

By: Senator(s) Michel, Parker, Blackwell,
Simmons (13th), McMahan

To: Judiciary, Division A;
Judiciary, Division B

SENATE BILL NO. 2328
(As Passed the Senate)

1 AN ACT TO STATE LEGISLATIVE FINDINGS AND INTENT CONCERNING
2 THE RIGHTS OF REAL PROPERTY OWNERS; TO AUTHORIZE AN OWNER OF REAL
3 PROPERTY TO REQUEST FROM THE SHERIFF OF THE COUNTY IN WHICH THE
4 REAL PROPERTY IS LOCATED THE IMMEDIATE REMOVAL OF A PERSON OR
5 PERSONS UNLAWFULLY OCCUPYING A RESIDENTIAL DWELLING OR COMMERCIAL
6 BUILDING LOCATED ON THE REAL PROPERTY IF CERTAIN CONDITIONS ARE
7 MET; TO REQUIRE THE PROPERTY OWNER TO SUBMIT A DECLARATION TO THE
8 SHERIFF OF THE COUNTY IN WHICH THE REAL PROPERTY IS LOCATED; TO
9 REQUIRE A SHERIFF, UPON RECEIPT OF A DECLARATION, TO IMMEDIATELY
10 SERVE A NOTICE TO VACATE ON ALL THE UNLAWFUL OCCUPANTS AND PUT THE
11 OWNER IN POSSESSION OF THE REAL PROPERTY; TO AUTHORIZE A FEE FOR
12 THE SHERIFF'S SERVICE OF THE NOTICE; TO AUTHORIZE THE PROPERTY
13 OWNER TO REQUEST THE SHERIFF REMAIN AT THE REAL PROPERTY TO KEEP
14 THE PEACE WHILE THE PROPERTY OWNER CHANGES THE LOCKS AND REMOVES
15 THE PERSONAL PROPERTY OF THE UNLAWFUL OCCUPANTS FROM THE PREMISES
16 TO OR NEAR THE PROPERTY LINE; TO PROVIDE CERTAIN EXEMPTIONS FROM
17 LIABILITY FOR THE SHERIFF AND THE PROPERTY OWNER; TO AUTHORIZE A
18 PERSON TO BRING A CIVIL CAUSE OF ACTION FOR WRONGFUL REMOVAL UNDER
19 THIS ACT; TO PROVIDE A FORM DECLARATION; TO AMEND SECTION
20 97-17-67, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ANY PERSON WHO
21 DETAINS, OCCUPIES OR TRESPASSES ANY REAL PROPERTY OF ANOTHER SHALL
22 BE GUILTY OF MALICIOUS MISCHIEF; TO PROVIDE THAT ANY PERSON WHO,
23 WITH INTENT TO DETAIN OR REMAIN, OR CAUSE ANOTHER TO DETAIN OR
24 REMAIN UPON REAL PROPERTY, KNOWINGLY AND WILLFULLY PRESENTS TO
25 ANOTHER PERSON A FALSE DOCUMENT PURPORTING TO BE A VALID LEASE
26 AGREEMENT, DEED OR OTHER INSTRUMENT CONVEYING REAL PROPERTY RIGHTS
27 SHALL BE GUILTY OF A MISDEMEANOR; TO PROVIDE THAT ANY PERSON WHO
28 LISTS OR ADVERTISES REAL PROPERTY FOR SALE KNOWING THAT THE
29 PURPORTED SELLER HAS NO LEGAL TITLE OR AUTHORITY TO SELL THE
30 PROPERTY, OR LEASES THE REAL PROPERTY TO ANOTHER PERSON KNOWING
31 THAT HE OR SHE OR THE PURPORTED LESSOR HAS NO LAWFUL OWNERSHIP IN
32 THE PROPERTY OR LEASEHOLD INTEREST IN THE PROPERTY SHALL BE GUILTY
33 OF A FELONY; TO AMEND SECTION 89-8-17, MISSISSIPPI CODE OF 1972,
34 TO PROVIDE THAT IF A RESIDENTIAL PREMISES BECOMES OCCUPIED BY ANY



PERSON WHO HAS NO ORAL OR WRITTEN AGREEMENT WITH THE LANDLORD AFTER A TENANT HAS VACATED FOLLOWING THE TERMINATION OR EXPIRATION OF A RENTAL AGREEMENT, THE LANDLORD MAY PROVIDE WRITTEN NOTICE TO ANY SUCH PERSONS THAT THE LANDLORD WILL COMMENCE AN EVICTION PROCEEDING; TO AMEND SECTION 89-8-35, MISSISSIPPI CODE OF 1972, TO CLARIFY A PROVISION OF THE NOTICE PROVIDED TO TENANTS IN AN EVICTION PROCEEDING RELATED TO THE TIMEFRAME FOR THE REMOVAL OF PERSONAL PROPERTY FROM THE PREMISES; TO AMEND SECTION 89-8-39, MISSISSIPPI CODE OF 1972, TO CLARIFY WHEN A WRIT OF REMOVAL SHALL BE CONSIDERED EXECUTED; TO AMEND SECTIONS 89-8-3 AND 89-8-31, MISSISSIPPI CODE OF 1972, TO CONFORM; TO CREATE THE "MISSISSIPPI FAIR HOUSING ACT"; TO DEFINE CERTAIN TERMS AS USED IN THE ACT; TO PROHIBIT CERTAIN DISCRIMINATORY CONDUCT IN REAL ESTATE TRANSACTIONS WITH EXCEPTION; TO PROHIBIT CERTAIN DISCRIMINATORY CONDUCT IN REAL ESTATE FINANCING WITH EXCEPTION; TO PROVIDE THAT CERTAIN CONDITIONS, RESTRICTIONS OR PROHIBITIONS WHICH DIRECTLY OR INDIRECTLY LIMIT THE USE OR OCCUPANCY OF REAL PROPERTY ARE VOID; TO PROHIBIT CERTAIN DISCRIMINATORY CONDUCT; TO PROHIBIT RETALIATION; TO PROVIDE A CIVIL REMEDY FOR VIOLATIONS OF THE ACT; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) The Legislature finds:

(a) The right of property owners to exclude unauthorized persons from entering and occupying real property is paramount to the preservation of property values and the deterrence of criminal activity.

(b) The existing remedies to address persons who, without a rental agreement or other permission of the owner, unlawfully enter and occupy real property are not adequate.

(2) Therefore, the legislative intent of this act is to establish a process for property owners to quickly recover full possession of real property when it is being unlawfully occupied as a means of preserving the property and discouraging vandalism and theft.



SECTION 2.

(1) An owner of real property or his or her authorized agent may request from the sheriff of the county in which the real property is located the immediate removal of a person or persons unlawfully occupying a residential dwelling or commercial building pursuant to this act if all of the following conditions are met:

(a) The requesting person is the owner of the real property or is the authorized agent of the property owner.

(b) The real property that is being occupied includes a residential dwelling or commercial building.

(c) An unauthorized person or persons have unlawfully entered and remain or continue to reside on the owner's real property.

(d) The real property was not open to members of the public at the time the unauthorized person or persons entered.

(e) The property owner or authorized agent has directed the unauthorized person or persons to leave the property.

(f) The property owner or authorized agent has posted a notice of intent to remove the unauthorized person or persons under this section in a conspicuous location on the residential dwelling or commercial building. The notice of intent should:

(i) Include contact information for the sheriff's department; and



(ii) Be posted at least forty-eight (48) hours before the property owner or authorized agent requests removal under this act.

(g) The unauthorized person or persons are not current or former tenants pursuant to a written or oral rental agreement authorized by the property owner.

(h) The unauthorized person or persons are not immediate family members of the property owner.

(i) There is no pending litigation related to unauthorized occupancy of the real property.

(2) To request the immediate removal of an unlawful occupant of a residential dwelling or commercial building, the property owner or his or her authorized agent must submit a declaration under penalty of perjury in the form required by Section 6 to the sheriff of the county in which the real property is located.

(3) (a) Upon receipt of the declaration, the sheriff shall, without delay, remove the unlawful occupants from the real property and shall put the owner in possession of the real property. The sheriff shall also attempt to verify the identities of all persons occupying the dwelling and note the identities on the return of service.

(b) The sheriff is entitled to the same fee for removing unauthorized occupants from real property hereunder as the sheriff may charge under Section 25-7-19 for serving a writ of possession.



117 **SECTION 3.** (1) While the sheriff is at the real property to
118 remove any unauthorized occupants, the property owner or
119 authorized agent may request that the sheriff remain at the real
120 property to keep the peace while the property owner or agent of
121 the owner changes the locks and removes the personal property of
122 the unlawful occupants.

123 (2) The sheriff is not liable to the unlawful occupant or
124 any other party for loss, destruction or damage of property.

125 (3) The real property owner or his or her authorized agent
126 is not liable to an unlawful occupant or any other party for the
127 loss, destruction or damage of property unless the removal was
128 wrongful.

129 **SECTION 4.** A person may bring a civil cause of action for
130 wrongful removal under this act. A person harmed by a wrongful
131 removal under this act may be restored to possession of the real
132 property and may recover actual costs and damages incurred,
133 statutory damages equal to triple the fair market rent of the
134 dwelling during the time reasonably displaced, court costs and
135 reasonable attorney fees. In an action brought under this
136 section, the court shall give priority on its docket and an
137 expedited review and may grant injunctive or other equitable
138 relief.

139 **SECTION 5.** This act shall not limit:

140 (a) The rights of a property owner;



(b) The authority of a law enforcement officer to arrest an unlawful occupant for trespassing, vandalism, theft or other crimes; or

(c) The authority of a sheriff, who is serving the notice provided in this act, from arresting any person found in the dwelling for trespass, outstanding warrants or any other legal cause.

SECTION 6. The declaration required in Section 2 of this act must be in substantially the following form:

DECLARATION TO REMOVE PERSONS UNLAWFULLY
OCCUPYING REAL PROPERTY

I, the owner or authorized agent of the owner of the real property located at [Address of real property], declare under the penalty of perjury that [initial each space]:

1. [_____] I am the owner of the real property [____], or the authorized agent of the owner of the real property [____].
(Check one).

2. [_____] The real property is a residential dwelling or commercial building.

3. [_____] An unauthorized person or persons have unlawfully entered and are remaining or residing unlawfully on the real property.

4. [_____] The real property was not open to members of the public at the time the unauthorized person or persons entered.



165 5. [_____] I have directed the unauthorized person or
166 persons to leave the real property, but they have not done so.

167 6. [_____] I have posted notice of my intent to request
168 removal of the unauthorized person or persons on the residential
169 dwelling or commercial building.

170 7. [_____] The person or persons are not current or former
171 tenants pursuant to any valid lease authorized by the property
172 owner.

173 8. [_____] The unauthorized person or persons sought to be
174 removed are not an owner or a co-owner of the property and have
175 not been listed on the title to the property unless the person or
176 persons have engaged in title fraud.

177 9. [_____] The unauthorized person or persons are not
178 immediate family members of the property owner.

179 10. [_____] There is no litigation related to the real
180 property pending between the property owner and any person sought
181 to be removed.

182 11. [_____] I understand that a person or persons removed
183 from the property pursuant to this procedure may bring a cause of
184 action against me for any false statements made in this complaint,
185 or for wrongfully using this procedure, and that as a result of
186 such action I may be held liable for actual damages, penalties,
187 costs and reasonable attorney fees.



12. [_____] I am requesting the sheriff to immediately remove the unauthorized person or persons from the residential or commercial property.

13. [_____] A copy of my valid government-issued identification is attached. Provided I am not the owner, documents evidencing my authority to act on the property owner's behalf are attached.

I HAVE READ EVERY STATEMENT MADE IN THIS DECLARATION, AND EACH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT THE STATEMENTS MADE IN THIS DECLARATION ARE BEING MADE UNDER PENALTY OF PERJURY, PUNISHABLE AS PROVIDED IN SECTION 97-9-59.

[Signature of Property Owner or Agent of Owner]

SECTION 7. Section 97-17-67, Mississippi Code of 1972, is amended as follows:

97-17-67. (1) Every person who shall maliciously or mischievously destroy, disfigure, or injure, or cause to be destroyed, disfigured, or injured, any property of another, either real or personal, shall be guilty of malicious mischief.

(2) Every person who unlawfully or maliciously detains, occupies or trespasses or causes to be detained, occupied or trespassed, any real property of another, shall be guilty of malicious mischief.

(* * *3) If the value of the property destroyed, disfigured, detained, occupied, trespassed or injured is One Thousand Dollars (\$1,000.00) or less, it shall be a misdemeanor



and may be punishable by a fine of not more than One Thousand Dollars (\$1,000.00) or imprisonment in the county jail not exceeding twelve (12) months, or both, if the court finds substantial and compelling reasons why the offender cannot be safely and effectively supervised in the community, is not amenable to community-based treatment, or poses a significant risk to public safety. If such a finding is not made, the court shall suspend the sentence of imprisonment and impose a period of probation not exceeding one (1) year or a fine of not more than One Thousand Dollars (\$1,000.00), or both. Any person convicted of a third or subsequent offense under this subsection where the value of the property is not less than Five Hundred Dollars (\$500.00), shall be imprisoned in the Penitentiary for a term not exceeding three (3) years or fined an amount not exceeding One Thousand Dollars (\$1,000.00), or both.

(* * *4) If the value of the property destroyed, disfigured, detained, occupied, trespassed or injured is in excess of One Thousand Dollars (\$1,000.00) but less than Five Thousand Dollars (\$5,000.00), it shall be a felony punishable by a fine not exceeding Ten Thousand Dollars (\$10,000.00) or imprisonment in the Penitentiary not exceeding five (5) years, or both.

(* * *5) If the value of the property is Five Thousand Dollars (\$5,000.00) or more but less than Twenty-five Thousand Dollars (\$25,000.00), it shall be punishable by a fine of not more



than Ten Thousand Dollars (\$10,000.00) or imprisonment in the Penitentiary not exceeding ten (10) years, or both.

(* * *6) If the value of the property is Twenty-five Thousand Dollars (\$25,000.00) or more, it shall be punishable by a fine of not more than Ten Thousand Dollars (\$10,000.00) or imprisonment in the Penitentiary not exceeding twenty (20) years, or both.

(* * *7) In all cases restitution to the victim for all damages shall be ordered. The value of property destroyed, disfigured, detained, occupied, trespassed or injured by the same party as part of a common crime against the same or multiple victims may be aggregated together and if the value exceeds One Thousand Dollars (\$1,000.00), shall be a felony.

(* * *8) For purposes of this statute, value shall be the cost of repair or replacement of the property damaged or destroyed.

(* * *9) Anyone who by any word, deed or act directly or indirectly urges, aids, abets, suggests or otherwise instills in the mind of another the will to so act shall be considered a principal in the commission of said crime and shall be punished in the same manner.

SECTION 8. Any person who, with intent to detain or remain, or cause another to detain or remain upon real property, knowingly and willfully presents to another person a false document purporting to be a valid lease agreement, deed or other instrument



conveying real property rights commits a misdemeanor. Upon conviction, the person shall be imprisoned for a term less than one (1) year in the county jail, fined an amount not more than One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

SECTION 9. Any person who lists or advertises real property for sale knowing that the purported seller has no legal title or authority to sell the property, or leases the real property to another person knowing that he or she or the purported lessor has no lawful ownership in the property or leasehold interest in the property, commits a felony. Upon conviction, the person shall be imprisoned for a term not to exceed thirty (30) years in the custody of the Mississippi Department of Corrections, fined an amount not to exceed Ten Thousand Dollars (\$10,000.00), or by both such fine and imprisonment.

SECTION 10. Section 89-8-17, Mississippi Code of 1972, is amended as follows:

89-8-17. (1) A rental agreement that fixes a definite term expires on the date stated in the rental agreement.

(2) Notwithstanding the provisions of Section 89-8-13, the landlord may, at any time after the expiration of a rental agreement, provide notice to the tenant in writing, or by email or text message, if the tenant has agreed to be notified by email or text message, specifying that the tenant is holding over after expiration of the rental agreement and that the landlord will



commence eviction proceedings no earlier than three (3) days after such notice is provided. The landlord may also demand an increase in rent after the expiration of the rental agreement if such actions by the landlord did not have the dominant purpose of retaliation against the tenant for his actions authorized under this chapter and the landlord received written notice of each condition which was the subject of such actions of the tenant.

(3) If the premises becomes occupied by any person who has no oral or written agreement with the landlord after a tenant has vacated following the termination or expiration of a rental agreement, the landlord may provide written notice to any such persons that the landlord will commence an eviction proceeding no earlier than three (3) days after such notice is provided. If the landlord does not know the identity of such persons, the landlord may post the notice on the door of the premises or some other conspicuous location of the premises.

SECTION 11. Section 89-8-35, Mississippi Code of 1972, is amended as follows:

89-8-35. (1) Upon the filing of the sworn affidavit or complaint, a summons shall be issued for service upon the person in possession of the identified premises or claiming possession thereof. The summons shall command such person to immediately vacate the premises or to show cause before the judge, on a day to be named in the summons, why possession of the premises should not be delivered to the applicant.



(2) In addition to the information required by subsection (1) of this section and the applicable Mississippi Rules of Court, the summons shall state:

"You are being sued for eviction. At the eviction hearing, the judge will determine if the landlord is entitled to possession of your rental unit.

If the landlord is granted possession of the rental unit, then you will have at least seven (7) days from the date of the judgment to move out, unless a shorter or longer period of time for vacating the premises is ordered because of an emergency or other compelling circumstances.

If the landlord seeks possession based on nonpayment of rent, you do not have to move out if you pay all the sums owed to the landlord either before the eviction hearing or, afterwards, by the court-ordered move-out date.

If you move out by the date ordered by the court, leaving personal property behind, then the landlord may dispose of such abandoned property without further notice.

If you do not move out by the date and time ordered by the court, the landlord can have you removed by law enforcement * * *. You will have no right to reside at the premises once you have been removed. The landlord must grant you reasonable access to the premises during the seventy-two (72) hours following your removal to retrieve your personal property.



336 After seventy-two (72) hours, the landlord may remove any
337 personal property remaining on the premises to the curb, an area
338 designated for garbage or some other location agreed to by you and
339 the landlord. You may still retrieve your personal property, but
340 the landlord will have no obligation to preserve the personal
341 property upon removal."

342 (3) Service of summons shall be pursuant to applicable
343 Mississippi Rules of Court.

344 **SECTION 12.** Section 89-8-39, Mississippi Code of 1972, is
345 amended as follows:

346 89-8-39. (1) If a judgment of possession is granted to the
347 landlord, either after a hearing or by default judgment, then the
348 judge shall order the tenant to vacate the premises in seven (7)
349 days from the date of the judgment, unless the court finds that a
350 shorter or longer period of time is justified because of an
351 emergency or other compelling circumstances. Circumstances that
352 justify setting the move-out date less than seven (7) days from
353 the date of the judgment, include, but are not limited to:

354 (a) The tenant has committed a substantial violation of
355 the rental agreement or of this chapter that materially affects
356 health or safety; or

357 (b) The tenant poses an immediate and significant risk
358 of damage to the premises or of harm or injury to persons on the
359 premises.



Prior to the court-ordered move-out date, the tenant shall have the same access to the premises as previously allowed under the terms of the rental agreement. Unless the tenant makes the payment contemplated by subsection (4)(i) of this section, the tenant will have no right to reside in the premises after the court-ordered move out date. If the tenant moves out by the date ordered by the court, leaving personal property behind, then the landlord may dispose of such abandoned property without further notice.

(2) After the court-ordered move-out date, the landlord may request a warrant for removal. Upon such request and the payment of applicable fees, the judge shall, except as otherwise prohibited under subsection (4) of this section, immediately issue a warrant to the sheriff or any constable of the county in which the premises, or some part thereof, are situated, immediately commanding the sheriff or constable to remove all persons from the premises, and to put the landlord into full possession thereof. The warrant of removal shall not be considered executed by law enforcement posting the warrant of removal on the door of the premises. Law enforcement must remove any occupants from the premises and place the landlord into physical possession of the premises.

(3) During the seventy-two (72) hours, after the warrant for removal has been executed, the landlord shall allow the tenant reasonable access to the premises * * * to enable the tenant to



remove the tenant's personal property, including any manufactured home. If the tenant moves out within seventy-two (72) hours of the execution of the warrant of removal, leaving personal property behind, then the landlord may dispose of such abandoned property without further notice. After said seventy-two (72) hours, the landlord may remove any property remaining on the premises to the curb, an area designated for garbage or some other location agreed to by the tenant and the landlord.

(4) (a) In cases in which the possession judgment is based solely on the tenant's nonpayment of rent, the judge shall not issue a warrant for removal if:

(i) By the court-ordered move-out date, the tenant has paid in full all unpaid rent and other sums awarded to landlord in the judgment; or

(ii) After such date, the landlord has accepted payment of such amounts.

(b) A landlord has an obligation of good faith to accept full payment of all sums owed pursuant to the money judgment entered if so tendered on or before the court-ordered move-out date.

(5) The same processes set forth herein with respect to the enforcement of eviction judgments shall be followed in cases in which the landlord gives notice pursuant to Section 89-8-17(3).

SECTION 13. Section 89-8-3, Mississippi Code of 1972, is amended as follows:



89-8-3. (1) This chapter shall apply to, regulate and determine rights, obligations and remedies under any rental agreement entered into after July 1, 1991, wherever made, for a dwelling unit located within this state, including the parties' rights to possession following the termination or expiration of such an agreement. Any rights, obligations, or remedies at law or in equity not prohibited by this chapter remain available to residential landlords and tenants.

(2) The following arrangements are not governed by this chapter:

(a) Residence at an institution, public or private, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious or similar service;

(b) Occupancy under a contract of sale of a dwelling unit or the property of which it is a part, if the occupant is the purchaser or a person who succeeds to the purchaser's interest;

(c) Occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization;

(d) Transient occupancy in a hotel, motel or lodgings;

(e) Occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative; or

(f) Occupancy under a rental agreement covering premises used by the occupant primarily for agricultural purposes



or when the occupant is performing agricultural labor for the owner and the premises are rented for less than fair rental value.

SECTION 14. Section 89-8-31, Mississippi Code of 1972, is amended as follows:

89-8-31. A landlord may commence eviction proceedings * * *:

(a) For breach of the rental agreement or for violation of this chapter pursuant to Section 89-8-13; or

(b) For failing to vacate after the termination or expiration of the rental agreement pursuant to Sections 89-8-17 and 89-8-19.

SECTION 15. Sections 15 through 22 of this act shall be known and may be cited as the "Mississippi Fair Housing Act."

SECTION 16. As used in this act, unless the context clearly indicates otherwise:

(a) "Housing accommodation" includes improved or unimproved real property, or a part thereof, which is used or occupied, or is intended, arranged or designed to be used or occupied, as the home or residence of one or more persons.

(b) "Real estate broker or salesperson" means a person, whether licensed or not, who:

(i) For or with the expectation of receiving a consideration, lists, sells, purchases, exchanges, rents or leases real property;

(ii) Negotiates or attempts to negotiate any of those activities;



459 (iii) Holds himself or herself out as engaged in
460 those activities;

461 (iv) Negotiates or attempts to negotiate a loan
462 secured or to be secured by a mortgage or other encumbrance upon
463 real property;

464 (v) Is engaged in the business of listing real
465 property in a publication; or

466 (vi) Is a person employed by or acting on behalf
467 of a real estate broker or salesperson.

468 (c) "Real estate transaction" means the sale, exchange,
469 rental or lease of real property, or an interest therein.

470 (d) "Real property" includes a building, structure,
471 mobile home, real estate, land, mobile home park, trailer park,
472 tenement, leasehold or an interest in a real estate cooperative or
473 condominium.

474 **SECTION 17.** (1) A person engaging in a real estate
475 transaction, or a real estate broker or salesperson, shall not on
476 the basis of religion, race, color, national origin, sex,
477 disability or familial status of a person or a person residing
478 with that person:

479 (a) Refuse to engage in a real estate transaction with
480 a person;

481 (b) Discriminate against a person in the terms,
482 conditions, or privileges of a real estate transaction or in the
483 furnishing of facilities or services in connection therewith;



484 (c) Refuse to receive from a person or transmit to a
485 person a bona fide offer to engage in a real estate transaction;

486 (d) Refuse to negotiate for a real estate transaction
487 with a person;

488 (e) Represent to a person that real property is not
489 available for inspection, sale, rental or lease when in fact it is
490 so available, or knowingly fail to bring a real property listing
491 to a person's attention, or refuse to permit a person to inspect
492 real property;

493 (f) Make, print, or publish or cause to be made,
494 printed, or published, any notice, statement or advertisement with
495 respect to the sale or rental of a dwelling that indicates any
496 preference, limitation or discrimination based on religion, race,
497 color, national origin, sex, disability, or familial status or an
498 intention to make any such preference, limitation or
499 discrimination; or

500 (g) Offer, solicit, accept, use or retain a listing of
501 real property with the understanding that a person may be
502 discriminated against in a real estate transaction or in the
503 furnishing of facilities or services in connection therewith.

504 (2) This section shall not apply to:

505 (a) The rental of a housing accommodation in a building
506 which contains housing accommodations for not more than two (2)
507 families living independently of each other if the owner or a
508 member of the owner's immediate family resides in one (1) of the



housing accommodations, or to the rental of a room or rooms in a single-family dwelling by a person if the lessor or a member of the lessor's immediate family resides therein; or

(b) The rental of a housing accommodation for not more than twelve (12) months by the owner or lessor where it was occupied by him or her and maintained as his or her home for at least three (3) months immediately preceding occupancy by the tenant and is temporarily vacated while maintaining legal residence.

SECTION 18. (1) A person to whom application is made for financial assistance or financing in connection with a real estate transaction or in connection with the construction, rehabilitation, repair, maintenance or improvement of real property, or a representative of that person, shall not:

(a) Discriminate against the applicant because of the religion, race, color, national origin, sex, disability or familial status of the applicant or a person residing with the applicant; or

(b) Use a form of application for financial assistance or financing to make or keep a record or inquiry in connection with an application for financial assistance or financing which indicates, directly or indirectly, a preference, limitation, specification or discrimination as to the religion, race, color, national origin, sex, disability or familial status of the applicant or a person residing with the applicant.



(2) Subsection (1)(b) of this section shall not apply to a form of application for financial assistance prescribed for the use of a lender regulated as a mortgagee under the National Housing Act, as amended, 12 USC Sections 1701-1750g, or by a regulatory board or officer acting under the statutory authority of this state or the United States.

SECTION 19. (1) A condition, restriction or prohibition, including a right of entry or possibility of reverter, which directly or indirectly limits the use or occupancy of real property on the basis of religion, race, color, national origin, sex, disability or familial status is void; except this section shall not prohibit a religious organization, association, or society, nor any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted because of religion, race, color, national origin, sex, disability, or familial status.

(2) A person shall not insert in a written instrument relating to real property a provision that is void under this section or honor such a provision in the chain of title.

(3) A person shall not threaten, intimidate or interfere with persons in the enjoyment of their dwelling because of the



religion, race, color, national origin, sex or familial status of such persons, or of visitors or associates of such persons.

(4) A person shall not discharge, threaten, coerce, intimidate or take any other adverse action against an employee, broker, agent or other person because he or she refused to take part in a discriminatory housing practice or because he or she has aided or encouraged any other person in the exercise or enjoyment of any right granted under the provisions of this act.

SECTION 20. A person shall not represent, for the purpose of inducing a real estate transaction from which the person may benefit financially, that a change has occurred or will or may occur in the composition, with respect to religion, race, color, national origin, sex, disability or familial status of the owners or occupants in the block, neighborhood or area in which the real property is located or represent that this change will or may result in the lowering of real property values, an increase in criminal or antisocial behavior or a decline in the quality of schools in the block, neighborhood or area in which in the real property is located.

SECTION 21. Two (2) or more persons shall not conspire to, or a person shall not:

(a) Retaliate or discriminate against a person because the person has opposed a violation of this act, or because the person has made a charge, filed a complaint, testified, assisted



or participated in an investigation, proceeding or hearing under this act;

(b) Attempt, directly or indirectly, to commit an act prohibited by this act;

(c) Willfully interfere, obstruct or prevent a person from complying with this act or an order issued or rule promulgated under this act; or

(d) Discharge, threaten, coerce, intimidate or take any other adverse action against an employee, broker, agent or other person because he or she refused to take part in a discriminatory housing practice or because he or she has aided or encouraged any other person in the exercise or enjoyment of any right granted under the provisions of this act.

SECTION 22. (1) (a) A person alleging a violation of this act may bring a civil action for appropriate injunctive relief or damages, or both.

(b) As used in paragraph (a) of this subsection, "damages" means damages for injury or loss caused by each violation of this act, including reasonable attorney's fees.

(2) An action commenced pursuant to subsection (1) of this section may be brought in the circuit court for:

(a) The county where the alleged violation occurred; or

(b) The county where the person against whom the civil complaint is filed resides or has his or her principal place of business.



608 (3) In a civil action under this act, the court in its
609 discretion may allow the prevailing party reasonable attorney's
610 fees and costs.

611 (4) A court rendering a judgment in an action brought
612 pursuant to this act may award all or a portion of the costs of
613 litigation, including reasonable attorney's fees and witness fees,
614 to the complainant in the action if the court determines that the
615 award is appropriate.

616 **SECTION 23.** This act shall take effect and be in force from
617 and after its passage.

