County is hereby amended to read as follows:

**Chapter 700**

**HUMAN RIGHTS**

**Article I. Human Rights Law**

- Sec. 700.01. Legislative findings.
- Sec. 700.02. Definitions.
- Sec. 700.03. Unlawful discriminatory practices in employment.
- Sec. 700.04. Unlawful discriminatory practices in places of public accommodation, resort or amusement.
- Sec. 700.05. Unlawful discriminatory practices in the sale, lease or rental of land or commercial property.
- Sec. 700.06. Unlawful discriminatory practices in relation to credit.
- Sec. 700.07. Additional provisions defining discriminatory practices.
- Sec. 700.08. Human Rights Commission; membership.
- Sec. 700.09. Powers and duties of the commission.
- Sec. 700.10. Relations with county departments and agencies.
- Sec. 700.11. Complaints of discrimination; procedure.
- Sec. 700.12. Complaints of discrimination; limitations.
- Sec. 700.13. Temporary injunctions.
- Sec. 700.14. Jurisdictional limitations.
- Sec. 700.15. Judicial review and enforcement.
- Sec. 700.16. Construction.
- Sec. 700.17. Separability.
- Sec. 700.18. Expenditure limitation.

Section 2. Section 700.02 of the Laws of Westchester County is hereby amended to read as follows:

Sec. 700.02. Definitions.

1. Alienage or citizenship status shall mean (1) the citizenship of any person; or (2) the immigration status of any person who is not a citizen or national of the United States.
2. Commercial property means any property in a building, structure, or portion thereof which is used or occupied or is intended, arranged or designed to be used or occupied for the manufacture, sale, resale, processing, reprocessing, displaying, storing, handling, garaging or distribution of personal property; and any property which is used or occupied, or is intended, arranged or designed to be used or occupied as a separate business or professional unit or office in any building, structure or portion thereof.
3. Creditor, when used in this chapter, means any person or financial institution which does business in this state and which extends credit or arranges for the extension of credit by others. The term creditor includes, but is not limited to, banks and trust companies, private bankers, foreign banking corporations and national banks, savings banks, licensed lenders, savings and loan associations, credit unions, finance companies, insurance premium finance agencies, insurers, credit card issuers, mortgage brokers, mortgage companies, mortgage insurance corporations, wholesale and retail merchants and factors, whatever the form of their organization.
4. Disability means (1) a physical, mental or medical impairment resulting from anatomical, physiological, genetic or neurological conditions which prevents the exercise of an unimpaired bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques; or (2) a record of such an impairment; or (3) a condition regarded by others as such an impairment, provided, however, that in all provisions of this chapter dealing with employment, the term shall be limited to disabilities which, upon the provision of reasonable accommodations, do not prevent the complainant from performing in a reasonable manner the activities involved in the job or occupation sought or held.
5. Discrimination shall include, but shall not be limited to, segregation, separation, harassment, physical intimidation and acts of hate and physical violence.
6. Employee in this chapter does not include any individual employed by his or her parents, spouse or child nor does the term "employee" include any individual in the domestic service of any person nor does the term "employee" include any person employed, hired or engaged as an independent contractor or to conduct or supply any personal services included but not limited to tutoring, mentoring, private or personal instruction, personal training, home or child care services.
7. Employer in this chapter means any person(s) with at least four persons in their employ, provided, however, such term shall not include an employer where at least two-thirds of the employees are the children, parents, spouse or relatives within the third degree of consanguinity, or the spouses thereof, of such employer.
8. Employment agency includes any person undertaking to procure employees or opportunities to work.
9. Gender means the biological characteristics of being male or female.

10. Group identity shall mean race, color, religion, age, national origin, alienage or citizenship status, ethnicity, familial status, creed, gender, sexual orientation, marital status, or disability.
11. Labor organization includes any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment.
12. National origin shall include ancestry.
13. Necessary party means any person who has such an interest in the subject matter of a proceeding under this chapter, or whose rights are so involved, that no complete and effective disposition can be made without his or her participation in the proceeding.
14. Parties to the proceeding means the complainant, respondent, necessary parties and persons permitted to intervene as parties in a proceeding with respect to a complaint filed under this chapter.
15. Person includes one or more natural persons, proprietorships, partnerships (including limited liability partnerships, and limited partnerships), associations, group associations, corporations (including limited liability corporations), legal representatives, trustees, trustees in bankruptcy, or receivers.
16. Place of public accommodation, resort or amusement shall include providers, whether licensed or unlicensed, of goods, services, facilities, accommodations, advantages and privileges of any kind, and places, whether licensed or unlicensed, where goods, services, facilities, accommodations, advantages and privileges of any kind are extended, offered, sold or otherwise made available to the public. Such term shall not include any club or organization which by its nature is distinctly private but no such club or organization shall be considered by its nature distinctly private if: (i) it has more than 100 members; and (ii) provides meal service in the regular course of its business; and (iii) in the regular course of its business, persistently receives payment for dues, fees, use of space, facilities, services, meals or beverages directly or indirectly from or on behalf of nonmembers for the furtherance of the nonmembers' trade or business. Notwithstanding the foregoing, for the purposes of this chapter, a corporation incorporated under the Benevolent Orders Law or described in the Benevolent Orders Law but formed under any other law of this state or a religious corporation incorporated under the Education Law or the Religious Corporations Law shall be deemed to be in its nature distinctly private. No institution, club, organization or place of accommodation which sponsors or conducts any amateur athletic contest or sparring exhibition and advertises or bills such contest or exhibition as a New York state championship contest or uses the words "New York State" in its announcements shall be deemed a private exhibition within the meaning of this chapter.
17. Real estate broker means any person, firm or corporation who, for another and for a fee, commission or other valuable consideration, lists for sale, sells, at auction or otherwise, exchanges, buys or rents, or offers or attempts to negotiate a sale, at auction or otherwise, exchange, purchase or rental of an estate or interest in real estate, or collects or offers or attempts to collect rent for the use of real estate, or negotiates or offers or attempts to negotiate, a loan secured or to be secured by a mortgage or other encumbrance upon or transfer of real estate. In connection with the sale of lots pursuant to the provisions of Article Nine-A of the Real Property Law, the term "real estate

broker" shall also include any person, partnership, association or corporation employed by or on behalf of the owner or owners of lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission, or otherwise, to sell such real estate, or any parts thereof, in lots or other parcels, and who shall sell or exchange, or offer or attempt or agree to negotiate the sale or exchange, of any such lot or parcel of real estate.

18. Real estate sales person means a person employed by a licensed real estate broker to list for sale, sell or offer for sale, at auction or otherwise, to buy or offer to buy or to negotiate the purchase or sale or exchange of real estate, or to negotiate a loan on real estate, or to lease or rent or offer to lease, rent or place for rent any real estate, or who collects or offers or attempts to collect rent for the use of real estate for or on behalf of such real estate broker.

19. Reasonable accommodation means actions taken which permit an employee, prospective employee or member (1) with a disability, or (2) who is a victim of domestic violence, sexual abuse or stalking, to perform in a reasonable manner the activities involved in the job or occupation sought or held and include, but are not limited to, provision of an accessible worksite, acquisition or modification of equipment, support services for persons with impaired hearing or vision, job restructuring and modified work schedules, or some form of protection or security measure; provided, however, that such actions do not impose an undue hardship on the business, program or enterprise of the entity from which action is requested,

20. Sexual orientation means heterosexuality, homosexuality or bisexuality.

21. Unlawful discriminatory practice includes only those practices specified in section 700.03 through section 700.07 of this chapter which occurred in Westchester County.

22. Victim of domestic violence, sexual abuse or stalking.

1. A victim of domestic violence shall mean:

(a) any person who has been subjected to an act or series of acts that:

(1) would constitute a misdemeanor, felony or other violation of law against the person as defined in state or federal law; or

(2) would constitute a misdemeanor, felony or other violation of law against property as defined in state or federal law.

(b) Such act or series of acts as defined in subdivision (a) must have been committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim, by a person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, or a person who is or has continually or at regular intervals lived in the same household as the victim.

(c) Such act or series of acts as defined in subdivision (a) and (b) must also

(1) result in the actual physical or emotional injury of the person whether or not such conduct has actually resulted in criminal charges, prosecution or conviction; or

(2) create a substantial risk of physical or emotional harm to such person whether or not such conduct has actually resulted in criminal charges, prosecution or conviction.

2. A victim of sexual abuse or stalking shall mean any person who has been:

(a) a victim of an act or series of acts which would constitute a violation of article 130 of the penal law; or

(b) a victim of an act or series of acts which would constitute a violation of section 120.45, 120.50, 120.55, or 120.60 of the penal law.

3. A victim of domestic violence, sexual abuse or stalking shall also include any individual that is perceived to be a person who has been, or is currently being, subjected to acts or series of acts as set forth in subdivision 1 and 2 above.

Section 3. Section 700.05 of the Laws of Westchester County is hereby amended to read as follows:

Sec. 700.05. Unlawful discriminatory practices in the sale, lease or rental of land or commercial property.

a. It shall be an unlawful discriminatory practice for the owner, lessor, lessee, sublessee, or managing agent of, or other person having the right of ownership or possession of, or the right to sell, rent or lease, or the right to approve the sale, rental or lease of, land or commercial property or an interest therein:

1. To refuse to sell, rent, lease or otherwise deny to or withhold from any person or group of persons land or commercial property because of the actual or perceived group identity of such person or persons or because of such person's status as a victim of domestic violence, sexual abuse or stalking;

2. To discriminate against any person because of his or her actual or perceived group identity or because of such person's status as a victim of domestic violence, sexual abuse or stalking, in the terms, conditions or privileges of the sale, rental or lease of any such land or commercial property or in the furnishing of facilities or services in connection therewith; or

3. To declare, print or circulate or cause to be declared, printed or circulated any statement, advertisement or publication, or to use any form of application for the purchase, rental or lease of such land or commercial property or to make any record or inquiry in connection with the prospective purchase, rental or lease of such land or commercial property which expresses, directly or indirectly, any limitation, specification or discrimination as to group identity or because of a person's status as a victim of domestic violence, sexual abuse or stalking; or any intent to make any such limitation, specification or discrimination.

b. The provisions of paragraph a., solely with respect to age, shall not apply to the restriction of the sale, rental or lease of land or commercial property exclusively to persons 55 years of age or older and the spouse of any such person.

c. It shall be an unlawful discriminatory practice for a real estate salesperson, real estate broker, real estate listing service, or any employee or agent thereof:

1. To refuse to sell, rent or lease any land or commercial property to any person or group of persons or to refuse to negotiate for the sale, rental or lease, of any land or commercial property or any interest therein to any person or group of persons because of the actual or perceived group identity of such person or persons or because of such person's status as a victim of domestic violence, sexual abuse or stalking, or to represent that any land or commercial property or any interest therein is not available for inspection, sale, rental or lease when in fact it is so available, or otherwise to deny or withhold any land or commercial property or any facilities of any land or commercial property or any interest therein from any person or group of persons because of the actual

or perceived group identity of such person or persons or because of such person's status as a victim of domestic violence, sexual abuse or stalking; or

2. To declare, print or circulate or cause to be declared, printed or circulated any statement, advertisement or publication, or to use any form of application for the purchase, rental or lease of any land or commercial property or to make any record or inquiry in connection with the prospective purchase, rental or lease of any land or commercial property which expresses, directly or indirectly, any limitation, specification, or discrimination as to group identity or because of such person's status as a victim of domestic violence, sexual abuse or stalking; or any intent to make any such limitation, specification or discrimination.

d. The provisions of paragraph c., solely with respect to age, shall not apply to the restriction of the sale, rental or lease of land or commercial property exclusively to persons 55 years of age or older and the spouse of any such person.

e. It shall be an unlawful discriminatory practice for any real estate broker, real estate salesperson or employee or agent thereof or any other individual, corporation (including a limited liability corporation), partnership (including a limited partnership or a limited liability partnership) or any other organization used for the purpose of inducing a real estate transaction from which any such person or any of its stockholders or members may benefit financially, to represent that a change has occurred or will or may occur in the composition with respect to group identity or a person's status as a victim of domestic violence, sexual abuse or stalking of the owners or occupants in the block, neighborhood or area in which the real property is located, and to represent, directly or indirectly, that this change will or may result in undesirable consequences in the block, neighborhood or area in which the real property is located, including but not limited to the lowering of property values, an increase in criminal or anti-social behavior, or a decline in the quality of schools or other facilities.

f. It shall be an unlawful discriminatory practice for any real estate board, or any board of directors of any condominium corporation or cooperative apartment corporation, because of the actual or perceived group identity of any individual or because of such person's status as a victim of domestic violence, sexual abuse or stalking, who is otherwise qualified for membership, to exclude or expel such individual from ownership of any unit or apartment or from membership on any such board, or to discriminate against such individual in the terms, conditions and privileges of ownership of any unit or apartment or of membership on any such board.

g. It shall be an unlawful discriminatory practice for the owner, lessee, sub-lessee, or managing agent of, or other person having the right of ownership or possession of or the right to sell, rent or lease, land or commercial property to refuse to permit, at the expense of a person with a disability, reasonable modifications of existing premises occupied or to be occupied by the said person, if the modifications may be necessary to afford the said person full enjoyment of the premises, in conformity with the provisions of the New York State Uniform Fire Prevention and Building Code and any local fire or building code applying stricter standards than the New York State Code, 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's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.

h. The provisions of this section, as they relate to age, shall not apply to persons under the age of 18 years.

Section 4. Section 700.06 of the Laws of Westchester County is hereby amended to read as follows:

Sec. 700.06. Unlawful discriminatory practices in relation to credit.

a. It shall be an unlawful discriminatory practice for any creditor or any officer, agent or employee thereof:

1. In the case of applications for credit with respect to the purchase, acquisition, construction, rehabilitation, repair, maintenance or refinancing of any land or commercial property or any interest therein to discriminate against any such applicant because of the actual or perceived group identity of such applicant or applicants or any member, stockholder, director, officer or employee of such applicant or applicants, or of the prospective occupants or tenants of such land or commercial property, in the granting, withholding, extending or renewing, or in the fixing of the rates, terms or conditions of, any such credit; or in the appraisal of any land or commercial property conducted in connection with any such application;

2. To discriminate in the appraisal of land or commercial property, conducted in connection with an application for credit, on the basis of group identity;

3. To discriminate in the granting, withholding, extending or renewing, or in the fixing of the rates, terms or conditions of, any form of credit, on the basis of group identity;

4. To use any form of application for business or personal credit or use or make any record or inquiry which expresses, directly or indirectly, any limitation, specification, or discrimination as to group identity;

5. To make any inquiry of an applicant concerning his or her capacity to reproduce, or his or her use or advocacy of any form of birth control or family planning;

6. To refuse to consider sources of an applicant's income or to subject an applicant's income to discounting, in whole or in part, because of applicant's actual or perceived group identity;

7. To discriminate against a married person because such person neither uses nor is known by the surname of his or her spouse, except that this provision shall not be applicable to any situation where the use of a surname would constitute or result in a criminal act.

b. Without limiting the generality of paragraph a., it shall be considered discriminatory if, because of an applicant's or class of applicant's perceived or actual group identity:

1. An applicant or class of applicants is denied credit in circumstances where other applicants of like overall credit worthiness are granted credit; or

2. Special requirements or conditions, such as requiring co-obligors or reapplication upon marriage, are imposed upon an applicant or class of applicants in circumstances where similar requirements or conditions are not imposed upon other applicants of like overall credit worthiness.

c. Notwithstanding any provision of this section to the contrary, it shall not be considered discriminatory if credit differentiations or decisions are based upon factually

supportable, objective differences in applicants' overall credit worthiness, which may include reference to such factors as current income, assets and prior credit history of such applicants, as well as reference to any other relevant factually supportable data; provided, however, that no creditor shall consider, in evaluating the credit worthiness of an applicant, aggregate statistics or assumptions relating to group identity, or to the likelihood of any group of persons bearing or rearing children, or for that reason receiving diminished or interrupted income in the future.

d. Notwithstanding any provision of this section to the contrary, it shall not be an unlawful discriminatory practice to consider age in determining credit worthiness when age has a demonstrable and statistically sound relationship to a determination of creditworthiness.

Section 5. Subdivision d. of Section 700.07 of the Laws of Westchester County is hereby amended to read as follows:

d. Nothing contained in this chapter shall be construed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious organization, from limiting participation in any activity (including, but not limited to employment, education, or sales or rental of land or commercial property) to, or granting admission to, or giving preference to, persons of the same religion or denomination or from taking such action as is calculated by such organization to promote the religious principles for which it is established or maintained.

Section 6. Subdivision h. of Section 700.11 of the Laws of Westchester County is hereby amended to read as follows:

h. In the event that the commission shall, after a hearing, determine that a respondent has committed an unlawful discriminatory practice, it shall issue an order containing such of the following provisions as may, in the judgment of the commission, effectuate the purposes of this chapter:

1. Requiring such respondent to cease and desist from such unlawful discriminatory practice;
2. Requiring such respondent to take such affirmative action to remedy the unlawful discriminatory practice, including such of the following as may be applicable and appropriate; hiring, reinstatement or upgrading of employees, with or without back pay, restoration to membership in any respondent labor organization, admission to or participation in a guidance program, apprenticeship training program, on-the-job training program or other occupational training or retraining program, the extension of full, equal and unsegregated accommodations, advantages, facilities and privileges to all persons, evaluating applicants for membership in a place of accommodation without discrimination based on group identity or because of a person's status as a victim of domestic violence, sexual abuse or stalking, and without retaliation or discrimination based on opposition to practices forbidden by this chapter or filing a complaint, testifying or assisting in any proceeding under this chapter;

3. Awarding of compensatory damages, including, but not limited to: actual damages, back pay, front pay, mental anguish and emotional distress, to the person aggrieved by such practice;
4. Awarding of punitive damages against a respondent found to have committed an unlawful discriminatory practice which is found to be willful, wanton or malicious in an amount not to exceed \$10,000.00, to the person aggrieved by such practice;
5. Awarding costs in the form of reimbursement for actual expenses reasonably incurred and reasonable attorney's fees to the person aggrieved by such practice; and
6. Requiring the respondent to report of the manner of compliance.

Section 7. Chapter 700 of the Laws of Westchester County is hereby amended by adding a new Article II to read as follows:

## **Chapter 700**

### **HUMAN RIGHTS**

#### **Article II. Fair Housing Law**

- Sec. 700.19 Declaration of policy.
- Sec. 700.20 Definitions.
- Sec. 700.21 Unlawful discriminatory real estate practices.
- Sec. 700.22 Unlawful discriminatory real estate practices in relation to credit.
- Sec. 700.22-a. Discrimination in the provision of brokerage services.
- Sec. 700.23 Additional provisions defining discriminatory practices.
- Sec. 700.24 Creation of a Fair Housing Board.
- Sec. 700.25 Formulations of policies by the Board.
- Sec. 700.26 Powers and duties of the Board.
- Sec. 700.27 Relations with county departments and agencies.
- Sec. 700.28 Administrative procedure – preliminary matters.
- Sec. 700.29 Administrative procedure—removal, orders and awards and review.
- Sec. 700.30 Complaints of discrimination; limitations.
- Sec. 700.31 Temporary injunctions.
- Sec. 700.32 Jurisdictional limitations.
- Sec. 700.33 Enforcement by private persons.
- Sec. 700.34 Judicial review and enforcement.
- Sec. 700.35 Separability.

Sec. 700.19 Declaration of policy.

A. The general purpose of this law is to promote the availability and accessibility of housing and real property to all persons; to prohibit unlawful discriminatory real estate practices in real property transactions, whether direct or indirect, which deny those persons equal rights and opportunities in acquiring, disposing of, or occupying real property; to provide enforcement mechanisms for the accomplishment of such purpose; and to this end the provisions of this law shall be liberally construed. The role of the Fair

Housing Board, in conjunction with the Westchester County Human Rights Commission, shall be to enforce the provisions of this law in furtherance of this policy.

B. This law shall not be construed to endorse specific beliefs, practices, or lifestyles.

C. Nothing in this law is deemed to deny any person the right to institute any action or to pursue any civil or criminal remedy for the violation of such person's civil rights.

D. Remedies under this law shall include such relief authorized by law as may be appropriate and reasonable to provide temporary or preliminary relief as well as permanent relief in order to make the aggrieved person whole and eliminate the unlawful discriminatory real estate practice.

E. Nothing contained in this law shall be construed to create or form the basis for any liability on the part of Westchester County, or its officers, employees or agents, for any injury or damage resulting from or by reason of any act or omission in connection with the implementation or enforcement of this law on the part of Westchester County by its officers, employees, or agents.

#### Sec. 700.20 Definitions.

A. *Alienage or citizenship status* shall mean:

1. The citizenship of any person; or
2. The immigration status of any person who is not a citizen or national of the United States.

B. *Commission* shall mean the Westchester County Human Rights Commission.

C. *Creditor* when used in this article, means any person or financial institution which does business in this state and which extends credit or arranges for the extension of credit by others. The term creditor includes, but is not limited to, banks and trust companies, private bankers, foreign banking corporations and national banks, savings banks, licensed lenders, savings and loan associations, credit unions, finance companies, insurance premium finance agencies, insurers, credit card issuers, mortgage brokers, mortgage companies, mortgage insurance corporations, wholesale and retail merchants and factors, whatever the form of their organization.

D. *Disability shall mean:*

1. A physical, mental, psychological, or medical impairment resulting from anatomical, physiological, genetic or neurological conditions which substantially limit one or more of a person's major life activities or prevents the exercise of an unimpaired bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques; or
2. A record or history of a physical, mental, psychological, or medical impairment.

The term "physical, mental, psychological, or medical impairment" means:

- (a) An impairment of any system of the body; including, but not limited to: the neurological system; the musculoskeletal system; the special sense organs and respiratory organs, including, but not limited to, speech organs; the cardiovascular system; the reproductive system; the digestive and genitor-urinary systems; the hemic and lymphatic systems; the immunological systems; the skin; and the endocrine system; or
- (b) A mental or psychological disorder includes, but is not limited to, depression, bipolar disorder, anxiety disorders, and schizophrenia; or
- (c) A condition regarded or perceived by others as such an impairment.

3. The term “disability” shall not include alcoholism, drug addiction, the current illegal use of controlled substances, or any other form of substance abuse as defined in §102 of the Controlled Substances Act (21 U.S.C. § 802); Except, however, it may apply to a person who is:

a. Recovering or has recovered, and

b. Is currently free from such substance abuse.

E. *Discrimination* shall include, but shall not be limited to, segregation, separation, harassment, physical intimidation, acts of hate or bias and physical violence.

F. *Familial Status* shall mean one or more individuals, under the age of eighteen years, being domiciled with:

1. A parent or legal custodian of such individual or individuals; or

2. The designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or has a child or children or is in the process of securing legal custody or has legal custody of any individual under the age of eighteen years.

G. *Gender* shall mean:

1. The physiological and psychological characteristics of being a male or female; and

2. Gender identity, self-image, appearance, behavior, or expression, whether or not such gender identity, self image, appearance, behavior or expression is different from that traditionally associated with the legal sex assigned to that person at birth.

H. *Group identity* shall mean the race, color, religion, age, national origin, alienage or citizenship status, ethnicity, familial status, creed, gender, sexual orientation, marital status or disability of a person or persons, or a person’s status as a victim of domestic violence, sexual abuse, or stalking.

I. *Housing accommodation* includes any building, structure, or portion thereof which is used or occupied or is intended, arranged or designed to be used or occupied, as the home, residence or sleeping place of one or more human beings, including, but not limited to, houses, apartments, cooperative apartments, condominium units, mobile homes and vacant land.

J. *Multiple dwelling* as herein used, means a dwelling which is occupied primarily for permanent residence purposes and which is either rented, leased, let or hired out, to be occupied as the residence or home of three or more families living independently of each other. A “multiple dwelling” shall not be deemed to include a hospital, convent, monastery, asylum, or public institution, or a fireproof building used wholly for commercial purposes except for not more than one janitor’s apartment and not more than one penthouse occupied by not more than two families.

K. *National origin* shall include ancestry.

L. *Necessary party* shall mean any person who has such an interest in the subject matter of a proceeding under this article, or whose rights are so involved, that no complete and effective disposition can be made without his or her participation in the proceeding.

M. *Owner occupied* shall mean physical possession, in part or in full, by the owner.

N. *Parties to the proceeding* shall mean the complainant, respondent, necessary parties and persons permitted to intervene as parties in a proceeding with respect to a complaint filed under this article.

O. *Person* shall mean one or more natural persons, proprietorships, partnerships, limited liability partnerships, associations, group associations, corporations, limited liability corporations, labor organizations, mutual companies, joint-stock companies, unincorporated organizations, fiduciaries, legal representatives, trustees, trustees in bankruptcy, or receivers.

P. *Person in the business of selling or renting housing accommodations* shall include anyone who:

1. Within the preceding twelve months, has participated as principal in three or more transactions involving the sale or rental of any housing accommodation or any interest therein;

2. Within the preceding twelve months, has participated as agent, other than in the sale of his own personal residence, in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or

3. Is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

Q. *Publicly-assisted housing accommodations* shall include all housing accommodations within Westchester County in:

1. Publicly owned or operated housing accommodations;

2. Housing operated by housing companies under the supervision of the state commissioner of housing;

3. Housing constructed after July 1, 1950, within Westchester County and which is either:

a. Exempt in whole or in part from taxes levied by the state or any of its political subdivisions;

b. Constructed on land sold below cost by the state or any of its political subdivisions or any agency thereof, pursuant to the Federal Housing Act of 1949;

c. Constructed in whole or in part on property acquired or assembled by the state or any of its political subdivisions or any agency thereof through the power of condemnation or otherwise for the purpose of such construction; or

d. Acquired, constructed, repaired or maintained with funds or financial assistance furnished or contributed by the state, any political subdivision of the state, or any agency or authority of the state.

4. Housing which is located in a multiple dwelling, the acquisition, construction, rehabilitation, repair or maintenance of which is after July 1, 1955, financed in whole or in part by a loan, whether or not secured by a mortgage, the repayment of which is guaranteed or insured by the federal government or any agency thereof, or the state or any of its political subdivisions or any agency thereof, provided that such a housing accommodation shall be deemed to be publicly assisted only during the life of such loan and such guaranty or insurance; and

5. Housing which is offered for sale by a person who owns or otherwise controls the sale of ten or more housing accommodations located on land that is contiguous (exclusive of public streets), if:

a. The acquisition, construction, rehabilitation, repair or maintenance of such housing accommodations is, after July 1, 1955, financed in whole or in part by a loan, whether or not secured by a mortgage. The repayment of which is guaranteed or insured by the federal government or any agency thereof, or the state or any of its political subdivisions or any agency thereof, provided that such a housing accommodation shall be deemed to be publicly assisted only during the life of such loan and guaranty or insurance; or

b. A commitment, issued by a government agency after July 1, 1955, is outstanding that acquisition of such housing accommodations maybe financed in whole or in part, whether or not secured by a mortgage, the repayment of which is guaranteed or insured by the federal government or any agency thereof, or the state or any of its political subdivisions or any agency thereof.

R. *Real estate broker* shall mean any person, firm or corporation who, for another and for a fee, commission, or other valuable consideration, lists for sale, sells, at auction or otherwise, exchanges, buys, or rents, or offers or attempts to negotiate a sale, at auction or otherwise, exchange purchase or rental of an estate or interest in real estate, or collects or offers or attempts to collect rent for the use of real estate, or negotiates or offers or attempts to negotiate, a loan secured or to be secured by a mortgage or other encumbrance upon or transfer of real estate. In connection with the sale of lots pursuant to the provisions of Article Nine-A of the Real Property Law, the term “real estate broker” shall also include any person, partnership, association or corporation employed by or on behalf of the owner or owners of lots or other parcels of real estate, at a stated salary and commission, or otherwise, to sell such real estate, or any parts thereof, in lots or other parcels, and who shall sell or exchange, or offer or attempt or agree to negotiate the sale or exchange, of any such lot or parcel of real estate.

S. *Real estate sales person* shall mean a person employed by a licensed real estate broker to list for sale, sell or offer for sale, at auction or otherwise, to buy or offer to buy or to negotiate the purchase or sale or exchange of real estate, or to negotiate a loan on real estate, or to lease or rent or offer to lease, rent or place for rent any real estate, or who collects or offers to or attempts to collect rent for the use of real estate for or on behalf of such real estate broker.

T. *Reasonable accommodation* shall mean such accommodation in rules, policies, practices, or services, when such accommodation may be necessary to afford equal opportunity to use and enjoy a housing accommodation that can be made and shall not cause undue hardship to the owner or owner’s business. The owner or covered business shall have the burden of proving undue hardship. In making a determination of undue hardship, the factors that may be considered include but shall not be limited to:

1. The nature and cost of the accommodation;
2. The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility; and
3. The architectural feasibility of providing such accommodation.

U. *Sexual orientation* shall mean heterosexuality, homosexuality, or bisexuality.

V. *Transaction* shall mean, for purposes of this chapter, the sale, rental, lease, sublease, assignment, transfer, finance, refinance, loan, or appraisal and any and all other terms and conditions of any housing accommodation.

W. *Unlawful discriminatory real estate practice* includes only those practices specified in section 700.21 through section 700.23 of this article which occurred in Westchester County.

X. *Victim of domestic violence, sexual abuse or stalking:*

1. A victim of domestic violence shall mean:

a. Any person who has been subjected to an act or series of acts that:

(i) Would constitute a misdemeanor, felony or other violation of law against the person as defined in state or federal law; or

(ii) Would constitute a misdemeanor, felony or other violation of law against property as defined in state or federal law.

b. Such act or series of acts as defined in subdivision (a) must have been committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim, by a person who is or who has been in a continuing social relationship of a romantic or intimate nature with the victim, or a person who is or has continually or at regular intervals lived in the same household as the victim.

c. Such act or series of acts as defined in subdivision (a) and (b) must also;

(i) Result in the actual or physical or emotional injury of the person whether or not such conduct has actually resulted in criminal charges, prosecution or conviction; or

(ii) Create a substantial risk of physical or emotional harm to such person whether or not such conduct has actually resulted in criminal charges, prosecution or conviction.

2. A victim of sexual abuse or stalking shall mean any person who has been:

a. A victim of an act or series of acts which would constitute a violation of Article 130 of the Penal Law;

b. A victim of an act or series of acts which would constitute a violation of section 120.45, 120.50, 120.55, or 120.60 of the Penal Law.

A victim of domestic violence, sexual abuse or stalking shall also include any individual who is perceived to be a person who has been, or is currently being, subjected to acts or series of acts as set forth in subdivisions (1) and (2) above.

Sec. 700.21 Unlawful discriminatory real estate practices

A. It shall be an unlawful discriminatory real estate practice for anyone, including, but not limited to, an owner, lessor, lessee, sub-lessee, assignee, real estate broker, real estate salesperson or managing agent or other person, including but not limited to those having the right to enter into a transaction or negotiate for or otherwise make available to any person or group of persons such housing accommodations or to approve the transaction of housing accommodations, including publicly assisted housing accommodations, constructed or to be constructed, or any interest therein, or any agent or employee thereof:

1. To represent that housing accommodations are not available for inspection, sale or rental when in fact they are available, because of the group identity of such person or persons.

2. To refuse to sell, rent, lease, sublease, assign, transfer, negotiate for, or to refuse to approve or enter into a transaction involving or otherwise to deny to or withhold from any person or group of persons, or to refuse to continue to rent, lease, sublease or

otherwise to deny to or withhold from any person or group of persons, such a housing accommodation because of that persons actual or perceived group identity.

3. To discriminate against any person because of that person's actual or perceived group identity, in the terms, conditions or privileges of a transaction involving any such housing accommodations.

4. To discriminate against any person because of that person's actual or perceived group identity in the furnishings of facilities or services associated with such housing accommodations or the use or enjoyment in connection therewith.

5. To make, declare, print, publish, or circulate, or cause to be made, declared, printed, published, or circulated any notice, statement, advertisement or, with respect to the transaction of any such housing accommodations which expresses or indicates, directly or indirectly, any preference, limitation, specification, or discrimination as to a person's or group of persons' actual or perceived group identity, or any intent to make any such preference, limitation, specification, or discrimination.

6. To use any form of application for the transaction of any such housing accommodation or an interest therein or to make any record of inquiry in connection with the prospective transaction of such a housing accommodation or an interest therein which expresses or indicates, directly or indirectly, any preference, limitation, specification, or discrimination as to a person's or group of persons' actual or perceived group identity, or any intent to make any such preference, limitation, specification, or discrimination.

7. For profit, to induce any person to sell, rent, lease, sublease, assign, transfer, or otherwise negotiate or enter into a transaction involving any housing accommodation by representation regarding the entry or prospective entry into the neighborhood of a person or persons of a particular group identity.

8. To refuse to rent to any person because of the presence of a minor child or minor children in the household of such person.

9. With regard to persons with disabilities:

a. To discriminate in the transaction of, or to otherwise make unavailable or deny, a housing accommodation to any buyer, renter, lessor, lessee, sub-lessee, or assignee because of the disability of:

(i) Such buyer, renter, lessor, lessee, sub-lessee, or assignee,

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

(iii) Any person associated with such buyer, renter, lessor, lessee, sub-lessee, or assignee.

b. To discriminate against any person in the terms, conditions, or privileges of a transaction of a housing accommodation or in the provision of services or facilities in connection with such housing accommodation because of the disability of:

(i) Such person; or

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

(iii) Any person associated with such person.

c. For purposes of this subsection, discrimination includes:

(i) A refusal to permit, at the financial expense of such person with a disability, reasonable accommodations and modifications of existing premises, occupied or to be occupied by such person, if the modifications may be necessary to afford the said person

full use or 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's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

(ii) A refusal to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy a housing accommodation including public or common areas.

(iii) In connection with the design and construction of covered multi-family housing accommodations for first occupancy after the date that is 30 months after the date of enactment of the fair Housing Amendments Act of 1988, a failure to design and construct those housing accommodations in such a manner that:

(a) The public use and common use portions of the housing accommodations are readily accessible to and usable by persons with disabilities;

(b) All the doors designed to allow passage into and within all premises within such housing accommodations are sufficiently wide to allow passage by persons with disabilities; and

(c) All premises within such housing accommodations contain the following features of adaptive design: (i) an accessible route into and through the housing accommodation; (ii) light switches, electrical outlets, thermostats, and other environmental controls that are in accessible locations; (iii) there are reinforcements in bathroom walls to allow later installation of grab bars; and (iv) there are usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

10. To coerce, intimidate, threaten or interfere with any person in the exercise of, or on account of that person having aided or encouraged any other person in the exercise of, any right granted in this section, section 700.22 or section 700.22-a.

B. A victim of domestic violence, sexual abuse or stalking, pursuant to subdivisions 1, 2, 3, 4, 5, 6, and 7 of paragraph A. above, shall provide the owner, lessor, lessee, sub-lessee, assignee, or managing agent or such other person with documentation certifying he or she is a victim of domestic violence, sexual abuse or stalking. Certification establishing such status shall be sufficient in the form of any of the following:

1. A police report indicating that the person was a victim of domestic violence, sexual abuse or stalking;

2. A court order protecting the person from the perpetrator of an act of domestic violence, sexual abuse or stalking or other evidence from the court or prosecuting attorney that the person has appeared in court; or

3. Documentation from a medical professional, domestic violence advocate, health care provider, a member of the clergy or counselor that the person was undergoing treatment for, or seeking assistance to address, physical or mental injuries or abuse resulting from domestic violence, sexual abuse or stalking.

This certification is only required to assist victims, where appropriate, who choose to invoke the protections and benefits of this article as well as to assist landlords in their assessment of the situation. The owner, lessor, lessee, sub-lessee, assignee, or managing agent or such other person shall retain all such information received from a victim of domestic violence, sexual abuse or stalking in the strictest confidence, except to the extent that such disclosure is required pursuant to applicable federal, state or local law.

C. Exemptions

1. The provisions of paragraph (A) (1)-(4) and (7)-(9) shall not apply:

a. To any single-family house sold or rented by an owner provided:

(i) That such private individual owner does not own more than three such single-family houses at any one time; and

(ii) That in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period; and

(iii) That such bona fide private individual owner does not own any interest in, nor is there owned or reserved on their 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 houses at any one time; and

(iv) That such single-family house is sold or rented:

(a) Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesperson, or of such facilities or services of any person in the business of selling or renting housing accommodations, as defined in section 700.20(P) of this article, or of any employee or agent of any such broker, agent, salesperson, or person, and

(b) Without the publication, posting, or mailing, after notice, of any advertisement or written notice in violation of §700.22(A)(5) and (6) of this article, but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title;

b. To the transaction of, or the negotiation of a transaction of a housing accommodation, other than a publicly assisted housing accommodation, in a building that contains housing accommodations for not more than four families living independently of each other, if the owner actually resides in one of such housing accommodations;

c. If the victim of domestic violence, sexual abuse or stalking has failed to provide the owner, lessor, lessee, sub-lessee, assignee, or managing agent or other person having the right to conduct or approve transactions of said housing accommodations, including publicly assisted housing accommodations, with documentation certifying that he or she is a victim of domestic violence, sexual abuse or stalking, except that it shall apply if such person perceives an individual to be a victim of domestic violence, sexual abuse or stalking.

d. To an owner, lessor, lessee, sub-lessee, assignee, or managing agent or other person having the right to conduct or approve transactions of said housing accommodations where no adverse action has been taken against the victim of domestic violence, sexual abuse or stalking.

2. Nothing in §700.21(A) shall prohibit:

a. A religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society from limiting the sale, rental or occupancy of a housing accommodation which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin;

b. A private club, not in fact open to the public, which, as an incident to its primary purpose or purposes, provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preferences to its members.

3. Nothing in this article:

a. Limits the applicability of any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling;

b. Shall prohibit any person from limiting the rental or occupancy of housing accommodations to persons who are elderly in any housing facility designed, constructed or substantially rehabilitated and operated exclusively for older persons, as defined by the federal Fair Housing Act, as amended, 42 U.S.C. § 3607(b)(1) through (4) as of the effective date of the local law codified in this article, or for persons with disabilities.

D. It shall be an unlawful discriminatory real estate practice for any real estate broker, real estate salesperson or employee or agent thereof or any individual, corporation (including a limited liability corporation), partnership (including a limited liability partnership), or any other organization used for the purpose of inducing a real estate transaction from which any such person or any of its stockholders or members may benefit financially, to represent that a change has occurred or will or may occur in the composition with respect to group identity of the owners or occupants of the block, neighborhood or area in which the real property is located, and to represent, directly or indirectly, that this change will or may result in undesirable consequences in the block, neighborhood or area in which the real property is located, including but not limited to the lowering of property values, an increase in criminal or anti-social behavior, or a decline in the quality of schools or other facilities.

E. It shall be an unlawful discriminatory real estate practice for any real estate board, or any board of directors of any condominium corporation or cooperative apartment corporation, because of the actual or perceived group identity of any individual who is otherwise qualified for membership, to exclude or expel such individual from ownership of any unit or apartment or from membership on any such board, or to discriminate against such individual in the terms, conditions, and privileges of ownership of any unit or apartment or of membership on any such board.

F. Nothing in this section shall be deemed to restrict the rental or occupancy of housing accommodations in any YWCA, YMCA, sorority, fraternity, school or college dormitories, or similar residential halls to individuals of the same gender.

G. The provisions of this section, as they relate to age, shall not apply to persons under the age of 18 years.

Sec. 700.22 Unlawful discriminatory real estate practices in relation to credit.

A. It shall be an unlawful discriminatory real estate practice for any creditor or any other officer, agent or employee thereof:

1. In the case of applications for credit with respect to the purchase, acquisition, construction, rehabilitation, repair, maintenance or refinancing of any housing accommodation, land or any interest therein or in the case of applications for the making or purchasing of loans or providing other financial assistance which are to be secured by residential real estate, to discriminate against any such applicant because of the actual or perceived group identity of such applicant or applicants or any member, stockholder, director, officer or employee of such applicant or applicants, or of the prospective occupants or tenants of such housing accommodation, or land, in the granting, withholding, extending or renewing, or in the fixing of the rates, terms or conditions of, any such credit; or in the appraisal of any housing accommodation conducted in connection with any such application.
2. To discriminate in the appraisal of housing accommodations, conducted in connection with an application for credit, on the basis of group identity.
3. To discriminate in the granting, withholding, extending or renewing, or in the fixing of the rates, terms or conditions of, any form of credit, on the basis of group identity.
4. To use any form of application for business or personal credit or use or make any record or inquiry, which expresses, directly or indirectly, any limitation, specification, or discrimination as to group identity.
5. To make any inquiry of an applicant concerning his or her capacity to reproduce, or his or her use or advocacy of any form of birth control or family planning.
6. To refuse to consider sources of an applicant's income or to subject an applicant's income to discounting, in whole or in part, because of applicant's actual or perceived group identity;
7. To discriminate against a married person because such person neither uses nor is known by the surname of his or her spouse, except that this provision shall not be applicable to any situation where the use of a surname would constitute or result in a criminal act.

B. Without limiting the generality of paragraph A, it shall be considered discriminatory if, because of an applicant's or class of applicant's perceived or actual group identity:

1. An applicant or class of applicants is denied credit in circumstances where other applicants of like overall credit worthiness are granted credit; or
2. Special requirements or conditions, such as requiring co-obligors or reapplication upon marriage, are imposed upon an applicant or class of applicants in circumstances where similar requirements or conditions are not imposed upon other applicants of like overall credit worthiness.

C. Notwithstanding any provision of this section to the contrary, it shall not be considered discriminatory if credit differentiations or decisions are based upon factually supportable, objective differences in applicants' overall credit worthiness, which may include reference to such factors as current income, assets and prior credit history of such applicants, as well as reference to any other relevant factually supportable data; provided, however, that no creditor shall consider, in evaluating the credit worthiness of an

applicant, aggregate statistics or assumptions relating to group identity, or to the likelihood of any group of persons bearing or rearing children, or for that reason receiving diminished or interrupted income in the future.

D. Notwithstanding any provision of this section to the contrary, it shall not be an unlawful discriminatory real estate practice to consider age in determining credit worthiness when age has a demonstrable and statistically sound relationship to a determination of creditworthiness.

Sec. 700.22-a. Discrimination in the provision of brokerage services.

A. 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 any person in the terms or conditions of such access, membership or participation, because of that person's actual or perceived group identity.

B. Prohibited actions under this section include, but are not limited to:

1. Setting different fees for access to or membership in a multiple listing service because of a person's actual or perceived group identity.

2. Denying or limiting benefits accruing to members in a real estate brokers' organization because of a person's actual or perceived group identity.

3. Imposing different standards or criteria for membership in a real estate sales or rental organization because of a person's actual or perceived group identity.

4. Establishing geographic boundaries or office location or residence requirements for 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, because of a person's actual or perceived group identity.

Sec. 700.23 Additional provisions defining discriminatory practices.

A. It shall be an unlawful discriminatory real estate practice for any person to solicit, request, command, importune, compel or coerce the doing of any of the acts forbidden under this article or to attempt to do so, provided that:

1. A person shall not be held liable for a violation of this article if his or her conduct consists solely of speech or expressive conduct that is not done with intent that a discriminatory act be committed by another person and that does not solicit, request, command, importune, compel, coerce or intentionally aid another person to commit a discriminatory act; and

2. Nothing in this article shall be construed as prohibiting or proscribing any conduct which is protected from governmental prohibition or regulation by the constitutions of the United States or the State of New York.

B. It shall be an unlawful discriminatory real estate practice for any person engaged in any activity to which this article applies to coerce, intimidate, threaten, interfere with, retaliate or discriminate against, or attempt to coerce, intimidate, threaten, interfere with, retaliate or discriminate against any person:

1. In the exercise or enjoyment of, or on account of their having exercised or enjoyed, or on account of their having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this article; or
  2. Because he or she has opposed any practice forbidden under this article; or
  3. Because he or she has filed a complaint, testified, assisted or participated in any proceeding under this article; or
  4. Because he or she has participated in or assisted the Board or its members or counsel in any investigation; or
  5. Because he or she has provided information to the Board or its members or counsel in any investigation which information was given as a verified statement not later found to lack veracity.
- C. It shall be an unlawful discriminatory real estate practice for any party to a conciliation agreement made pursuant to section 700.31 of this article to violate the terms of such agreement.
- D. Nothing contained in this article shall be construed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised, or controlled by or in connection with a religious organization, from limiting participation in any activity (including, but not limited to employment, education, or sales or rental of housing accommodations) to, or granting admission to, or giving preference to, persons of the same religion or denomination or from taking such action as is calculated by such organization to promote the religious principles for which it is established or maintained. This exemption shall not apply where the religious organization owns or operates housing accommodations for a commercial purpose, or where membership in such religion is restricted on account of race, color or national origin.

Sec. 700.24 Creation of a fair housing board.

- A. There is hereby created a Fair Housing Board (hereinafter referred to as "Board"). Such Board shall consist of five (5) members who shall be appointed by the County Executive, subject to confirmation by the County Board of Legislators from the membership of the Commission as set forth in the Laws of Westchester County section 700.08, one of whom shall be designated as Chairperson by the County Executive. The members and Chairperson shall serve at the pleasure of the County Executive. Each Board member shall serve a term which parallels his or her renewable three (3) year term as a member of the Commission.
- B. Three members of the Board shall constitute a quorum for the purpose of conducting the business thereof. A vacancy on the Board shall not impair the right of the remaining members to exercise all the powers of the Board. Each member of the Board shall serve without compensation.
- C. The Executive Director of the Commission shall be the Executive Director of the Board.

Sec. 700.25 Formulations of policies by the board.

- A. The Board shall formulate any and all policies necessary to effectuate the purposes of this article and may make recommendations to agencies and officers of the county in aid of such policies and purposes.

Sec. 700.26 Powers and duties of the board.

The Board shall have the following functions, powers and duties:

- A. To establish and maintain its principal headquarters at the office of the Commission.
- B. To adopt, promulgate, amend and rescind suitable rules and regulations to carry out the provisions of this article and the policies and practices of the Board.
- C. To receive complaints of unlawful discriminatory real estate practices, as that term is defined herein.
- D. To insure the investigation and conciliation of complaints of violations of this article.
- E. To require hearings, subpoena witnesses and compel their attendance, administer oaths, take the testimony of any person under oath and, in connection therewith, to require the production for examination of any books or papers relating to any matter under investigation or in question before the Board.
- F. To insure the administration of appropriate remedies, including, but not limited to cease-and-desist orders and orders dismissing complaints, and to insure compliance with all orders.
- G. The authority to request the assistance of the Westchester County Attorney in carrying out the purposes of this article, which includes the ability to seek temporary injunctive relief pending the completion of an investigation.
- H. To appoint one or more hearing officers as shall be necessary to carry out its functions and duties. The hearing officer shall have the same powers possessed by the Board to hold and conduct hearings. The hearing officer shall function under the supervision of the Board and shall make findings of fact and recommendations to the Board.
- I. To award damages as set forth in §700.29(B) of this article.

Sec. 700.27 Relations with county departments and agencies.

So far as practicable, and subject to the approval of the County Executive, the services of all county departments and agencies shall be made available by their respective heads to assist the Board with respect to matters within its jurisdiction. Upon reasonable request of the Board, the head of any department or agency shall, in so far as practicable, provide the Board with public records in the possession of such department or agency to the Board, except that nothing herein shall compel the disclosure of public records which are exempt from disclosure pursuant to the provisions of the Public Officers Law.

Sec. 700.28 Administrative procedure – preliminary matters.

A. Complaint — Filing

1. Except as otherwise provided in this article, any person claiming to be aggrieved by an unlawful discriminatory real estate practice may, personally or by an attorney-at-law, make, sign and file with the Board a complaint in writing which shall set forth the name and address of the person alleged to have committed the unlawful discriminatory real estate practice complained of, the particulars thereof, and such other information as may be required by the Board. The Board shall promulgate and make available appropriate forms of complaints. Complaints shall be signed under oath or affirmation or

under penalty of perjury, and may be reasonably and fairly amended in accordance with subsection B of this section.

2. Every pleading, written motion or other paper, served on another party or filed or submitted to the Board shall be signed by an attorney or by a party if the party is not represented by an attorney, with the name of the attorney or party clearly printed or typed directly below the signature. Absent good cause shown, the Board shall strike any unsigned paper if the omission of the signature is not corrected promptly after being called to the attention of the attorney or party. By signing a paper, an attorney or party certifies that, to the best of that person's knowledge, information or belief, formed after an inquiry reasonable under the circumstances, the presentation of the paper or the contents thereof are accurate.

3. The Executive Director may initiate a complaint alleging that a respondent has engaged in a pattern or series of unlawful discriminatory real estate practices affecting the civil rights of more than one person. Such complaint shall be signed and verified by the Executive Director and shall set forth the name and address of the person alleged to have committed the unlawful discriminatory real estate practices complained of and the particulars thereof, together with such other information as may be required by the Board.

4. A complaint shall not be rejected as insufficient because of failure to include all required information so long as it substantially satisfies the information requirements necessary for processing.

5. A complainant may file a complaint with the Board alleging an unlawful discriminatory real estate practice, provided it is not later than one year after such alleged practice has occurred or terminated.

6. A document, including complaints or answers, is filed when it is received for filing by the Board.

7. Upon the filing of a complaint, the Board shall serve notice upon the complainant acknowledging the filing and advising the complainant of the time limits and choice of forums provided under the law.

8. The Board shall accept complaints for filing, note the date of filing on the complaint, and assign a complaint number to the complaint.

9. The Board shall, within 10 days after the filing of any complaint, serve copies thereof, as well as a notice advising of procedural rights and obligations under the law, by mail upon the respondent and all persons it deems to be necessary parties.

10. The Board may allow for joinder and consolidation of complaints with cases involving common respondents and substantially similar issues.

#### B. Complaint — Amendments

1. The complaining party or the Executive Director may amend a charge:

a. To cure technical defects of omissions;

b. To clarify allegations made in the charge;

c. To add allegations made in the charge;

d. To add or substitute as a respondent a person who was not originally named as a respondent, but who is, during the course of the investigation, identified as a respondent. For jurisdictional purposes, such amendments shall relate back to the date the original charge was first filed.

2. A complaint may be amended as of right at any time before it is referred to an Administrative Law Judge for a hearing. After a complaint has been so referred, it may be amended only by application to the Administrative Law Judge.
3. When a charge is amended to add or substitute a respondent, the Executive Director shall serve upon the new respondent:
  - a. The amended charge;
  - b. The notice required under section 700.28(A)(9); and
  - c. A statement of the basis for the Executive Director's belief that the new respondent is properly named as a respondent. For jurisdictional purposes, amendment of a charge to add or substitute a respondent shall relate back to the date the original charge was filed.

C. Complaint — Answer

1. The respondent may file an answer with the Fair Housing Board within ten (10) days of the service of complaint or the amended complaint.
2. When a respondent files an answer, any allegation of the complaint that is not answered shall be deemed admitted, any allegation upon which the respondent alleges insufficient information shall be deemed denied.
3. The respondent shall not be permitted to interpose either a counterclaim or a cross-claim in the answer.
4. The respondent may apply, in writing, to the Executive Director for additional time to file an answer. Such request shall be granted for good cause shown.
5. An answer may be amended at any time before it is referred to an Administrative Law Judge for a hearing. After an answer has been referred for a hearing, it may be amended by application to the presiding Administrative Law Judge.

D. Complaints — Representation

The Westchester County Human Rights Commission's agent or attorney shall present the evidence in support of the complaint on behalf of the complainant. Such agent or attorney, however, shall not have an attorney-client relationship with the complainant.

E. Complaints — Withdrawal and Dismissals

1. A complainant or the Executive Director may withdraw a complaint at any time prior to the service of an answer by a respondent. Subsequent to the service of an answer by the respondent, the complainant or Executive Director may withdraw a complaint, provided, however, that, upon application by the respondent; the Board may preclude the complainant or Executive Director from subsequently filing any complaint with the Board based upon the same transactions or occurrences as the complaint which was withdrawn.
2. Nothing in this section shall diminish the Board's authority to bring or continue a complaint pursuant to section 700.28(A)(3) of this article.
3. The Board shall issue an order dismissing the complaint as to such respondent, which order shall be served by mail upon all necessary parties to the proceeding, if it finds with respect to any respondent that it lacks jurisdiction.
4. The Board shall promptly dismiss the complaint, if it determines that no probable cause exists to believe that an unlawful discriminatory real estate practice has occurred, is occurring, or is about to occur.

5. The Executive Director may, in his or her discretion, dismiss a complaint for administrative purposes at any time prior to the taking of testimony at a hearing. Administrative purposes shall include, but not be limited to:
  - a. Board personnel have been unable to locate the complainant after reasonable efforts to do so.
  - b. The complainant has on at least 2 occasions failed to:
    - (i) Appear at mutually agreed upon appointments with the Board; or
    - (ii) Appear at an assigned mediation and conflict resolution conference.
  - c. The complainant is unwilling to:
    - (i) Meet with the Board; or
    - (ii) Meet with an assigned mediation and conflict resolution person; or
    - (iii) Provide requested documentation; or
    - (iv) Attend a hearing.
  - d. The complainant has repeatedly engaged in conduct that is disruptive to the orderly functioning of the Board, which shall be documented by the Executive Director.
6. The Board shall make public disclosure of each such dismissal.
- F. Complaints – Investigation and Determination
  1. Within 30 days after a complaint is filed, the Board shall determine whether it has jurisdiction.
  2. Upon determination that it has jurisdiction, the Board shall determine, within 100 days of the filing of the complaint, unless impracticable to do so, whether there is probable cause to believe that the person named in the complaint, hereinafter referred to as the respondent, has engaged in, is engaging in, or is about to engage in an unlawful discriminatory real estate practice. If the Board is unable to complete the investigation within 100 days after the filing of the complaint, the Executive Director shall notify the complainant and respondent in writing of the reasons for not doing so.
  3. The Executive Director shall provide written notification to both the complainant and respondent regarding the Board’s determination of whether probable cause does or does not exist.
  4. The Board shall make a final administrative disposition of a complaint within one (1) year of the date of receipt of a complaint, unless it is impracticable to do so. If it is unable to do so, it shall notify the parties, in writing, of the reasons for not doing so.
  5. A determination that probable cause does not exist shall be subject to judicial review upon application by any party aggrieved by a final Board order.
  6. The Fair Housing Board shall have the authority to:
    - a. Grant appropriate temporary or preliminary relief pending final disposition of a complaint if such action is necessary to carry out the purposes of the law;
    - b. Issue and seek enforceable subpoenas;
    - c. Grant actual and punitive damages;
    - d. Grant equitable relief; and
    - e. Provide an administrative proceeding in which a civil penalty may be assessed.
  7. The Board shall establish rules of practice or procedure to govern, expedite and effectuate the foregoing procedure and its own actions thereunder, provided that such rules are not inconsistent with the provisions hereof.

G. Complaints—Conciliation or Mediation

During the period beginning with the filing of a complaint and ending with the finding of probable cause or a dismissal by the Board, the Board shall, to the extent feasible, engage in any method of dispute resolution prescribed by rule of the Board including, but not limited to, mediation and conciliation with respect to such complaint. Any resolution of a complaint by agreement (“conciliation agreement”) arising out of conciliation efforts by the Board shall be an agreement between the respondent, the complainant, and the Executive Director, and shall require the approval of the Board. Such conciliation agreement may include provisions requiring the respondent to refrain from the commission of unlawful discriminatory real estate practices in the future and may contain such further provisions as may be agreed upon by the complainant and respondent, subject to approval by the Executive Director, including a provision for the entry of an order in the New York State Supreme Court, County of Westchester, or in such other county where the respondent resides or maintains an office for the transaction of business, containing the terms of the conciliation agreement. Any statement made by any complainant or respondent during any alternate dispute resolution process conducted by, or on behalf of, the Board shall not be admitted into evidence during any hearing or proceeding and shall not be utilized in any fashion in any proceeding to either enforce or review any determination of the Board, unless the party making the statement affirmatively authorizes, in writing, the admission of the statement. The failure or refusal of any party to participate in the alternate dispute resolution process, or the failure or refusal of any party to accept a recommendation by any mediator as to the resolution of the matter, shall not be admissible in any hearing or proceeding before the Board. Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Board determines that disclosure is not required to further the purposes of this article.

H. Complaints – Hearings

1. Where the Board has found that it has jurisdiction over the complaint and that there is probable cause to believe that the respondent has engaged, is engaging, or will engage in an unlawful discriminatory real estate practice, and if alternative dispute resolution pursuant to paragraph G above is either not initiated or does not resolve the complaint, the Board shall issue and cause to be issued and served a written notice requiring the respondent to answer the charges of such complaint and appear at a public hearing upon reasonable notice at a time and place to be fixed by the Board and specified in the notice

2. A respondent may appear at such public hearing in person or otherwise, with or without counsel, cross-examine witnesses, and the complainant, and submit testimony. Attempts at conciliation or statements made during such attempts, shall not be received in evidence. The complainant and all parties shall be allowed to present testimony in person by counsel and cross-examine witnesses. Subpoenas shall be issued in the manner provided for in the civil practice law and rules to compel the attendance of witnesses or to require the production of any relevant evidence before the Board. The testimony taken at the hearing shall be under oath and a record made. The Board may refer the hearing to an administrative law judge to conduct the hearing and render a written report, containing recommendations as to findings and, if appropriate, relief, to the Board. To the extent practicable, administrative law judges shall be attorneys-at-law, admitted to practice law

in the State of New York. At the conclusion of the hearing, or as soon thereafter as may be practicable, the Board shall issue its determination, stating its findings of fact.

Sec. 700.29 Administrative procedure—removal, orders and awards and review.

A. Removal

1. Subsequent to a notice of referral and notice of hearing, a complainant or a respondent may elect to have the claims on which probable cause was found decided in a civil action in lieu of an administrative hearing. Unless good cause is shown to the Executive Director of the Board, this election must be made not later than ten (10) days after service of the notice of referral and notice of hearing. The person making such election shall give notice of doing so to all necessary parties and the Board. If an election is made under this subsection, the court may appoint an attorney for the aggrieved person or authorize the continuation of the civil action without the payment of costs if it finds such person unable to bear those costs.

2. Any aggrieved person may intervene as of right in the civil action.

3. In a civil action under this section, if the court finds that an unlawful discriminatory real estate practice has occurred, is occurring or is about to occur, the court may grant any appropriate relief, including but not limited to, actual damages, injunctive or equitable relief. The court may also assess a civil penalty as set forth in subsection (B) of this section. If monetary relief is sought for the benefit of a person who could have intervened under subsection 2 of this section, but who did not intervene in the civil action, the court shall not award such relief if that person has not complied with discovery orders entered by the court.

4. In any proceeding under this section, the court may award attorney fees and costs to the prevailing party. Attorney fees and costs may be assessed against a person who intervenes by filing a notice of independent appearance in the civil action only to the extent that the intervening participation was frivolous or vexatious, or was for the purpose of harassment.

B. Orders and Awards

1. In the event that the Board shall, after a hearing, determine that a respondent has committed, is committing or is about to commit an unlawful discriminatory real estate practice, it shall issue an order containing such of the following provisions as may, in the judgment of the Board, effectuate the purposes of this article:

a. Requiring such respondent to cease and desist from such unlawful discriminatory real estate practice;

b. Requiring such respondent to take such affirmative action to remedy the unlawful discriminatory real estate practice, including such of the following as may be applicable and appropriate: the extension of full, equal and unsegregated accommodations, advantages, facilities and privileges to all persons, evaluating applicants for a housing accommodation without discrimination based on group identity and without retaliation or discrimination based on opposition to practices forbidden by this article or filing a complaint, testifying or assisting in any proceeding under this article;

c. Awarding of compensatory damages to the person aggrieved by such practice;

d. Awarding of punitive damages against a respondent found to have committed an unlawful discriminatory real estate practice which is found to be willful, wanton or

malicious in an amount not to exceed \$10,000.00, to the person aggrieved by such practice;

e. Awarding costs to be paid by the respondent in the form of reimbursement for actual expenses reasonably incurred and reasonable attorney's fees to the person aggrieved by such practice; and

f. Assessing a civil penalty, in an amount not to exceed \$50,000.00, to be paid to the County of Westchester by a respondent found to have committed an unlawful discriminatory real estate practice, or not to exceed \$100,000.00 to be paid to the County of Westchester by a respondent found to have committed an unlawful discriminatory real estate practice which is found to be willful, wanton or malicious;

g. Requiring the respondent to report the manner of compliance.

2. A copy of such order issued by the Fair Housing Board shall be delivered in all cases to the County Executive, Chair of the Board of Legislators, and to the County Attorney.

3. In any complaint initiated by the Executive Director, the relief awarded by the Board in the event of a finding that the respondent has committed the unlawful discriminatory real estate practices complained of shall be the same as the relief that would be awarded to a complainant had the complainant initiated the complaint.

4. The Board may award and pay costs in the form of reimbursement for actual expenses reasonably incurred and reasonable attorney's fees to a prevailing respondent, unless the Board determines that the prosecution of the respondent was substantially justified or that special circumstances would make such award unjust.

#### C. Review

1. Final determinations by the Board shall be subject to review by the Commission upon application by any party aggrieved by a final order. Such application shall be made within thirty (30) days of the determination.

2. Any party aggrieved by a final determination of the Commission may make an application within four (4) months for judicial review.

3. Judicial review of the Commission shall be in a court with authority to:

a. Grant to the petitioner, or to any other party, such temporary relief, restraining order or other order as the court determines is just and proper;

b. Affirm, modify, or set aside, in whole or in part, the order, or remand the order for further proceedings; and

c. Enforce the order to the extent that the order is affirmed or modified.

#### Sec. 700.30 Complaints of discrimination; limitations.

Except as otherwise provided in section 700.33, any complaint filed with the Board pursuant to section 700.28 of this article must be filed within one year after the occurrence of the alleged unlawful discriminatory real estate practice.

#### Sec. 700.31 Temporary injunctions.

At any time after the filing of a complaint with the Board alleging an unlawful discriminatory real estate practice under this article, if the Board determines that the respondent is doing or procuring to be done any act tending to render ineffectual any order the Board may enter in such proceeding and that prompt judicial action is necessary to carry out the purposes of this article, the Board may authorize a civil action for

appropriate temporary or preliminary relief pending final disposition of the complaint under this section. Upon receipt of such authorization, the County Attorney may apply to the New York State Supreme Court, in Westchester County, or in such other county where the respondent resides or maintains an office for the transaction of business, for a temporary injunction and for a temporary restraining order. The order to show cause may contain a temporary restraining order and shall be served in the manner provided therein. On the return date of the order to show cause, and after affording all parties an opportunity to be heard, if the court deems it necessary to prevent the respondent from rendering ineffectual an order relating to the subject matter of the complaint, it may grant appropriate injunctive relief upon such terms and conditions as it deems proper.

Sec. 700.32 Jurisdictional limitations.

A. Notwithstanding the provisions of paragraph B. below, the Board shall have jurisdiction to entertain a complaint anywhere in the County of Westchester:

1. Where:

a. The complainant or party aggrieved previously filed a complaint, based upon the same transaction or occurrence or series of transactions or occurrences, with a human rights or similar commission established in or for any city, town or village located in Westchester County;

b. Such commission determined that the respondent committed an unlawful discriminatory real estate practice;

c. Such determination has not been annulled or stayed by any court;

d. The relief requested by the complainant or party aggrieved is limited to enforcement of such determination by requiring the respondent to cease and desist from the unlawful discriminatory real estate practice and by requiring the respondent to comply with such other terms and conditions of the prior determination as may be enforceable by the Board; and

e. The complaint is filed with the Board within one year of the making of the determination sought to be enforced.

B. Except as otherwise provided in paragraph A. hereof, the Board shall not have jurisdiction to entertain or initiate a complaint where:

1. The beginning of a trial of a civil action has commenced based upon the same transaction or occurrence or series of transactions or occurrences which are the subject of the complaint filed or sought to be filed with the Board, unless such civil action has been voluntarily discontinued or withdrawn by the complainant;

2. The complainant or party aggrieved has filed a complaint with the New York State Division of Human Rights, or with the commission of human rights of any city, town or village located in Westchester County, based upon the same transaction or occurrences which are the subject of the complaint filed or sought to be filed with the Board;

3. The complainant or party aggrieved has filed a complaint, action or proceeding with any administrative agency of the State of New York or the County of Westchester, based upon the same transaction or occurrence or series of transactions or occurrences which are the subject of the complaint filed or sought to be filed with the Board;

4. The provisions of this paragraph shall not preclude the filing of a complaint with the Board which alleges the organization, company, association, government, or other

entity involved has engaged or is engaging in a pattern of unlawful discriminatory real estate practices which have involved identical or substantially similar acts committed against two or more persons who were similarly situated, provided that the complaint is filed with one year after the occurrence of the alleged unlawful practice.

C. The Board shall not have jurisdiction to accept any proceedings by transfer from the New York State Division of Human Rights.

#### Sec. 700.33 Enforcement by private persons.

A. Any person who claims to have been injured by an unlawful discriminatory real estate practice or who believes that he or she will be injured by an unlawful discriminatory real estate practice that is about to occur, may commence a civil action in the appropriate court of jurisdiction not later than one (1) year after the occurrence or the termination of an alleged unlawful discriminatory real estate practice, whichever occurs last, to obtain appropriate relief with respect to such unlawful discriminatory real estate practice.

B. The computation of such one-year period shall not include any time during which an administrative proceeding under this law was pending with respect to a complaint or charge under this law alleging an unlawful discriminatory real estate practice based on the same facts or occurrences.

C. A complaint may be filed under this section whether or not an administrative charge has been filed under section 700.28, and without regard to the status of the charge, but if the U.S. Department of Housing and Urban Development has obtained a pre-finding or post-finding settlement or conciliation agreement with the consent of the charging party, no action may be filed under this section with respect to the alleged unlawful discriminatory real estate practice which forms the basis for such complaint except for the purpose of enforcing the terms of such agreement.

D. No civil action may be commenced under this section with respect to an alleged unlawful discriminatory real estate practice that forms the basis of a complaint if the Fair Housing Board has commenced a hearing on the record.

E. In a civil action under this section, if the court finds that an unlawful discriminatory real estate practice has occurred or is about to occur, the court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in such practice or ordering such affirmative action as may be appropriate. The court may also award actual damages, including damages for humiliation and mental suffering, and any other appropriate remedy set forth in the Federal Fair Housing Amendments Act (P.L. 100-430). The court may also allow reasonable attorney's fees and costs to the prevailing party.

F. Relief granted under this section shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer, or tenant, without actual notice of the filing of a charge or civil action under this law.

#### Sec. 700.34 Judicial review and enforcement.

Any complainant, respondent, or other person aggrieved by an order of the Board which is an order after a hearing, a cease and desist order, an order awarding damages, an

order dismissing a complaint, an order awarding costs in the case of frivolous conduct or by an order of the Board which makes a final disposition of a complaint or any other order of the Board may obtain an order of the court for its enforcement, in a proceeding as provided in this section. Such proceeding shall be brought in the New York State Supreme Court, Westchester County, or in such other county wherein any person required in the order to cease and desist from any unlawful discriminatory real estate practice or to take other affirmative action resides or transacts business. Such proceeding shall be initiated by the filing of a notice of petition and petition in such court. Thereafter, at a time and in a manner to be specified by the court, the Board shall file with the court a written transcript of the record of all prior proceedings. Upon the filing of a notice of petition and petition, the court shall have jurisdiction of the proceeding and of the questions determined therein.

Sec. 700.35 Separability.

If any clause, sentence, paragraph or part of this article or the application thereof to any person or circumstance shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this article.

Section 8. This Local Law shall take effect immediately and shall apply to all complaints filed on or after such effective date with the Westchester County Human Rights Commission or Westchester County Fair Housing Board.