

By: Senator(s) Jackson (11th), Williamson,
Jordan

To: Judiciary, Division A

SENATE BILL NO. 2812

1 AN ACT ENTITLED THE "MISSISSIPPI FAIR HOUSING ACT"; TO
 2 PROVIDE DEFINITIONS; TO MAKE IT UNLAWFUL TO REFUSE TO SELL OR RENT
 3 AFTER THE MAKING OF A BONA FIDE OFFER AND TO PROHIBITED CERTAIN
 4 OTHER PRACTICES RELATING TO THE SALE OR RENTAL OF A DWELLING; TO
 5 PROHIBIT DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES; TO
 6 PROHIBIT DISCRIMINATION IN THE FINANCING OF HOUSING OR IN
 7 RESIDENTIAL REAL ESTATE TRANSACTIONS; TO PROHIBIT DISCRIMINATION
 8 IN LAND USE DECISIONS AND IN PERMITTING OF DEVELOPMENT; TO PROVIDE
 9 EXEMPTIONS FROM THE PROVISIONS OF THIS ACT; TO ESTABLISH THE
 10 MISSISSIPPI FAIR HOUSING COMMISSION AND PROVIDE FOR ITS
 11 MEMBERSHIP; TO PRESCRIBE THE POWERS AND DUTIES OF THE COMMISSION;
 12 TO AUTHORIZE THE COMMISSION TO MAKE INVESTIGATIONS OF VIOLATIONS
 13 OF THIS ACT AND TO ISSUE SUBPOENAS AND ADMINISTER OATHS; TO
 14 PROVIDE A COMPLAINT PROCEDURE; TO AUTHORIZE THE COMMISSION TO
 15 COMMENCE CIVIL ACTIONS TO PROHIBIT DISCRIMINATORY HOUSING
 16 PRACTICES; TO PROVIDE FOR VOLUNTARY COMPLIANCE AND ADMINISTRATIVE
 17 PROCEDURES; TO PROVIDE THAT AN AGGRIEVED PARTY MAY FILE A CIVIL
 18 ACTION AGAINST A RESPONDENT WHO DOES NOT COMPLY WITH THIS ACT; TO
 19 PROVIDE FOR CONCILIATION AGREEMENTS; TO AUTHORIZE THE COURT TO
 20 IMPOSE CIVIL FINES FOR NONCOMPLIANCE WITH THIS ACT; TO PROHIBIT
 21 INTERFERENCE IN THE EXERCISE OF THE RIGHTS GRANTED UNDER THIS ACT;
 22 AND FOR RELATED PURPOSES.

23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

24 **SECTION 1. Short title.** This act may be cited as the "Fair
 25 Housing Act."

26 **SECTION 2. State policy on fair housing.** It is the policy
 27 of this state to provide, within constitutional limitations, for
 28 fair housing throughout the state.

29 **SECTION 3. Definitions.** As used in this act, the term:

30 (a) "Commission" means the Mississippi Commission on
 31 Fair Housing.

32 (b) "Covered multifamily dwelling" means:

33 (i) A building which consists of four (4) or more
 34 units; or

35 (ii) The ground floor units of a building which
 36 consists of four (4) or more units.

37 (c) "Discriminatory housing practice" means an act that
38 is unlawful under the terms of this act.

39 (d) "Dwelling" means any building, structure or portion
40 thereof, which is occupied as, or designed or intended for
41 occupancy as, a residence by one or more families, and any vacant
42 land which is offered for sale or lease for the construction or
43 location on the land of any such building or structure, or portion
44 thereof.

45 (e) "Familial status" is established when an individual
46 who has not attained the age of eighteen (18) years is domiciled
47 with:

48 (i) A parent or other person having legal custody
49 of such individual; or

50 (ii) A designee of a parent or other person having
51 legal custody, with the written permission of such parent or other
52 person.

53 (f) "Family" includes a single individual.

54 (g) "Handicap" means a person who has a physical or
55 mental impairment which substantially limits one or more major
56 life activities, or he or she has a record of having, or is
57 regarded as having, such physical or mental impairment.

58 (h) "Person" includes one or more individuals,
59 corporations, partnerships, associations, labor organizations,
60 legal representatives, mutual companies, joint-stock companies,
61 trusts, unincorporated organizations, trustees, trustees in
62 bankruptcy, receivers and fiduciaries.

63 (i) "Substantially equivalent" means an administrative
64 subdivision of the State of Mississippi meeting the requirements
65 of the Federal Fair Housing Act.

66 (j) "To rent" includes to lease, to sublease, to let,
67 and otherwise to grant for a consideration the right to occupy
68 premises not owned by the occupant.

69 **SECTION 4. Discrimination in the sale or rental of housing**
70 **and other prohibited practices.** (1) It is unlawful to refuse to
71 sell or rent after the making of a bona fide offer, to refuse to
72 negotiate for the sale or rental of, or otherwise to make
73 unavailable or deny a dwelling to any person because of race,
74 color, national origin, sex, handicap, familial status or
75 religion.

76 (2) It is unlawful to discriminate against any person in the
77 terms, conditions or privileges of sale or rental of a dwelling,
78 or in the provision of services or facilities in connection
79 therewith, because of race, color, national origin, sex, handicap,
80 familial status or religion.

81 (3) It is unlawful to make, print or publish, or cause to be
82 made, printed or published, any notice, statement or advertisement
83 with respect to the sale or rental of a dwelling that indicates
84 any preference, limitation or discrimination based on race, color,
85 national origin, sex, handicap, familial status, or religion or an
86 intention to make any such preference, limitation or
87 discrimination.

88 (4) It is unlawful to represent to any person because of
89 race, color, national origin, sex, handicap, familial status or
90 religion that any dwelling is not available for inspection, sale
91 or rental when such dwelling is in fact so available.

92 (5) It is unlawful, for profit, to induce or attempt to
93 induce any person to sell or rent any dwelling by a representation
94 regarding the entry or prospective entry into the neighborhood of
95 person or persons of a particular race, color, national origin,
96 sex, handicap, familial status or religion.

97 (6) The protections afforded against discrimination on the
98 basis of familial status apply to any person who is pregnant or is
99 in the process of securing legal custody of any individual who has
100 not attained the age of eighteen (18) years.

101 (7) It is unlawful to discriminate in the sale or rental of,
102 or to otherwise make unavailable or deny, a dwelling to any buyer
103 or renter because of a handicap of:

104 (a) That buyer or renter;

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

107 (c) Any person associated with the buyer or renter.

108 (8) It is unlawful to discriminate against any person in the
109 terms, conditions or privileges of sale or rental of a dwelling,
110 or in the provision of services or facilities in connection with
111 such dwelling, because of a handicap of:

112 (a) That buyer or renter;

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

115 (c) Any person associated with the buyer or renter.

116 (9) Discrimination or because of a handicap includes:

117 (a) A refusal to permit, at the expense of the
118 handicapped person, reasonable modifications of existing premises
119 occupied or to be occupied by such person if such modifications
120 may be necessary to afford such person full enjoyment of the
121 premises; or

122 (b) A refusal to make reasonable accommodations in
123 rules, policies, practices or services, when such accommodations
124 may be necessary to afford such person equal opportunity to use
125 and enjoy a dwelling.

126 (10) Covered multifamily dwellings as defined herein which
127 are intended for first occupancy after June 1, 2006, shall be
128 designed and constructed to have at least one (1) building
129 entrance on an accessible route unless it is impractical to do so
130 because of the terrain or unusual characteristics of the site as
131 determined by commission rule. Such buildings shall also be
132 designed and constructed in such a manner that:

133 (a) The public use and common use portions of such
134 dwellings are readily accessible to and usable by handicapped
135 persons.

136 (b) All doors designed to allow passage into and within
137 all premises within such dwellings are sufficiently wide to allow
138 passage by a person in a wheelchair.

139 (c) All premises within such dwellings contain the
140 following features of adaptive design:

141 (i) An accessible route into and through the
142 dwelling.

143 (ii) Light switches, electrical outlets,
144 thermostats and other environmental controls in accessible
145 locations.

146 (iii) Reinforcements in bathroom walls to allow
147 later installation of grab bars.

148 (iv) Usable kitchens and bathrooms such that a
149 person in a wheelchair can maneuver about the space.

150 (d) Compliance with the appropriate requirements of the
151 American National Standards Institute for buildings and facilities
152 providing accessibility and usability for physically handicapped
153 people, commonly cited as ANSI A117.1-1986, suffices to satisfy
154 the requirements of paragraph (c).

155 State agencies with building construction regulation
156 responsibility or local governments, as appropriate, shall review
157 the plans and specifications for the construction of covered
158 multifamily dwellings to determine consistency with the
159 requirements of this subsection.

160 **SECTION 5. Discrimination in the provision of brokerage**
161 **services.** It is unlawful to deny any person access to, or
162 membership or participation in, any multiple-listing service, real
163 estate brokers' organization, or other service, organization, or
164 facility relating to the business of selling or renting dwellings,
165 or to discriminate against him or her in the terms or conditions

166 of such access, membership or participation, on account of race,
167 color, national origin, sex, handicap, familial status or
168 religion.

169 **SECTION 6. Discrimination in the financing of housing or in**
170 **residential real estate transactions.** (1) It is unlawful for any
171 bank, building and loan association, insurance company or other
172 corporation, association, firm or enterprise the business of which
173 consists in whole or in part of the making of commercial real
174 estate loans to deny a loan or other financial assistance to a
175 person applying for the loan for the purpose of purchasing,
176 constructing, improving, repairing or maintaining a dwelling, or
177 to discriminate against him or her in the fixing of the amount,
178 interest rate, duration, or other term or condition of such loan
179 or other financial assistance, because of the race, color,
180 national origin, sex, handicap, familial status, or religion of
181 such person or of any person associated with him or her in
182 connection with such loan or other financial assistance or the
183 purposes of such loan or other financial assistance, or because of
184 the race, color, national origin, sex, handicap, familial status,
185 or religion of the present or prospective owners, lessees,
186 tenants, or occupants of the dwelling or dwellings in relation to
187 which such loan or other financial assistance is to be made or
188 given.

189 (2) (a) It is unlawful for any person or entity whose
190 business includes engaging in residential real estate transactions
191 to discriminate against any person in making available such a
192 transaction, or in the terms or conditions of such a transaction,
193 because of race, color, national origin, sex, handicap, familial
194 status or religion.

195 (b) As used in this subsection, the term "residential
196 real estate transaction" means any of the following:

197 (i) The making or purchasing of loans or providing
198 other financial assistance:

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

201 2. Secured by residential real estate.

202 (ii) The selling, brokering or appraising of
203 residential real property.

204 **SECTION 7. Prohibited discrimination in land use decisions**
205 **and in permitting of development.** It is unlawful to discriminate
206 in land use decisions or in the permitting of development based on
207 race, color, national origin, sex, disability, familial status,
208 religion, or, except as otherwise provided by law, the source of
209 financing of a development or proposed development.

210 **SECTION 8. Exemptions.** (1) (a) Nothing in this act
211 applies to:

212 (i) Any single-family house sold or rented by its
213 owner, provided such private individual owner does not own more
214 than three (3) single-family houses at any one time. In the case
215 of the sale of a single-family house by a private individual owner
216 who does not reside in such house at the time of the sale or who
217 was not the most recent resident of the house prior to the sale,
218 the exemption granted by this paragraph applies only with respect
219 to one (1) sale within any twenty-four-month period. In addition,
220 the bona fide private individual owner shall not own any interest
221 in, nor shall there be owned or reserved on his or her behalf,
222 under any express or voluntary agreement, title to, or any right
223 to all or a portion of the proceeds from the sale or rental of,
224 more than three (3) single-family houses at any one time. The
225 sale or rental of any single-family house shall be excepted from
226 the application of only if the house is sold or rented:

227 1. Without the use in any manner of the sales
228 or rental services of any real estate licensee or such facilities
229 or services of any person in the business of selling or renting
230 dwellings, or of any employee or agent of any such licensee or
231 person; and

232 2. With the publication, posting or mailing,
233 after notice, of any advertisement or written notice in violation
234 of federal law.

235 Nothing in this provision prohibits the use of attorneys,
236 escrow agents, abstractors, title companies, and other such
237 professional assistance as is necessary to perfect or transfer the
238 title.

239 (ii) Rooms or units in dwellings containing living
240 quarters occupied or intended to be occupied by no more than four
241 (4) families living independently of each other, if the owner
242 actually maintains and occupies one of such living quarters as his
243 or her residence.

244 (b) For the purposes of paragraph (a), a person is
245 deemed to be in the business of selling or renting dwellings if
246 the person:

247 (i) Has, with the preceding twelve (12) months,
248 participated as principal in three (3) or more transactions
249 involving the sale or rental of any dwelling or interest therein;

250 (ii) Has, within the preceding twelve (12) months,
251 participated as agent, other than in the sale of his or her own
252 personal residence, in providing sales or rental facilities or
253 sales or rental services in two (2) or more transactions involving
254 the sale or rental of any dwelling or interest therein; or

255 (iii) Is the owner of any dwelling designed or
256 intended for occupancy by, or occupied by, five (5) or more
257 families.

258 (2) Nothing in this act prohibits a religious organization,
259 association or society, or any controlled by or in conjunction
260 with a religious organization, association or society, from
261 limiting the sale, rental or occupancy of any dwelling which it
262 owns or operates for other than a commercial purpose to persons of
263 the same religion or from giving preference to such persons,
264 unless membership in such religion is restricted on account of

265 race, color or national origin. Nothing in this act prohibits a
266 private club not in fact open to the public, which as an incident
267 to its primary purpose or purposes provides lodgings which it owns
268 or operates for other than a commercial purpose, from limiting the
269 rental or occupancy of such lodgings to its members or from giving
270 preference to its members.

271 (3) Nothing in this act requires any person renting or
272 selling a dwelling constructed for first occupancy before June 1,
273 2006, to modify, alter or adjust the dwelling in order to provide
274 physical accessibility except as otherwise required by law.

275 (4) (a) Any provision of this act regarding familial status
276 does not apply with respect to housing for older persons.

277 (b) As used in this subsection, the term "housing for
278 older persons" means housing:

279 (i) Provided under any state or federal program
280 that the commission determines is specifically designed and
281 operated to assist elderly persons, as defined in the state or
282 federal program;

283 (ii) Intended for, and solely occupied by, persons
284 sixty-two (62) years of age or older; or

285 (iii) Intended and operated for occupancy by
286 persons fifty-five (55) years of age or older that meets the
287 following requirements:

288 1. At least eighty percent (80%) of the
289 occupied units are at least one person fifty-five (55) years of
290 age or older.

291 2. The housing facility or community
292 publishes and adheres to policies and procedures that demonstrate
293 the intent required under this item. If the housing facility or
294 community meets the requirements of items 1 and 2 and the recorded
295 governing documents provide for an adult, senior or retirement
296 housing facility or community and the governing documents lack an
297 amendatory procedure, prohibit amendments, or restrict amendments

298 until a specified future date, then that housing facility or
299 community shall be deemed housing for older persons intended and
300 operated for occupancy by persons fifty-five (55) years of age or
301 older. If those documents further provide a prohibition against
302 residents sixteen (16) years of age or younger, that provision
303 shall be construed, for purposes of the Fair Housing Act, to only
304 apply to residents eighteen (18) years of age or younger, in order
305 to conform with federal law requirements. Governing documents
306 which can be amended at a future date must be amended and properly
307 recorded within one (1) year after that date to reflect the
308 requirements for consideration as housing for older persons, if
309 that housing facility or community intends to continue as housing
310 for older persons.

311 3. The housing facility or community complies
312 with rules made by the Secretary of the United States Department
313 of Housing and Urban Development pursuant to 24 CFR part 100 for
314 verification of occupancy, which rules provide for verification by
315 reliable surveys and affidavits and include examples of the types
316 of policies and procedures relevant to a determination of
317 compliance with the requirements of item 2. Such surveys and
318 affidavits are admissible in administrative and judicial
319 proceedings for the purposes of such verification.

320 (c) Housing shall not fail to be considered housing for
321 older persons if:

322 (i) A person who resides in such housing on or
323 after July 1, 2006, does not meet the age requirements of this
324 subsection, provided that any new occupant meets such age
325 requirements; or

326 (ii) One or more units are unoccupied, provided
327 that any unoccupied units are reserved for occupancy by persons
328 who meet the age requirements of this subsection.

329 (d) A person shall not be personally liable for
330 monetary damages for a violation of this subsection if such person

331 reasonably relied in good faith on the application of the
332 exemption under this subsection relating to housing for older
333 persons. For purposes of this paragraph, a person may show good
334 faith reliance on the application of the exemption only by showing
335 that:

336 (i) The person has no actual knowledge that the
337 facility or the community is ineligible, or will become
338 ineligible, for such exemption; and

339 (ii) The facility or community has stated
340 formally, in writing, that the facility or community complies with
341 the requirements for such exemption.

342 (e) A facility or community claiming an exemption under
343 this subsection shall register with the commission and submit a
344 letter to the commission stating that the facility or community
345 complies with the requirements of paragraph (b)(i), paragraph
346 (b)(ii) or paragraph (b)(iii). The letter shall be submitted on
347 the letterhead of the facility or community and shall be signed by
348 the president of the facility or community. This registration and
349 documentation shall be renewed biennially from the date of
350 original filing. The information in the registry shall be made
351 available to the public, and the commission shall include this
352 information on an Internet Web site. The commission may establish
353 a reasonable registration fee, not to exceed Twenty Dollars
354 (\$20.00), which shall be deposited into the commission's trust
355 fund to defray the administrative costs associated with
356 maintaining the registry. The commission may impose an
357 administrative fine, not to exceed Five Hundred Dollars (\$500.00),
358 on a facility or community that knowingly submits false
359 information in the documentation required by this paragraph. Such
360 fines shall be deposited in the commission's trust fund. The
361 registration and documentation required by this paragraph shall
362 not substitute for proof of compliance with the requirements of
363 this subsection. Failure to comply with the requirements of this

364 paragraph shall not disqualify a facility or community that
365 otherwise qualifies for the exemption provided in this subsection.

366 A county or municipal ordinance regarding housing for older
367 persons may not contravene the provisions of this subsection.

368 (5) Nothing in this act:

369 (a) Prohibits a person engaged in the business of
370 furnishing appraisals of real property from taking into
371 consideration factors other than race, color, national origin,
372 sex, handicap, familial status or religion.

373 (b) Limits the applicability of any reasonable local
374 restriction regarding the maximum number of occupants permitted to
375 occupy a dwelling.

376 (c) Requires that a dwelling be made available to an
377 individual whose tenancy would constitute a direct threat to the
378 health or safety of other individuals or whose tenancy would
379 result in substantial physical damage to the property of others.

380 (d) Prohibits conduct against a person because such
381 person has been convicted by any court of competent jurisdiction
382 of the illegal manufacture or distribution of a controlled
383 substance as defined in Section 41-29-101 et seq.

384 **SECTION 9.** (1) There is hereby created a commission to be
385 known as the Mississippi Fair Housing Commission, consisting of
386 three (3) members. The Governor shall appoint the members of the
387 commission, by and with the consent of the Mississippi State
388 Senate, one (1) for a term of two (2) years, one (1) for a term of
389 four (4) years, and one (1) for a term of six (6) years. Upon the
390 expiration of each term as above set forth, the Governor shall
391 appoint a successor for a term of six (6) years, and thereafter
392 the term of office of each commissioner shall be for six (6)
393 years. One (1) member shall be a person who by reason of his
394 previous vocation or affiliation can be classed as a
395 representative of the housing industry, and one (1) member shall
396 be a person who by reason of his previous vocation or affiliation

397 can be classed as a representative of housing consumers. One (1)
398 member shall be an attorney at law of recognized ability with at
399 least five (5) years' active practice in Mississippi prior to his
400 appointment. The Governor shall designate the chairman of the
401 commission, whose term of chairman shall run concurrently with his
402 appointment as a commissioner.

403 The chairman shall be the administrative head of the
404 commission and shall have the final authority in all matters
405 relating to assignment of cases for hearing and trial and the
406 administrative work of the commission and its employees, except in
407 the promulgation of rules and regulations wherein the commission
408 shall act as a body, and in the trial and determination of cases
409 as otherwise provided.

410 Upon the expiration of the term of a commissioner, he shall
411 continue to serve until his successor has been appointed. Because
412 cumulative experience is conspicuously essential to the proper
413 administration of a fair housing law, it is declared to be in the
414 public interest to continue fair housing commissioners in office
415 as long as efficiency is demonstrated. A commissioner may be
416 removed for cause prior to the expiration of his term, but shall
417 be furnished a written copy of the charges against him and shall
418 be accorded a public hearing.

419 Each member of the commission and each administrative law
420 judge shall receive an annual salary fixed by the State Personnel
421 Board.

422 (2) A vacancy in the commission, if there remain two (2)
423 members of it, shall not impair the authority of such two (2)
424 members to act. In case of illness or continued absence for other
425 reasons, the same authority of such two (2) members shall apply.

426 (3) The office of the commission shall be situated in the
427 City of Jackson, Mississippi, but hearings may be held at such
428 places as it may deem most convenient for the proper and speedy
429 performance of its duties. The commission is authorized, if it

430 deems it necessary for the convenient and efficient dispatch of
431 business, to lease office space and facilities in other than
432 publicly-owned buildings.

433 **SECTION 10. Administration.** (1) The authority and
434 responsibility for administering this act is in the commission.

435 (2) The commission may delegate any of its functions, duties
436 and powers to its employees, including functions, duties and
437 powers with respect to investigating, conciliating, hearing,
438 determining, ordering, certifying, reporting or otherwise acting
439 as to any work, business or matter.

440 **SECTION 11. Powers and duties of commission.** The commission
441 shall:

442 (a) Make studies with respect to the nature and extent
443 of discriminatory housing practices in representative urban,
444 suburban and rural communities throughout the state.

445 (b) Publish and disseminate reports, recommendations
446 and information derived from such studies.

447 (c) Cooperate with and render technical assistance to
448 public or private agencies, organizations and institutions within
449 the state which are formulating or carrying on programs to prevent
450 or eliminate discriminatory housing practices.

451 (d) Administer the programs and activities relating to
452 housing in a manner affirmatively to further the policies of state
453 and federal law.

454 (e) Adopt rules necessary to implement the act and
455 govern the proceedings of the commission in accordance with the
456 Mississippi Administrative Procedures Act. Commission rules shall
457 clarify terms used with regard to handicapped accessibility,
458 exceptions from accessibility requirements based on terrain or
459 site characteristics, and requirements related to housing for
460 older persons. Commission rules shall specify the fee and the
461 forms and procedures to be used for the registration.

462 **SECTION 12. Investigations; subpoenas; oaths.** (1) In
463 conducting an investigation, the commission shall have access at
464 all reasonable times to premises, records, documents, individuals
465 and other evidence or possible sources of evidence and may
466 examine, record and copy such materials and take and record the
467 testimony or statements of such persons as are reasonably
468 necessary for the furtherance of the investigation, provided the
469 commission first complies with the provisions of the Mississippi
470 Constitution of 1890 relating to unreasonable searches and
471 seizures. The commission may issue subpoenas to compel its access
472 to or the production of such materials or the appearance of such
473 persons, and may issue interrogatories to a respondent, to the
474 same extent and subject to the same limitations as would apply if
475 the subpoenas or interrogatories were issued or served in aid of a
476 civil action in court. The commission may administer oaths.

477 (2) Upon written application to the commission, a respondent
478 shall be entitled to the issuance of a reasonable number of
479 subpoenas by and in the name of the commission to the same extent
480 and subject to the same limitations as subpoenas issued by the
481 commission itself. A subpoena issued at the request of a
482 respondent shall show on its face the name and address of such
483 respondent and shall state that it was issued at his or her
484 request.

485 (3) Within five (5) days after service of a subpoena upon
486 any person, such person may petition the commission to revoke or
487 modify the subpoena. The commission shall grant the petition if
488 it finds that the subpoena requires appearance or attendance at an
489 unreasonable time or place, that it requires production of
490 evidence which does not relate to any matter under investigation,
491 that it does not describe with sufficient particularity the
492 evidence to be produced, or that compliance would be unduly
493 onerous or for other good reason.

494 (4) In case of refusal to obey a subpoena, the commission or
495 the person at whose request the subpoena was issued may petition
496 for its enforcement in the circuit court for the county in which
497 the person to whom the subpoena was addressed resides, was served,
498 or transacts business.

499 (5) Witnesses summoned by subpoena of the commission shall
500 be entitled to the same witness and mileage fees as are witnesses
501 in proceedings in court. Fees payable to a witness summoned by a
502 subpoena issued at the request of a respondent shall be paid by
503 the respondent.

504 **SECTION 13. Enforcement.** (1) Any person who claims to have
505 been injured by a discriminatory housing practice or who believes
506 that he or she will be injured by a discriminatory housing
507 practice that is about to occur may file a complaint with the
508 commission. Complaints shall be in writing and shall contain such
509 information and be in such form as the commission requires. Upon
510 receipt of such a complaint, the commission shall furnish a copy
511 to the person or persons who allegedly committed the
512 discriminatory housing practice or are about to commit the alleged
513 discriminatory housing practice. Within one hundred (100) days
514 after receiving a complaint, or within one hundred (100) days
515 after the expiration of any period of reference under subsection
516 (3), the commission shall investigate the complaint and give
517 notice in writing to the person aggrieved whether it intends to
518 resolve it. If the commission decides to resolve the complaint,
519 it shall proceed to try to eliminate or correct the alleged
520 discriminatory housing practice by informal methods of conference,
521 conciliation and persuasion. Insofar as possible, conciliation
522 meetings shall be held in the cities or other localities where the
523 discriminatory housing practices allegedly occurred. Nothing said
524 or done in the course of such informal endeavors may be made
525 public or used as evidence in a subsequent proceeding without the
526 written consent of the persons concerned. Any employee of the

527 commission who makes public any information in violation of this
528 provision is guilty of a misdemeanor punishable as provided by
529 law.

530 (2) A complaint under subsection (1) must be filed within
531 one (1) year after the alleged discriminatory housing practice
532 occurred. The complaint must be in writing and shall state the
533 facts upon which the allegations of a discriminatory housing
534 practice are based. A complaint may be reasonably and fairly
535 amended at any time. A respondent may file an answer to the
536 complaint against him or her and, with the leave of the
537 commission, which shall be granted whenever it would be reasonable
538 and fair to do so, may amend his or her answer at any time. Both
539 complaint and answer shall be verified.

540 (3) Wherever a local fair housing law provides rights and
541 remedies for alleged discriminatory housing practices which are
542 substantially equivalent to the rights and remedies provided in
543 this act, the commission shall notify the appropriate local agency
544 of any complaint filed under this which appears to constitute a
545 violation of the local fair housing law, and the commission shall
546 take no further action with respect to such complaint if the local
547 law enforcement official has, within thirty (30) days from the
548 date the alleged offense was brought to his or her attention,
549 commenced proceedings in the matter. In no event shall the
550 commission take further action unless it certifies that in its
551 judgment, under the circumstances of the particular case, the
552 protection of the rights of the parties or the interests of
553 justice require such action.

554 (4) If, within one hundred eighty (180) days after a
555 complaint is filed with the commission or within one hundred
556 eighty (180) days after expiration of any period of reference
557 under subsection (3), the commission has been unable to obtain
558 voluntary compliance with this act, the person aggrieved may
559 commence a civil action in any appropriate court against the

560 respondent named in the complaint or petition for an
561 administrative determination pursuant to Section 14 to enforce the
562 rights granted or protected by this act. If, as a result of its
563 investigation under subsection (1), the commission finds there is
564 reasonable cause to believe that a discriminatory housing practice
565 has occurred, at the request of the person aggrieved, the Attorney
566 General shall bring an action in the name of the state on behalf
567 of the aggrieved person to enforce the provisions of this act.

568 (5) In any proceeding brought pursuant to this section or
569 any other section, the burden of proof is on the complainant.

570 (6) Whenever an action filed in court pursuant to this
571 section or Section 14 comes to trial, the commission shall
572 immediately terminate all efforts to obtain voluntary compliance.

573 (7) (a) The commission may institute a civil action in any
574 appropriate court if it is unable to obtain voluntary compliance
575 with the act. The commission need not have petitioned for an
576 administrative hearing or exhausted its administrative remedies
577 prior to bring a civil action.

578 (b) The court may impose the following fines for each
579 violation:

580 (i) Up to Ten Thousand Dollars (\$10,000.00), if
581 the respondent has not previously been found guilty of a
582 violation.

583 (ii) Up to Twenty-five Thousand Dollars
584 (\$25,000.00), if the respondent has been found guilty of one (1)
585 prior violation of within the preceding five (5) years.

586 (iii) Up to Fifty Thousand Dollars (\$50,000.00),
587 if the respondent has been found guilty of two (2) or more
588 violations within the preceding seven (7) years.

589 In imposing a fine under this paragraph, the court shall
590 consider the nature and circumstances of the violation, the degree
591 of culpability, the history of prior violations, the financial

592 circumstances of the respondent and the goal of deterring future
593 violations.

594 (c) The court shall award reasonable attorney's fees
595 and costs to the commission in any action in which the commission
596 prevails.

597 (8) Any local housing agency certified as substantially
598 equivalent may institute a civil action in any appropriate court,
599 including circuit court, if it is unable to obtain voluntary
600 compliance with the local fair housing law. The agency need not
601 have petitioned for an administrative hearing or exhausted its
602 administrative remedies prior to bringing a civil action. The
603 court may impose fines as provided in the local fair housing law.

604 **SECTION 14. Civil actions and relief; administrative**

605 **procedures.** (1) A civil action shall be commenced no later than
606 two (2) years after an alleged discriminatory housing practice has
607 occurred. However, the court shall continue a civil case brought
608 pursuant to this section or any other section from time to time
609 before bringing it to trial if the court believes that the
610 conciliation efforts of the commission or local agency are likely
611 to result in satisfactory settlement of the discriminatory housing
612 practice complained of in the complaint made to the commission or
613 to the local agency and which practice forms the basis for the
614 action in court. Any sale, encumbrance or rental consummated
615 prior to the issuance of any court order issued under the
616 authority of this act and involving a bona fide purchaser,
617 encumbrance or tenant without actual notice of the existence of
618 the filing of a complaint or civil action under the provisions of
619 this act shall not be affected.

620 (2) If the court finds that a discriminatory housing
621 practice has occurred, it shall issue an order prohibiting the
622 practice and providing affirmative relief from the effects of the
623 practice, including injunctive and other equitable relief, actual
624 and punitive damages, and reasonable attorney's fees and costs.

625 (3) (a) If the commission is unable to obtain voluntary
626 compliance with the act or has reasonable cause to believe that a
627 discriminatory practice has occurred:

628 (i) The commission may institute an administrative
629 proceeding under Section 13 or 14; or

630 (ii) The person aggrieved may request
631 administrative relief under Section 13 or 14 within thirty (30)
632 days after receiving notice that the commission has concluded its
633 investigation.

634 (b) Administrative hearings shall be conducted pursuant
635 to rules of the commission. The respondent must be served written
636 notice by certified mail. If the administrative law judge finds
637 that a discriminatory housing practice has occurred or is about to
638 occur, he or she shall issue a recommended order to the commission
639 prohibiting the practice and recommending affirmative relief from
640 the effects of the practice, including quantifiable damages and
641 reasonable attorney's fees and costs. The commission may adopt,
642 reject or modify a recommended order. Judgment for the amount of
643 damages and costs assessed pursuant to a final order by the
644 commission may be entered in any court having jurisdiction thereof
645 and may be enforced as any other judgment.

646 (c) The circuit court may, upon the filing of
647 appropriate notices of appeal, review final orders of the
648 commission pursuant to law. Costs or fees may not be assessed
649 against the commission in any appeal from a final order issued by
650 the commission under this subsection. Unless specifically ordered
651 by the court, the commencement of an appeal does not suspend or
652 stay an order of the commission.

653 (d) This subsection does not prevent any other legal or
654 administrative action provided by law.

655 **SECTION 15. Conciliation agreements.** Any conciliation
656 agreement arising out of conciliation efforts by the Mississippi
657 Commission on Fair Housing pursuant to the Fair Housing Act must

658 be agreed to by the respondent and the complainant and is subject
659 to the approval of the commission. Each conciliation agreement
660 arising out of a complaint filed under the Fair Housing Act shall
661 be made public unless the complainant and the respondent otherwise
662 agree and the commission determines that disclosure is not
663 required to further the purposes of the Mississippi Fair Housing
664 Act.

665 **SECTION 16. Interference, coercion or intimidation;**
666 **enforcement by administrative or civil action.** It is unlawful to
667 coerce, intimidate, threaten or interfere with any person in the
668 exercise of, or on account of his or her having exercised, or on
669 account of his or her having aided or encouraged any other person
670 in the exercise of any right granted under this act. This section
671 may be enforced by appropriate administrative or civil action.

672 **SECTION 17.** This act shall take effect and be in force from
673 and after July 1, 2006.