

AN ACT

To adopt a Commonwealth Fair Housing Act that is substantially equivalent to the Federal Fair Housing Act, so as to ensure that discriminatory acts in regard to housing practices are prohibited and to ensure that the enforcement of any complaints received by the Federal Government under the Federal Fair Housing Act are enforced by the Commonwealth; and for other purposes.

BE IT ENACTED BY THE ELEVENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

Section 1. Legislative Findings. The Legislature finds that the Federal Government has enacted a comprehensive statute, known as the Fair Housing Act, to ensure that discrimination does not occur in housing transactions. Enforcement of the Fair Housing Act has been vested in the United States Department of Housing and Urban Development (HUD) and the United States Attorney General.

Pursuant to Section 816 (42 U.S.C. 3610(f)(3)(A)) of the Fair Housing Act, if a state, territory, or U.S. Commonwealth adopts a statute that is substantially equivalent to the Federal Fair Housing Act, then enforcement of complaints made to HUD under the Federal Fair Housing Act will be referred to the local government for enforcement.

In order to achieve the greatest degree of self-determination and control over the internal operations of the Commonwealth, as well as to ensure that discrimination does not take place in housing practices in the Commonwealth, the Legislature finds that it is in the best interests of the Commonwealth to adopt a statute that is substantially equivalent to the Federal Fair Housing Act.

Section 2. Short Title. This Act shall be known as the "Commonwealth Fair Housing Act".

Section 3. Declaration of Policy. It is the policy of the Commonwealth to provide, within constitutional limitations, for fair housing throughout the Commonwealth.

Section 4. Definitions. As used in this title:

(a) A "Corporate Director" means the Corporate Director of the Northern Marianas Housing Corporation.

(b) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(c) "Family" includes a single individual.

(d) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Title II of the United States Code, receivers, and fiduciaries.

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

(f) "Discriminatory housing practice" means an act that is unlawful under sections 6, 7, or 8 of this Act.

(g) "Commonwealth or CNMI" means the Commonwealth of the Northern Mariana Islands.

(h) "Disability means", with respect to a person:

(1) a physical or mental impairment consistent with 42 USC Sec. 12102(2) of the federal Americans with Disabilities Act (ADA) of 1990 which substantially limits one or more of such person's major life activities,

(2) a record of having such an impairment, or

(3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

(i) "Aggrieved person" includes any person who:

(1) claims to have been injured by a discriminatory housing practice; or

(2) believes that such person will be injured by a discriminatory housing practice that is about to occur.

(j) "Complainant" means the person (including the Corporate Director) who files a complaint under section 11 of this Act.

(k) "Familial status" means one or more individuals (who have not attained the age of eighteen (18) years) being domiciled with:

(1) a parent or another person having legal custody 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 is in the process of securing legal custody of any individual who has not attained the age of eighteen (18) years.

(l) "Conciliation" means the attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, and the Corporate Director.

(m) "Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation.

(n) "Respondent" means:

(1) the person or other entity accused in a complaint of an unfair housing practice; and

(2) any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified

(o) "Prevailing party" has the same meaning as such term has in section 722 of the Revised Statutes of the United States (42 U.S.C. 1988).

Section 5. Applicability of prohibitions: Exemptions.

(a) Subject to the provisions of subsection (b) and section 9, the prohibitions against discrimination in the sale or rental of housing set forth in section 6 shall apply, upon enactment of this Act, to:

(1) dwellings owned or operated by the Commonwealth, its instrumentalities, subdivisions, and public corporations;

(2) to all other dwellings except as exempted by subsection (b).

(b) Exemptions. Nothing in section 6 (other than subsection (c)) shall apply to:

(1) any single-family house sold or rented by an owner: Provided, That such private individual owner does not own more than three such single-family houses at any one time: Provided further, 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 (24) month period: Provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his 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: Provided further, that the sale or rental of any such single-family house shall be exempted from the application of this Act only if such 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 salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person; and

(B) without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of section 6(c) of this Act; 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, or

(2) rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as their residence.

(c) Business of selling or renting dwellings defined. For the purposes of subsection (b), a person shall be deemed to be in the business of selling or renting dwellings if:

(1) he has, within the preceding twelve months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or

(2) he has, within the preceding twelve months, 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) he is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

Section 6. Discrimination in the sale or rental of housing and other prohibited practices. As made applicable by section 5 and except as exempted by sections 5(b) and 9, it shall be unlawful:

(a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, marital status, disability, or national origin.

(b) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status, marital status, disability, or national origin.

(c) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, disability, familial status, marital status, or national origin, or an intention to make any such preference, limitation, or discrimination.

(d) To represent to any person because of race, color, religion, sex, disability, familial status, marital status, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, disability, familial status, marital status, or national origin.

(f)(1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of:

(A) that buyer or renter,

(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(C) any person associated with that buyer or renter.

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability of:

(A) that person; or

(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(C) any person associated with that person.

(3) For purposes of this subsection, discrimination includes:

(A) a refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

(B) a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or

(C) in connection with the design and construction of covered multifamily dwellings for first occupancy after the date of enactment of this Act, a failure to design and construct those dwellings in such a manner that covered multifamily

(i) the public use and common use portions of such dwellings are readily accessible to and usable by

(ii) all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by disabled persons in wheelchairs; and

(iii) all premises within such dwellings contain the following features of adaptive design:

(I) an accessible route into and through the dwelling;

(II) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(III) reinforcements in bathroom walls to allow later installation of grab bars; and

(IV) usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(4) Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability by people with physical impairment or disabilities (commonly cited as "CABO/ANSI A117.1-1992") suffices to satisfy the requirements of paragraph (3)(C)(iii).

(5) (RESERVED)

(6) Approval of plans, specifications, and/or construction by the CNMI, or any of its agencies, instrumentalities, subdivisions, or public corporations shall not be construed to affect the authority and responsibility of the Corporate Director to receive and process complaints or otherwise engage in enforcement activities under this Act. Approval of plans, specifications, and/or construction by the CNMI, or any of its agencies, instrumentalities, subdivisions, or public corporations shall not be conclusive in enforcement proceedings under this Act.

(7) As used in this subsection, the term "covered multifamily dwellings", means:

(A) buildings consisting of four (4) or more units if such buildings have one or more elevators; and

(B) ground floor units in other buildings consisting of four (4) or more units.

(8) Nothing in this Act shall be construed to invalidate or limit any CNMI wide or local law, or ordinance, that requires dwellings to be designed and constructed in a manner that affords disabled persons greater access than is required by this Act.

(9) Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

Section 7. Discrimination in residential real estate-related transactions.

(a) In general. It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, disability, familial status, marital status, , or national origin.

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

- (1) The making or purchasing of loans or providing other financial assistance:
 - (A) for purchasing, constructing, improving, repairing, or maintaining a dwelling; or
 - (B) secured by residential real estate.
- (2) The selling, brokering, or appraising of residential real property.

(c) Appraisal exemption. Nothing in this Act prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, disability, familial status, or marital status.

Section 8. Discrimination in the provision of brokerage services. 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 dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, disability, familial status, marital status, or national origin.

Section 9. Religious organization or private club exemption.

(a) Nothing in this Act shall prohibit 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 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 on account of race, color, or national origin. Nor shall anything in this Act prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(b) (1) Nothing in this Act limits the applicability of any reasonable CNMI wide or local law, or ordinance, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this Act regarding familial status apply with respect to housing for older persons.

(2) As used in this section, "housing for older persons" means housing:

(A) provided under any Commonwealth or Federal program that the Corporate Director determines is specifically designed and operated to assist elderly persons (as defined in the Commonwealth or Federal program); or

(B) intended for, and solely occupied by, persons sixty-two (62) years of age or older, or

(C) intended and operated for occupancy by at least one person fifty-five (55) years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the Corporate Director shall develop regulations which require at least the following factors:

(i) the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and

(ii) that at least eighty (80%) percent of the units are occupied by at least one person fifty-five (55) years of age or older per unit; and

(iii) the publication of, and adherence to, procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five (55) years of age or older.

(2) Housing shall not fail to meet the requirements for housing for older persons by reason of:

(3) (A) persons residing in such housing as of the date of enactment of this Act who do not meet the age requirements of subsections (2)(B) or (C): Provided, That new occupants of such housing meet the age requirements of subsections (2)(B) or (C); or

(B) unoccupied units: Provided, That such units are reserved for occupancy by persons who meet the age requirements of subsections (2)(B) or (C).

(4) Nothing in this Act prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Section 10. Administration.

(a) Authority and responsibility. The authority and responsibility for administering this Act shall be in the Corporate Director of NMHC.

(b) (RESERVED)

(c) Delegation of authority; appointment of hearing examiners; location of conciliation meetings; administrative review. The Corporate Director may delegate any of their functions, duties, and powers to employees of NMHC, boards of such employees, or to such hearing officers may be designated under this Act, or employed by NMHC, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to work, business, or matter under this Act. Insofar as possible, conciliation meetings shall be held on the island where the discriminatory housing practices allegedly occurred. The Corporate Director shall by rule prescribe such rights of appeal from decisions of hearing officers to other hearing officers or to officers in

NMHC, to boards of officers or to the Corporate Director them self, as shall be appropriate and in accordance with law.

(d) Cooperation of Corporate Director and executive departments and agencies in administration of housing and urban development programs and activities to further fair housing purposes. All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this Act and shall cooperate with the Corporate Director to further such purposes.

(e) Functions of Corporate Director. The Corporate Director shall administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of this Act.

Section 11. Administrative enforcement; preliminary matters.

(a) Complaints and answers.

(1) (A)

(i) An aggrieved person may, not later than one year after an alleged discriminatory housing practice has occurred or terminated, file a complaint with the Corporate Director alleging such discriminatory housing practice. The Corporate Director, on the Corporate Director's own initiative, may also file such a complaint.

(ii) Such complaints shall be in writing and shall contain such information and be in such form as the Corporate Director requires.

(iii) The Corporate Director may also investigate housing practices to determine whether a complaint should be brought under this section.

(B) Upon the filing of such a complaint:

(i) the Corporate Director shall serve notice upon the aggrieved person acknowledging such filing and advising the aggrieved person of the time limits and choice of forums provided under this Act;

(ii) the Corporate Director shall, not later than ten (10) days after such filing or the identification of an additional respondent under paragraph (2), serve on the respondent a notice identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of respondents under this Act, together with a copy of the original complaint;

(iii) each respondent may file, not later than ten (10) days after receipt of notice from the Corporate Director, an answer to such complaint; and

(iv) the Corporate Director shall make an investigation of the alleged discriminatory housing practice and complete such investigation within one hundred (100) days after the filing of the complaint, unless it is impracticable to do so.

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

(D) Complaints and answers shall be under oath or affirmation, and may be reasonably and fairly amended at any time.

(2) (A) A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice, under paragraph (1), to such person, from the Corporate Director.

(B) Such notice, in addition to meeting the requirements of paragraph (1), shall explain the basis for the Corporate Director's belief that the person to whom the notice is addressed is properly joined as a respondent.

(b) Investigative report and conciliation.

(1) During the period beginning with the filing of such complaint and ending with the filing of a charge or a dismissal by the Corporate Director, the

Corporate Director shall, to the extent feasible, engage in conciliation with respect to such complaint.

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

(3) A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief.

(4) Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Corporate Director determines that disclosure is not required to further the purposes of this Act.

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

- (i) the names and dates of contacts with witnesses;
- (ii) a summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;
- (iii) a summary description of other pertinent records;
- (iv) a summary of witness statements; and
- (v) answers to interrogatories.

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

(c) Failure to comply with conciliation agreement. Whenever the Corporate Director has reasonable cause to believe that a respondent has breached a conciliation agreement, the Corporate Director shall refer the matter to the Attorney General with a recommendation that a civil action be filed under section 15 for the enforcement of such agreement.

(d) Prohibitions and requirements with respect to disclosure of information.

(1) Nothing said or done in the course of conciliation under this Act may be made public or used as evidence in a subsequent proceeding under this Act without the written consent of the persons concerned.

(2) Notwithstanding paragraph (1), the Corporate Director shall make available to the aggrieved person and the respondent, at any time, upon request

following completion of the Corporate Director's investigation, information derived from an investigation and any final investigative report relating to that investigation.

(e) Prompt judicial action.

(1) If the Corporate Director concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this Act, the Corporate Director may authorize a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint under this section. Upon receipt of such an authorization, the Attorney General shall promptly commence and maintain such an action. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with the Commonwealth Rules of Civil Procedure. The commencement of a civil action under this subsection does not affect the initiation or continuation of administrative proceedings under this section and section 13 of this Act.

(2) Whenever the Corporate Director has reason to believe that a basis may exist for the commencement of proceedings against any respondent under sections 15(a) and 15(c), or for proceedings by any governmental licensing or supervisory authorities, the Corporate Director shall transmit the information upon which such belief is based to the Attorney General, or to such authorities, as the case may be.

(f) (RESERVED)

(g) Reasonable cause determination and effect.

(1) The Corporate Director shall, within one hundred (100) days after the filing of the complaint, determine based on the facts whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, unless it is impracticable to do so, or unless the Corporate Director has approved a conciliation agreement with respect to the complaint. If the Corporate Director is unable to make the determination within one hundred (100) days after the filing of the complaint, the Corporate Director shall notify the complainant and respondent in writing of the reasons for not doing so.

(2) (A) If the Corporate Director determines that reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Corporate Director shall, except as provided in subparagraph (C), immediately issue a charge on behalf of the aggrieved person, for further proceedings under section 13.

(B) Such charge:

(i) shall consist of a short and plain statement of the facts upon which the Corporate Director has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur,

(ii) shall be based on the final investigative report; and

(iii) need not be limited to the facts or grounds alleged in the complaint filed under section 11(a).

(C) If the Corporate Director determines that the matter involves the legality of local zoning or other local land use law or ordinance, the Corporate Director shall immediately refer the matter to the Attorney General for appropriate action under section 15, instead of issuing such charge.

(3) If the Corporate Director determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Corporate Director shall promptly dismiss the complaint. The Corporate Director shall make public disclosure of each such dismissal.

(4) The Corporate Director may not issue a charge under this section regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress, this Act, or another Commonwealth law, seeking relief with respect to that discriminatory housing practice.

(h) Service of copies of charge. After the Corporate Director issues a charge under this section, the Corporate Director shall cause a copy thereof, together with information as to how to make an election under section 13(a) and the effect of such an election, to be served:

- (1) on each respondent named in such charge, together with a notice of opportunity for a hearing at a time and place specified in the notice, unless that election is made; and
- (2) on each aggrieved person on whose behalf the complaint was filed.

Section 12. Subpoenas: giving of evidence.

(a) In general. The Corporate Director may, in accordance with this subsection, issue subpoenas and order discovery in aid of investigations and hearings under this Act. Such subpoenas and discovery may be ordered to the same extent and subject to the same limitations as would apply if the subpoenas or discovery were ordered or served in aid of a civil action in the Commonwealth Superior Court.

(b) Witness fees. Witnesses summoned by a subpoena under this Act shall be entitled to the same witness and mileage fees as witnesses in proceedings in the Commonwealth Superior Court. Fees payable to a witness summoned by a subpoena issued at the request of a party shall be paid by that party or, where a party is unable to pay the fees, by the Corporate Director.

(c) Criminal penalties.

(1) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if it is in such person's power to do so, in obedience to the subpoena or other lawful order under subsection (a), shall be fined not more than one hundred thousand (\$100,000.00) dollars or imprisoned not more than one year, or both.

(2) Any person who, with intent thereby to mislead another person in any proceeding under this title:

(A) makes or causes to be made any false entry or statement of fact in any report, account, record, or other document produced pursuant to subpoena or other lawful order under subsection (a);

(B) willfully neglects or fails to make or to cause to be made full, true, and correct entries in such reports, accounts, records, or other documents; or

(C) willfully mutilates, alters, or by any other means falsifies any documentary evidence;

shall be fined not more than one hundred thousand (\$100,000.00) dollars or imprisoned not more, than one (1) year, or both.

Section 13. Enforcement by Corporate Director.

(a) Election of judicial determination. When a charge is filed under section 11, a complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed, may elect to have the claims asserted in that charge decided in a civil action under subsection (c) in lieu of a hearing under subsection (b). The election must be made not later than twenty (20) days after the receipt by the electing person of service under section 11(h) or, in the case of the Corporate Director, not later than twenty (20) days after such service. The person making such election shall give notice of doing so to the Corporate Director and to all other complainants and respondents to whom the charge relates.

(b) Hearing before a hearing officer in absence of election. If an election is not made under subsection (a) with respect to a charge filed under section 11, the Corporate Director shall provide an opportunity for a hearing on the record with respect to a charge issued under section 11. The Corporate Director shall delegate the conduct of a hearing under this section to a hearing officer to be selected by the parties, or if the parties cannot so agree, a hearing officer to be appointed by the Presiding Judge of the Commonwealth Superior court. The hearing officer shall conduct the hearing on the island where the discriminatory housing practice is alleged to have occurred or to be about to occur.

(c) Rights of parties. At a hearing under this section, each party may appear in person, be represented by counsel, present evidence, cross-examine witnesses, and obtain the issuance of subpoenas under section 12. Any aggrieved person may intervene as a party in the proceeding. The Commonwealth Rules of Evidence apply to the presentation of evidence in such hearing as they would in a civil action in the Commonwealth Superior Court.

(d) Expedited discovery and hearing.

(1) Discovery in administrative proceedings under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the need of all parties to obtain relevant evidence.

(2) A hearing under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the needs and rights of the parties to obtain a fair hearing and a complete record.

(3) The Corporate Director shall, not later than one hundred (180) days after the date of enactment of this subsection, issue rules to implement this subsection.

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

(f) Effect of trial of civil action on administrative proceedings. A hearing officer may not continue administrative proceedings under this section regarding any alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress, this Act, or another Commonwealth law, seeking relief with respect to that discriminatory housing practice.

(g) Hearings, findings and conclusions, and order.

(1) The hearing officer shall commence the hearing under this section no later than one hundred twenty (120) days following the issuance of the charge, unless it is impracticable to do so. If the hearing officer is unable to commence the hearing within one hundred twenty (120) days after the issuance of the charge, the hearing officer shall notify the Corporate Director, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing of the reasons for not doing so.

(2) The hearing officer shall make findings of fact and conclusions of law within sixty (60) days after the end of the hearing under this section, unless it is impracticable to do so. If the hearing officer is unable to make findings of fact and conclusions of law within such period, or any succeeding sixty (60) day period thereafter, the hearing officer shall notify the Corporate Director, the

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

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

(A) in an amount not exceeding ten thousand (\$10,000.00) dollars if the respondent has not been adjudged to have committed any prior discriminatory housing practice;

(B) in an amount not exceeding twenty-five (\$25,000.00) dollars if the respondent has been adjudged to have committed one other discriminatory housing practice during the five (5) year period ending on the date of the filing of this charge; and

(C) in an amount not exceeding fifty thousand (\$50,000) dollars if the respondent has been adjudged to have committed two (2) or more discriminatory housing practices during the seven (7) year period ending on the date of the filing of this charge; except that if the acts constituting the discriminatory housing practice that is the object of the charge are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory housing practice, then the civil penalties set forth in subparagraphs (B) and (C) may be imposed without regard to the period of time within which any subsequent discriminatory housing practice occurred.

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

(5) In the case of an order with respect to a discriminatory housing practice that occurred in the course of a business subject to a licensing or regulation by a governmental agency, the Corporate Director shall, not later

than thirty (30) days after the date of the issuance of such order (or, if such order is judicially reviewed, thirty (30) days after such order is in substance affirmed upon such review):

(A) send copies of the findings of fact, conclusions of law, and the order, to that governmental agency; and

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

(6) In the case of an order against a respondent against whom another order was issued within the preceding five (5) years under this section, the Corporate Director shall send a copy of each such order to the Attorney General.

(7) If the hearing officer finds that the respondent has not engaged or is not about to engage in a discriminatory housing practice, as the case may be, such hearing officer shall enter an order dismissing the charge. The Corporate Director shall make public disclosure of each such dismissal.

(h) Review by Corporate Director; service of final order.

(1) The Corporate Director may review any finding, conclusion, or order issued under subsection (g). Such review shall be completed not later than thirty (30) days after the finding, conclusion, or order is so issued; otherwise the hearing officer's finding, conclusion, or order becomes final. The decision of the Corporate Director, upon review of the binding, conclusion, or order of the hearing officer shall be a final order of NMHC for the purpose of judicial review.

(2) The Corporate Director shall cause the findings of fact and conclusions of law made with respect to any final order for relief under this section, together with a copy of such order, to be served on each aggrieved person and each respondent in the proceeding.

(i) Judicial review.

(1) Any party aggrieved by a final order for relief under this section granting or denying in whole or in part the relief sought may obtain a review of such order under 1 CMC 9112.

(2) Notwithstanding such chapter, venue of the proceeding shall be on the island where the discriminatory housing practice is alleged to have occurred, and filing of the petition for review shall be not later than thirty (30) days after the order is entered.

(j) Court enforcement of administrative order upon petition by Corporate Director.

(1) The Corporate Director may petition the Commonwealth Superior Court for the enforcement of the order of the hearing officer and for appropriate temporary relief or restraining order, by filing in such court a written petition praying that such order be enforced and for appropriate temporary relief or restraining order.

(2) The Corporate Director shall file in court with the petition the record in the proceeding. A copy of such petition shall be forthwith transmitted by the clerk of the court to the parties to the proceeding before the hearing officer.

(k) Relief which may be granted

(1) Upon the filing of a petition under subsection (i) or (j), the court may:

(A) grant to the petitioner, or any other party, such temporary relief, restraining order, or other order as the court deems 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 such order to the extent that such order is affirmed or modified.

(2) Any party to the proceeding before the hearing officer may intervene in the Commonwealth Superior Court.

(3) No objection not made before the hearing officer shall be considered by the court, unless the failure or neglect to urge such objection is excused because of extraordinary circumstances.

(l) Enforcement decree in absence of petition for review. If no petition for review is filed under subsection (i) before the expiration of forty-five (45) days after the date the administrative law judge's order is entered, the administrative law judge's

findings of fact and order shall be conclusive in connection with any petition for enforcement

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(1) which is filed by the Corporate Director under subsection (j) after the end of such day; or

(2) under subsection (m).

(m) Court enforcement of administrative order upon petition of any person entitled to relief. If before the expiration of sixty (60) days after the date the administrative law judge's order is entered, no petition for review has been filed under subsection (i), and the Corporate Director has not sought enforcement of the order under subsection (j), any person entitled to relief under the order may petition for a decree enforcing the order in the United States court of appeals for the circuit in which the discriminatory housing practice is alleged to have occurred.

(n) Entry of decree. The clerk of the Commonwealth Superior Court in which a petition for enforcement is filed under subsection (1) or (m) shall forthwith enter a decree enforcing the order and shall transmit a copy of such decree to the Corporate Director, the respondent named in the petition, and to any other parties to the proceeding before the hearing officer.

(o) Civil action for enforcement when election is made for such civil action.

(1) If an election is made under subsection (a), the Corporate Director shall authorize, and not later than thirty (30) days after the election is made the Attorney General shall commence and maintain, a civil action on behalf of the aggrieved person in the Commonwealth Superior Court seeking relief under this Subsection.

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

(3) In a civil action under this subsection, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may grant as relief any relief which a court could grant with respect to such discriminatory housing practice in a civil action under section 14. Any relief so granted that would accrue to an aggrieved person in a civil action commenced by that aggrieved person under section 14 shall also accrue to that aggrieved person in a civil action under this subsection. If monetary relief is sought for the

benefit of an aggrieved person who does not intervene in the civil action, the court shall not award such relief if that aggrieved person has not complied with discovery orders entered by the court.

(p) Attorney's fees. In any administrative proceeding brought under this section, or any court proceeding arising therefrom, or any civil action under section 13, the hearing officer or the court, as the case may be, in its discretion, may allow the prevailing party, a reasonable attorney's fee and costs.

Section 14. Enforcement by private persons.

(a) Civil action.

(1) (A) An aggrieved person may commence a civil action in the Commonwealth Superior Court not later than two (2) years after the occurrence or the termination of an alleged discriminatory housing practice, or the breach of a conciliation agreement entered into under this Act, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice or breach.

(B) The computation of such two (2) year period shall not include any time during which an administrative proceeding under this Act was pending with respect to a complaint or charge under this Act based upon such discriminatory housing practice. This subparagraph does not apply to actions arising from a breach of a conciliation agreement.

(2) An aggrieved person may commence a civil action under this subsection whether or not a complaint has been filed under section 11(a) and without regard to the status of any such complaint, but if the Corporate Director has obtained a conciliation agreement with the consent of an aggrieved person, no action may be filed under this subsection by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such an agreement.

(3) An aggrieved person may not commence a civil action under this subsection with respect to an alleged discriminatory housing practice which forms the basis of a charge issued by the Corporate Director if a hearing officer

has commenced a hearing on the record under this Act with respect to such charge.

(b) Appointment of attorney by court. Upon application by a person alleging a discriminatory housing practice or a person against whom such a practice is alleged, the court may:

(1) appoint an attorney for such person; or

(2) authorize the commencement or continuation of a civil action under subsection (a) without the payment of fees, costs, or security, if in the opinion of the court such person is financially unable to bear the costs of such action.

(c) Relief which may be granted.

(1) In a civil action under subsection (a), if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff actual and punitive damages, and subject to subsection (d), may grant as relief, as the court 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).

(2) In a civil action under subsection (a), the court, in its discretion, may allow the prevailing party, a reasonable attorney's fee and costs.

(d) Effect on certain sales, encumbrances, and rentals. 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 complaint with the Corporate Director or civil action under this Act.

(e) Intervention by Attorney General. Upon timely application, the Attorney General may intervene in such civil action, if the Attorney General certifies that the case is of general public importance. Upon such intervention the Attorney General may obtain such relief as would be available to the Attorney General under section 15(e) in a civil action to which such section applies.

Section 15. Enforcement by the Attorney General.

(a) Pattern or practice cases. Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice

of resistance to the full enjoyment of any of the rights granted by this Act, or that any group of persons has been denied any of the rights granted by this Act and such denial raises an issue of general public importance, the Attorney General may commence a civil action in the Commonwealth Superior Court.

(b) On referral of discriminatory housing practice or conciliation agreement for enforcement.

(1) (A) The Attorney General may commence a civil action in the Commonwealth Superior Court for appropriate relief with respect to a discriminatory housing practice referred to the Attorney General by the Corporate Director under section 11 (e) or (g).

(B) A civil action under this paragraph may be commenced not later than the expiration of eighteen (18) months after the date of the occurrence or the termination of the alleged discriminatory housing practice.

(2) (A) The Attorney General may commence a civil action in the Commonwealth Superior Court for appropriate relief with respect to breach of a conciliation agreement referred to the Attorney General by the Corporate Director under section 11(c).

(B) A civil action may be commenced under this paragraph not later than the expiration of ninety (90) days after the referral of the alleged breach under section 11(c).

(c) Enforcement of subpoenas. The Attorney General, on behalf of the Corporate Director, or other party at whose request a subpoena is issued, under this Act, may enforce such subpoena in appropriate proceedings in the Commonwealth Superior Court.

(d) Relief which may be granted in civil actions under subsections (a) and (b).

(1) In a civil action under subsection (a) or (b), the court:

(A) may award such preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of this Act as is necessary to assure the full enjoyment of the rights granted by this Act;

(B) may award such other relief as the court deems appropriate, including monetary damages to persons aggrieved; and

(C) may, to vindicate the public interest, assess a civil penalty against the respondent:

(i) in an amount not exceeding fifty thousand (\$50,000.00) dollars, for a first violation; and

(ii) in an amount not exceeding one hundred thousand (\$100,000.00) dollars, for any subsequent violation.

(2) In a civil action under this section, the court, in its discretion, may allow the prevailing party, a reasonable attorney's fee and costs.

(e) Intervention in civil actions. Upon timely application, any person may intervene in a civil action commenced by the Attorney General under subsection (a) or (b) which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person or a conciliation agreement to which such person is a party. The court may grant such appropriate relief to any such intervening party as is authorized to be granted to a plaintiff in a civil action under section 14.

Section 16. Rules to implement Act. NMHC may make rules (including rules for the collection, maintenance, and analysis of appropriate data) to carry out this Act. NMHC shall give public notice and opportunity for comment with respect to all rules made under this section.

Section 17. Interference, coercion, or intimidation. It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 5, 6, 7, or 8.

Section 18. Violations; penalties. Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with:

(a) any person because of his race, color, religion, sex, disability (as such term is defined in section 4 of this Act), familial status (as such term is defined in section 4 of this Act), marital status, disability, or national origin and because he is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or

participating in any service, organization, or facility relating to the business of selling or renting dwellings; or

(b) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from:

(1) participating, without discrimination on account of race, color, religion, sex, disability (as such term is defined in section 4 of this Act), familial status (as such term is defined in section 4 of this Act), marital status, disability, or national origin, in any of the activities, services, organizations or facilities described in subsection (a); or

(2) affording another person or class of persons opportunity or protection so to participate; or

(c) any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, disability (as such term is defined in section 4 of this Act), familial status (as such term is defined in section 4 of this Act), marital status, or national origin, in any of the activities, services, organizations or facilities described in subsection (a) of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate;

shall be fined under this Act or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire shall be fined under this Act or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this Act or imprisoned for any term of years or for life, or both.

Section 19. Severability. If any provision of this Act or the application of any such provision to any person or circumstance is held invalid, the remainder of this Act and the application of the provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

Section 20. Effective Date. This Act shall take effect upon its approval by the Governor or upon its becoming law without such approval.

CERTIFIED BY:

ATTESTED BY:

/s/ Diego T. Benavente
DIEGO T. BENAVENTE
Speaker
House of Representatives

/s/ Evelyn C. Fleming
EVELYN C. FLEMING
House Clerk

Approved this 17th day of September, 1998

/s/ Pedro P. Tenorio
PEDRO P. TENORIO
Governor
Commonwealth of the Northern Mariana Islands