



CIVIL RIGHTS ACT OF 1968



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October 9, 2012

CIVIL RIGHTS ACT OF 1968

(Public Law 90–284, 82 Stat. 73)

[As Amended Through P.L. 111–211, Enacted July 29, 2010]

AN ACT To prescribe penalties for certain acts of violence or intimidation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Civil Rights Act of 1968”.

TITLE I—INTERFERENCE WITH FEDERALLY PROTECTED ACTIVITIES

SEC. 101. (a) [Amends chapter 13, civil rights, title 18, United States Code, by inserting at the end thereof a new section 245 (relating to federally protected civil rights activities).]

(b) Nothing contained in this section shall apply to or affect activities under title VIII of this Act.

(c) The provisions of this section shall not apply to acts or omissions on the part of law enforcement officers, members of the National Guard, as defined in section 101(9) of title 10, United States Code, members of the organized militia of any State or the District of Columbia, not covered by such section 101(9), or members of the Armed Forces of the United States, who are engaged in suppressing a riot or civil disturbance or restoring law and order during a riot or civil disturbance.

SEC. 102. [Amends the analysis of chapter 13 of title 18 of the United States Code by adding at the end thereof an item for the catchline of the section 245 added by subsection (a).]

SEC. 103. (a) [Amends section 241 of title 18 United States Code.]

(b) [Amends section 242 of title 18, United States Code.]

(c) [Amends section 12 of the Voting Rights Act of 1965.]

SEC. 104. (a) [Amends title 18 of the United States Code by inserting, immediately after chapter 101 a new chapter 102 (riots).]

(b) [Amends the table of contents to “PART I.—CRIMES” of title 18, United States Code.]

TITLE II—RIGHTS OF INDIANS

DEFINITIONS

SEC. 201. For purposes of this title, the term—

(1) “Indian tribe” means any tribe, band, or other group of Indians subject to the jurisdiction of the United States and recognized as possessing powers of self-government;

(2) “powers of self-government” means and includes all governmental powers possessed by an Indian tribe, executive, legislative, and judicial, and all offices, bodies, and tribunals by and through which they are executed, including courts of Indian offenses; and

(3) “Indian court” means any Indian tribal court or court of Indian offense.

[25 U.S.C. 1301]

INDIAN RIGHTS

SEC. 202.¹

(a) IN GENERAL.—No Indian tribe in exercising powers of self-government shall—

(1) make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances;

(2) violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;

(3) subject any person for the same offense to be twice put in jeopardy;

(4) compel any person in any criminal case to be a witness against himself;

(5) take any private property for a public use without just compensation;

(6) deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and at his own expense to have assistance of counsel for his defense (except as provided in subsection (b));

(7)(A) require excessive bail, impose excessive fines, or inflict cruel and unusual punishments;

(B) except as provided in subparagraph (C), impose for conviction of any 1 offense any penalty or punishment greater than imprisonment for a term of 1 year or a fine of \$5,000, or both;

(C) subject to subsection (b), impose for conviction of any 1 offense any penalty or punishment greater than imprisonment for a term of 3 years or a fine of \$15,000, or both; or

(D) impose on a person in a criminal proceeding a total penalty or punishment greater than imprisonment for a term of 9 years;

(8) deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law;

(9) pass any bill or attainder or ex post facto law; or

¹ So in law. See amendment made by section 234(a)(1) of Public Law 111-211.

(10) deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six persons.

(b) OFFENSES SUBJECT TO GREATER THAN 1-YEAR IMPRISONMENT OR A FINE GREATER THAN \$5,000.—A tribal court may subject a defendant to a term of imprisonment greater than 1 year but not to exceed 3 years for any 1 offense, or a fine greater than \$5,000 but not to exceed \$15,000, or both, if the defendant is a person accused of a criminal offense who—

(1) has been previously convicted of the same or a comparable offense by any jurisdiction in the United States; or

(2) is being prosecuted for an offense comparable to an offense that would be punishable by more than 1 year of imprisonment if prosecuted by the United States or any of the States.

(c) RIGHTS OF DEFENDANTS.—In a criminal proceeding in which an Indian tribe, in exercising powers of self-government, imposes a total term of imprisonment of more than 1 year on a defendant, the Indian tribe shall—

(1) provide to the defendant the right to effective assistance of counsel at least equal to that guaranteed by the United States Constitution; and

(2) at the expense of the tribal government, provide an indigent defendant the assistance of a defense attorney licensed to practice law by any jurisdiction in the United States that applies appropriate professional licensing standards and effectively ensures the competence and professional responsibility of its licensed attorneys;

(3) require that the judge presiding over the criminal proceeding—

(A) has sufficient legal training to preside over criminal proceedings; and

(B) is licensed to practice law by any jurisdiction in the United States;

(4) prior to charging the defendant, make publicly available the criminal laws (including regulations and interpretative documents), rules of evidence, and rules of criminal procedure (including rules governing the recusal of judges in appropriate circumstances) of the tribal government; and

(5) maintain a record of the criminal proceeding, including an audio or other recording of the trial proceeding.

(d) SENTENCES.—In the case of a defendant sentenced in accordance with subsections (b) and (c), a tribal court may require the defendant—

(1) to serve the sentence—

(A) in a tribal correctional center that has been approved by the Bureau of Indian Affairs for long-term incarceration, in accordance with guidelines to be developed by the Bureau of Indian Affairs (in consultation with Indian tribes) not later than 180 days after the date of enactment of the Tribal Law and Order Act of 2010;

(B) in the nearest appropriate Federal facility, at the expense of the United States pursuant to the Bureau of Prisons tribal prisoner pilot program described in section 304(c) of the Tribal Law and Order Act of 2010;

(C) in a State or local government-approved detention or correctional center pursuant to an agreement between the Indian tribe and the State or local government; or

(D) in an alternative rehabilitation center of an Indian tribe; or

(2) to serve another alternative form of punishment, as determined by the tribal court judge pursuant to tribal law.

(e) DEFINITION OF OFFENSE.—In this section, the term “offense” means a violation of a criminal law.

(f) EFFECT OF SECTION.—Nothing in this section affects the obligation of the United States, or any State government that has been delegated authority by the United States, to investigate and prosecute any criminal violation in Indian country.

【25 U.S.C. 1302】

HABEAS CORPUS

SEC. 203. The privilege of the writ of habeas corpus shall be available to any person, in a court of the United States, to test the legality of his detention by order of an Indian tribe.

【25 U.S.C. 1303】

TITLE III—MODEL CODE GOVERNING COURTS OF INDIAN OFFENSES

SEC. 301. The Secretary of the Interior is authorized and directed to recommend to the Congress, on or before July 1, 1968, a model code to govern the administration of justice by courts of Indian offenses on Indian reservations. Such code shall include provisions which will (1) assure that any individual being tried for an offense by a court of Indian offenses shall have the same rights, privileges, and immunities under the United States Constitution as would be guaranteed any citizen of the United States being tried in a Federal court for any similar offense, (2) assure that any individual being tried for an offense by a court of Indian offenses will be advised and made aware of his rights under the United States Constitution, and under any tribal constitution applicable to such individual, (3) establish proper qualifications for the office of judge of the court of Indian offenses, and (4) provide for the establishing of educational classes for the training of judges of courts of Indian offenses. In carrying out the provisions of this title, the Secretary of the Interior shall consult with the Indians, Indian tribes, and interested agencies of the United States.

【25 U.S.C. 1311】

SEC. 302. There is hereby authorized to be appropriated such sum as may be necessary to carry out the provisions of this title.

【25 U.S.C. 1312】

TITLE IV—JURISDICTION OVER CRIMINAL AND CIVIL
ACTIONS

SEC. 401. ASSUMPTION BY STATE OF CRIMINAL JURISDICTION.

(a)¹ CONSENT OF UNITED STATES.—

(1) IN GENERAL.—The consent of the United States is hereby given to any State not having jurisdiction over criminal offenses committed by or against Indians in the areas of Indian country situated within such State to assume, with the consent of the Indian tribe occupying the particular Indian country or part thereof which could be affected by such assumption, such measure of jurisdiction over any or all of such offenses committed within such Indian country or any part thereof as may be determined by such State to the same extent that such State has jurisdiction over any such offense committed elsewhere within the State, and the criminal laws of such State shall have the same force and effect within such Indian country or part thereof as they have elsewhere within that State.

(2) CONCURRENT JURISDICTION.—At the request of an Indian tribe, and after consultation with and consent by the Attorney General, the United States shall accept concurrent jurisdiction to prosecute violations of sections 1152 and 1153 of title 18, United States Code, within the Indian country of the Indian tribe.

(b) Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto; or shall deprive any Indian or any Indian tribe, band, or community of any right, privilege, or immunity afforded under Federal treaty, agreement, or statute with respect to hunting, trapping, or fishing or the control, licensing, or regulation thereof.

[25 U.S.C. 1321]

ASSUMPTION BY STATE OF CIVIL JURISDICTION

SEC. 402. (a) The consent of the United States is hereby given to any State not having jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in the areas of Indian country situated within such State to assume, with the consent of the tribe occupying the particular Indian country or part thereof which would be affected by such assumption, such measure of jurisdiction over any or all such civil causes of action arising within such Indian country or any part thereof as may be determined by such State to the same extent that such State has jurisdiction over other civil causes of action, and those civil laws of such State that are of general application to private persons or pri-

¹Section 221(a) of Public Law 111–211 (124 Stat. 2271) provides for amendments to section 401(a) of the Indian Civil Rights Act of 1968 (25 U.S.C. 1321(a)). Such amendment probably should have been made to the Civil Rights Act of 1968 but has been executed here to reflect the probable intent of Congress.

vate property shall have the same force and effect within such Indian country or part thereof as they have elsewhere within that State.

(b) Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute, or with any regulation made pursuant thereto; or shall confer jurisdiction upon the State to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of such property or any interest therein.

(c) Any tribal ordinance or custom heretofore or hereafter adopted by an Indian tribe, band, or community in the exercise of any authority which it may possess of the State, if not inconsistent with any applicable civil law of the State, be given full force and effect in the determination of civil causes of action pursuant to this section.

[25 U.S.C. 1322]

RETROCESSION OF JURISDICTION BY STATE

SEC. 403. (a) The United States is authorized to accept a retrocession by any State of all or any measure of the criminal or civil jurisdiction, or both, acquired by such State pursuant to the provisions of section 1162 of title 18 of the United States Code, section 1360 of title 28 of the United States Code, or section 7 of the Act of August 15, 1953 (67 Stat. 588), as it was in effect prior to its repeal by subsection (b) of this section.

(b) [Repeals section 7 of the Act of August 15, 1953 (67 Stat. 588), but leaves a partial savings clause as follows: "but such repeal shall not affect any cession of jurisdiction made pursuant to such section prior to its repeal".]

[25 U.S.C. 1323]

CONSENT TO AMEND STATE LAWS

SEC. 404. Notwithstanding the provisions of any enabling Act for the admission of a State, the consent of the United States is hereby given to the people of any State to amend, where necessary, their State constitution or existing statutes, as the case may be, to remove any legal impediment to the assumption of civil or criminal jurisdiction in accordance with the provisions of this title. The provisions of this title shall not become effective with respect to such assumption of jurisdiction by any such State until the people thereof have appropriately amended their State constitution or statutes, as the case may be.

[25 U.S.C. 1324]

ACTIONS NOT TO ABATE

SEC. 405. (a) No action or proceeding pending before any court or agency of the United States immediately prior to any cession of

jurisdiction by the United States pursuant to this title shall abate by reason of that cession. For the purposes of any such action or proceeding, such cession shall take effect on the day following the date of final determination of such action or proceeding.

(b) No cession made by the United States under this title, shall deprive any court of the United States of jurisdiction to hear, determine, render judgment, or impose sentence in any criminal action instituted against any person for any offense committed before the effective date of such cession, if the offense charged in such action was cognizable under any law of the United States at the time of the commission of such offense. For the purposes of any such criminal action, such cession shall take effect on the day following the date of final determination of such action.

[25 U.S.C. 1325]

SPECIAL ELECTION

SEC. 406. State jurisdiction acquired pursuant to this title with respect to criminal offenses or civil causes of action, or with respect to both, shall be applicable in Indian country only where the enrolled Indians within the affected area of such Indian country accept such jurisdiction by a majority vote of the adult Indians voting at a special election held for that purpose. The Secretary of the Interior shall call such special election under such rules and regulations as he may prescribe, when requested to do so by the tribal council or other governing body, or by 20 per centum of such enrolled adults.

[25 U.S.C. 1326]

TITLE V—OFFENSES WITHIN INDIAN COUNTRY

AMENDMENT

SEC. 501. **[Amends section 1153 of title 18 of the United States Code.]**

TITLE VI—EMPLOYMENT OF LEGAL COUNSEL

APPROVAL

SEC. 601. Notwithstanding any other provision of law, if any application made by an Indian, Indian tribe, Indian council, or any band or group of Indians under any law requiring the approval of the Secretary of the Interior or the Commissioner of Indian Affairs of contracts or agreements relating to the employment of legal counsel (including the choice of counsel and the fixing of fees) by any such Indians, tribe, council, band, or group is neither granted nor denied within ninety days following the making of such application, such approval shall be deemed to have been granted.

[25 U.S.C. 1331]

TITLE VII—MATERIALS RELATING TO CONSTITUTIONAL
RIGHTS OF INDIANS

SECRETARY OF INTERIOR TO PREPARE

SEC. 701. (a) In order that the constitutional rights of Indians might be fully protected, the Secretary of the Interior is authorized and directed to—

(1) have the document entitled “Indian Affairs, Laws and Treaties” (Senate Document Numbered 319, volumes 1 and 2, Fifty-eight Congress), revised and extended to include all treaties, laws, Executive orders, and regulations relating to Indian affairs in force on September 1, 1967, and to have such revised document printed at the Government Printing Office;

(2) have revised and republished the treaties entitled “Federal Indian Law”; and

(3) have prepared, to the extent determined by the Secretary of the Interior to be feasible, and accurate compilation of the official opinions, published and unpublished, of the Solicitor of the Department of the Interior relating to Indian affairs rendered by the Solicitor prior to September 1, 1967, and to have such compilation printed as a Government publication at the Government Printing Office.

(b) With respect to the document entitled “Indian Affairs, Laws and Treaties” as revised and extended in accordance with paragraph (1) of subsection (a), and the compilation prepared in accordance with paragraph (3) of such subsection, the Secretary of the Interior shall take such action as may be necessary to keep such document and compilation current on an annual basis.

(c) There is authorized to be appropriated for carrying out the provisions of this title such sum as may be necessary.

[25 U.S.C. 1341]

TITLE VIII—FAIR HOUSING

SHORT TITLE

SEC. 800. This title may be cited as the “Fair Housing Act”.

POLICY

SEC. 801. It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States.

[42 U.S.C. 3601]

DEFINITIONS

SEC. 802. As used in this title—

(a) “Secretary” means the Secretary of Housing and Urban Development.

(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 11 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 section 804, 805, 806, or 818.

(g) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States.

(h) "Handicap" means, with respect to a person—

(1) a physical or mental impairment 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 Secretary) who files a complaint under section 810.

(k) "Familial status" means one or more individuals (who have not attained the age of 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 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 Secretary.

(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 under section 810(a).

(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).

[42 U.S.C. 3602]

EFFECTIVE DATES OF CERTAIN PROHIBITIONS

SEC. 803. (a) Subject to the provisions of subsection (b) and section 807, the prohibitions against discrimination in the sale or rental of housing set forth in section 804 shall apply:

(1) Upon enactment of this title, to—

(A) dwellings owned or operated by the Federal Government;

(B) dwellings provided in whole or in part with the aid of loans, advances, grants, or contributions made by the Federal Government, under agreements entered into after November 20, 1962, unless payment due thereon has been made in full prior to the date of enactment of this title;

(C) dwellings provided in whole or in part by loans insured, guaranteed, or otherwise secured by the credit of the Federal Government, under agreements entered into after November 20, 1962, unless payment thereon has been made in full prior to the date of enactment of this title: *Provided*, That nothing contained in subparagraphs (B) and (C) of this subsection shall be applicable to dwellings solely by virtue of the fact that they are subject to mortgages held by an FDIC or FSLIC institution; and

(D) dwellings provided by the development or the redevelopment of real property purchased, rented, or otherwise obtained from a State or local public agency receiving Federal financial assistance for slum clearance or urban renewal with respect to such real property under loan or grant contracts entered into after November 20, 1962.

(2) After December 31, 1968, to all dwellings covered by paragraph (1) and to all other dwellings except as exempted by subsection (b).

(b) Nothing in section 804 (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 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 after December 31, 1969, the sale or rental of any such single-family house shall be excepted from

the application of this title 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 804(c) of this title; 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 his residence.

(c) 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.

[42 U.S.C. 3603]

DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING AND OTHER
PROHIBITED PRACTICES

SEC. 804. As made applicable by section 803 and except as exempted by sections 803(b) and 807, 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, 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, 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, handicap, familial 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, handicap, familial 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, handicap, familial 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 handicap 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 handicap 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 handicapped 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.²

(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 that is 30 months after the date of enactment of the Fair Housing Amendments Act of 1988, a failure to design and construct those dwellings in such a manner that—

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

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

²Period probably should be a semicolon. See section 15 of Pub. L. 100-430, 102 Stat. 1636.

(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 for physically handicapped people (commonly cited as “ANSI A117.1”) suffices to satisfy the requirements of paragraph (3)(C)(iii).

(5)(A) If a State or unit of general local government has incorporated into its laws the requirements set forth in paragraph (3)(C), compliance with such laws shall be deemed to satisfy the requirements of that paragraph.

(B) A State or unit of general local government may review and approve newly constructed covered multifamily dwellings for the purpose of making determinations as to whether the design and construction requirements of paragraph (3)(C) are met.

(C) The Secretary shall encourage, but may not require, States and units of local government to include in their existing procedures for the review and approval of newly constructed covered multifamily dwellings, determinations as to whether the design and construction of such dwellings are consistent with paragraph (3)(C), and shall provide technical assistance to States and units of local government and other persons to implement the requirements of paragraph (3)(C).

(D) Nothing in this title shall be construed to require the Secretary to review or approve the plans, designs or construction of all covered multifamily dwellings, to determine whether the design and construction of such dwellings are consistent with the requirements of paragraph 3(C).

(6)(A) Nothing in paragraph (5) shall be construed to affect the authority and responsibility of the Secretary or a State or local public agency certified pursuant to section 810(f)(3) of this Act to receive and process complaints or otherwise engage in enforcement activities under this title.

(B) Determinations by a State or a unit of general local government under paragraphs (5) (A) and (B) shall not be conclusive in enforcement proceedings under this title.

(7) As used in this subsection, the term “covered multifamily dwellings” means—

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

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

(8) Nothing in this title shall be construed to invalidate or limit any law of a State or political subdivision of a State, or other jurisdiction in which this title shall be effective, that requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this title.

(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.

[42 U.S.C. 3604]

DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED
TRANSACTIONS

SEC. 805. (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, handicap, familial 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 title 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, handicap, or familial status.

[42 U.S.C. 3605]

DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES

SEC. 806. After December 31, 1968, 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, handicap, familial status, or national origin.

[42 U.S.C. 3606]

EXEMPTION

SEC. 807. (a) Nothing in this title 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 title prohibit a private club not in fact open to the public, which as an incident to its primary pur-

pose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental of occupancy of such lodgings to its members or from giving preference to its members.

(b)(1) Nothing in this title limits the applicability of any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this title 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 State or Federal program that the Secretary determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or

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

(C) intended and operated for occupancy by persons 55 years of age or older, and—

(i) at least 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older;

(ii) the housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subparagraph; and

(iii) the housing facility or community complies with rules issued by the Secretary for verification of occupancy, which shall—

(I) provide for verification by reliable surveys and affidavits; and

(II) include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of clause (ii). Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification.

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

(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 title 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).

(5)(A) A person shall not be held personally liable for monetary damages for a violation of this title if such person reasonably relied, in good faith, on the application of the exemption under this subsection relating to housing for older persons.

(B) For the purposes of this paragraph, a person may only show good faith reliance on the application of the exemption by showing that—

- (i) such person has no actual knowledge that the facility or community is not, or will not be, eligible for such exemption; and
- (ii) the facility or community has stated formally, in writing, that the facility or community complies with the requirements for such exemption.

[42 U.S.C. 3607]

ADMINISTRATION

SEC. 808. (a) The authority and responsibility for administering this Act shall be in the Secretary of Housing and Urban Development.¹

(b) The Department of Housing and Urban Development shall be provided an additional Assistant Secretary. [Amends the Housing and Urban Development Act (Public Law 89-174), sections 4(a) and 7.]

(c) The Secretary may delegate any of his functions, duties and powers to employees of the Department of Housing and Urban Development or to boards of such employees, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter under this title. The persons to whom such delegations are made with respect to hearing functions, duties, and powers shall be appointed and shall serve in the Department of Housing and Urban Development in compliance with sections 3105, 3344, 5372, and 7521 of title 5 of the United States Code. Insofar as possible, conciliation meetings shall be held in the cities or other localities where the discriminatory housing practices allegedly occurred. The Secretary shall by rule prescribe such rights of appeal from the decisions of his hearing examiners³ to other hearing examiners³ or to other officers in the Department, to boards of officers or to himself, as shall be appropriate and in accordance with law.

(d) All executive departments and agencies shall administer their programs and activities relating to housing and urban development (including any Federal agency having regulatory or supervisory authority over financial institution) development in a manner affirmatively to further the purposes of this title and shall cooperate with the Secretary to further such purposes.

(e) The Secretary of Housing and Urban Development shall—

- (1) make studies with respect to the nature and extent of discriminatory housing practices in representative communities, urban, suburban, and rural throughout the United States;

¹ See section 589 of Quality Housing and Work Responsibility Act of 1998 (Public Law 105-276; 42 U.S.C. 3608 note) for the establishment of policy for treatment of occupancy standards in cases of complaints of discrimination under the Fair Housing Act on the basis of familial status.

³ Any reference to a hearing law examiner appointed under section 3105 of title 5, U.S.C., is deemed to be a reference to an administrative law judge, pursuant to section 3 of Pub. L. 95-251, 92 Stat. 184.

(2) publish and disseminate reports, recommendations, and information derived from such studies, including an annual report to the Congress—

(A) specifying the nature and extent of progress made nationally in eliminating discriminatory housing practices and furthering the purposes of this title, obstacles remaining to achieving equal housing opportunity, and recommendations for further legislative or executive action; and

(B) containing tabulations of the number of instances (and the reasons therefor) in the preceding year in which—

(i) investigations are not completed as required by section 810(a)(1)(B);

(ii) determinations are not made within the time specified in section 810(g); and

(iii) hearings are not commenced or findings and conclusions are not made as required by section 812(g);

(3) cooperate with and render technical assistance to Federal, State, local, and other public or private agencies, organizations, and institutions which are formulating or carrying on programs to prevent or eliminate discriminatory housing practices;

(4) cooperate with and render such technical and other assistance to the Community Relations Service as may be appropriate to further its activities in preventing or eliminating discriminatory housing practices⁴

(5) administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of this title; and

(6) annually report to the Congress, and make available to the public, data on the race, color, religion, sex, national origin, age, handicap, and family characteristics of persons and households who are applicants for, participants in, or beneficiaries or potential beneficiaries of, programs administered by the Department to the extent such characteristics are within the coverage of the provisions of law and Executive orders referred to in subsection (f) which apply to such programs (and in order to develop the data to be included and made available to the public under this subsection, the Secretary shall, without regard to any other provision of law, collect such information relating to those characteristics as the Secretary determines to be necessary or appropriate).

(f) The provisions of law and Executive orders to which subsection (e)(6) applies are—

(1) title VI of the Civil Rights Act of 1964;

(2) title VIII of the Civil Rights Act of 1968;

(3) section 504 of the Rehabilitation Act of 1973;

(4) the Age Discrimination Act of 1975;

(5) the Equal Credit Opportunity Act;

(6) section 1978 of the Revised Statutes (42 U.S.C. 1982);

⁴So in law. Probably needs a semicolon at end. See section 7(b) of Pub. L. 100-430, 102 Stat. 1624.

- (7) section 8(a) of the Small Business Act;
- (8) section 527 of the National Housing Act;
- (9) section 109 of the Housing and Community Development Act of 1974;
- (10) section 3 of the Housing and Urban Development Act of 1968;
- (11) Executive orders 11063, 11246, 11625, 12250, 12259, and 12432; and
- (12) any other provision of law which the Secretary specifies by publication in the Federal Register for the purpose of this subsection.

[42 U.S.C. 3608]

EDUCATION AND CONCILIATION

SEC. 809. Immediately after the enactment of this title the Secretary shall commence such educational and conciliatory activities as in his judgment will further the purposes of this title. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this title and his suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement. He may pay per diem, travel, and transportation expenses for persons attending such conferences as provided in section 5703 of title 5 of the United States Code. He shall consult with State and local officials and other interested parties to learn the extent, if any, to which housing discrimination exists in their State or locality, and whether and how State or local enforcement programs might be utilized to combat such discrimination in connection with or in place of, the Secretary's enforcement of this title. The Secretary shall issue reports on such conferences and consultations as he deems appropriate.

[42 U.S.C. 3609]

ADMINISTRATIVE ENFORCEMENT; PRELIMINARY MATTERS

SEC. 810. (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 Secretary alleging such discriminatory housing practice. The Secretary, on the Secretary'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 Secretary requires.

(iii) The Secretary 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 Secretary 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 title;

(ii) the Secretary shall, not later than 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 re-

spondent of the procedural rights and obligations of respondents under this title, together with a copy of the original complaint;

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

(iv) the Secretary shall make an investigation of the alleged discriminatory housing practice and complete such investigation within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), unless it is impracticable to do so.

(C) If the Secretary is unable to complete the investigation within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), the Secretary 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 Secretary.

(B) Such notice, in addition to meeting the requirements of paragraph (1), shall explain the basis for the Secretary'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 Secretary, the Secretary 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 Secretary.

(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 Secretary determines that disclosure is not required to further the purposes of this title.

(5)(A) At the end of each investigation under this section, the Secretary 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 Secretary has reasonable cause to believe that a respondent has breached a conciliation agreement, the Secretary shall refer the matter to the Attorney General with a recommendation that a civil action be filed under section 814 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 title may be made public or used as evidence in a subsequent proceeding under this title without the written consent of the persons concerned.

(2) Notwithstanding paragraph (1), the Secretary shall make available to the aggrieved person and the respondent, at any time, upon request following completion of the Secretary's investigation, information derived from an investigation and any final investigative report relating to that investigation.

(e) PROMPT JUDICIAL ACTION.—(1) If the Secretary concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this title, the Secretary 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 Federal 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 812 of this title.

(2) Whenever the Secretary has reason to believe that a basis may exist for the commencement of proceedings against any respondent under sections 814(a) and 814(c) or for proceedings by any governmental licensing or supervisory authorities, the Secretary shall transmit the information upon which such belief is based to the Attorney General, or to such authorities, as the case may be.

(f) REFERRAL FOR STATE OR LOCAL PROCEEDINGS.—(1) Whenever a complaint alleges a discriminatory housing practice—

(A) within the jurisdiction of a State or local public agency; and

(B) as to which such agency has been certified by the Secretary under this subsection;

the Secretary shall refer such complaint to that certified agency before taking any action with respect to such complaint.

(2) Except with the consent of such certified agency, the Secretary, after that referral is made, shall take no further action with respect to such complaint unless—

(A) the certified agency has failed to commence proceedings with respect to the complaint before the end of the 30th day after the date of such referral;

(B) the certified agency, having so commenced such proceedings, fails to carry forward such proceedings with reasonable promptness; or

(C) the Secretary determines that the certified agency no longer qualifies for certification under this subsection with respect to the relevant jurisdiction.

(3)(A) The Secretary may certify an agency under this subsection only if the Secretary determines that—

(i) the substantive rights protected by such agency in the jurisdiction with respect to which certification is to be made;

(ii) the procedures followed by such agency;

(iii) the remedies available to such agency; and

(iv) the availability of judicial review of such agency's action;

are substantially equivalent to those created by and under this title.

(B) Before making such certification, the Secretary shall take into account the current practices and past performance, if any, of such agency.

(4) During the period which begins on the date of the enactment of the Fair Housing Amendments Act of 1988 and ends 40 months after such date, each agency certified (including an agency certified for interim referrals pursuant to 24 CFR 115.11, unless such agency is subsequently denied recognition under 24 CFR 115.7) for the purposes of this title on the day before such date shall for the purposes of this subsection be considered certified under this subsection with respect to those matters for which such agency was certified on that date. If the Secretary determines in an individual case that an agency has not been able to meet the certification requirements within this 40-month period due to exceptional circumstances, such as the infrequency of legislative sessions in that jurisdiction, the Secretary may extend such period by not more than 8 months.

(5) Not less frequently than every 5 years, the Secretary shall determine whether each agency certified under this subsection continues to qualify for certification. The Secretary shall take appropriate action with respect to any agency not so qualifying.

(g) REASONABLE CAUSE DETERMINATION AND EFFECT.—(1) The Secretary shall, within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), 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 Secretary has approved a conciliation agreement with respect to the complaint. If the Secretary is unable to make the determination within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), the Secretary shall notify the complainant and respondent in writing of the reasons for not doing so.

(2)(A) If the Secretary determines that reasonable cause exists to believe that a discriminatory housing practice has occurred or is

about to occur, the Secretary shall, except as provided in subparagraph (C), immediately issue a charge on behalf of the aggrieved person, for further proceedings under section 812.

(B) Such charge—

(i) shall consist of a short and plain statement of the facts upon which the Secretary 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 810(a).

(C) If the Secretary determines that the matter involves the legality of any State or local zoning or other land use law or ordinance, the Secretary shall immediately refer the matter to the Attorney General for appropriate action under section 814, instead of issuing such charge.

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

(4) The Secretary 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 or a State law, seeking relief with respect to that discriminatory housing practice.

(h) SERVICE OF COPIES OF CHARGE.—After the Secretary issues a charge under this section, the Secretary shall cause a copy thereof, together with information as to how to make an election under section 812(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.

[42 U.S.C. 3610]

SUBPOENAS; GIVING OF EVIDENCE

SEC. 811. (a) IN GENERAL.—The Secretary may, in accordance with this subsection, issue subpoenas and order discovery in aid of investigations and hearings under this title. 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 United States district court for the district in which the investigation is taking place.

(b) WITNESS FEES.—Witnesses summoned by a subpoena under this title shall be entitled to the same witness and mileage fees as witnesses in proceedings in United States district courts. 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 Secretary.

(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 \$100,000 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 \$100,000 or imprisoned not more than one year, or both.

[42 U.S.C. 3611]

ENFORCEMENT BY SECRETARY

SEC. 812. (a) ELECTION OF JUDICIAL DETERMINATION.—When a charge is filed under section 810, 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 (o) in lieu of a hearing under subsection (b). The election must be made not later than 20 days after the receipt by the electing person of service under section 810(h) or, in the case of the Secretary, not later than 20 days after such service. The person making such election shall give notice of doing so to the Secretary and to all other complainants and respondents to whom the charge relates.

(b) ADMINISTRATIVE LAW JUDGE HEARING IN ABSENCE OF ELECTION.—If an election is not made under subsection (a) with respect to a charge filed under section 810, the Secretary shall provide an opportunity for a hearing on the record with respect to a charge issued under section 810. The Secretary shall delegate the conduct of a hearing under this section to an administrative law judge appointed under section 3105 of title 5, United States Code. The administrative law judge shall conduct the hearing at a place in the vicinity in which 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 811. Any aggrieved person may intervene as a party in the proceeding. The Federal Rules of Evidence apply to the presentation of evidence in such hearing as they would in a civil action in a United States district 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 Secretary shall, not later than 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.—An administrative law judge 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 or a State law, seeking relief with respect to that discriminatory housing practice.

(g) HEARINGS, FINDINGS AND CONCLUSIONS, AND ORDER.—(1) The administrative law judge shall commence the hearing under this section no later than 120 days following the issuance of the charge, unless it is impracticable to do so. If the administrative law judge is unable to commence the hearing within 120 days after the issuance of the charge, the administrative law judge shall notify the Secretary, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing of the reasons for not doing so.

(2) The administrative law judge shall make findings of fact and conclusions of law within 60 days after the end of the hearing under this section, unless it is impracticable to do so. If the administrative law judge is unable to make findings of fact and conclusions of law within such period, or any succeeding 60-day period thereafter, the administrative law judge shall notify the Secretary, 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 administrative law judge finds that a respondent has engaged or is about to engage in a discriminatory housing practice, such administrative law judge 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 \$10,000 if the respondent has not been adjudged to have committed any prior discriminatory housing practice;

(B) in an amount not exceeding \$25,000 if the respondent has been adjudged to have committed one other discriminatory housing practice during the 5-year period ending on the date of the filing of this charge; and

(C) in an amount not exceeding \$50,000 if the respondent has been adjudged to have committed 2 or more discriminatory housing practices during the 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 title.

(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 Secretary shall, not later than 30 days after the date of the issuance of such order (or, if such order is judicially reviewed, 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 5 years under this section, the Secretary shall send a copy of each such order to the Attorney General.

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

(h) REVIEW BY SECRETARY; SERVICE OF FINAL ORDER.—(1) The Secretary may review any finding, conclusion, or order issued under subsection (g). Such review shall be completed not later than 30 days after the finding, conclusion, or order is so issued; otherwise the finding, conclusion, or order becomes final.

(2) The Secretary 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 chapter 158 of title 28, United States Code.

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

(j) COURT ENFORCEMENT OF ADMINISTRATIVE ORDER UPON PETITION BY SECRETARY.—(1) The Secretary may petition any United States court of appeals for the circuit in which the discriminatory housing practice is alleged to have occurred or in which any respondent resides or transacts business for the enforcement of the order of the administrative law judge 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 Secretary 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 administrative law judge.

(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 administrative law judge may intervene in the court of appeals.

(3) No objection not made before the administrative law judge 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 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—

(1) which is filed by the Secretary 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 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 Secretary 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 court of appeals in which a petition for enforcement is filed under subsection (l) or (m) shall forthwith enter a decree enforcing the order and shall transmit a copy of such decree to the Secretary, the respondent named in the petition, and to any other parties to the proceeding before the administrative law judge.

(o) CIVIL ACTION FOR ENFORCEMENT WHEN ELECTION IS MADE FOR SUCH CIVIL ACTION.—(1) If an election is made under subsection (a), the Secretary shall authorize, and not later than 30 days after the election is made the Attorney General shall commence and maintain, a civil action on behalf of the aggrieved person in a United States district court seeking relief under this subsection. Venue for such civil action shall be determined under chapter 87 of title 28, United States Code.

(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 813. Any relief so granted that would accrue to an aggrieved person in a civil action commenced by that aggrieved person under section 813 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 812, the administrative law judge or the court, as the case may be, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the extent provided by section 504 of title 5, United States Code, or by section 2412 of title 28, United States Code.

[42 U.S.C. 3612]

ENFORCEMENT BY PRIVATE PERSONS

SEC. 813. (a) CIVIL ACTION.—(1)(A) An aggrieved person may commence a civil action in an appropriate United States district court or State court not later than 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 title, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice or breach.

(B) The computation of such 2-year period shall not include any time during which an administrative proceeding under this title was pending with respect to a complaint or charge under this title 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 810(a) and without regard to the status of any such complaint, but if the Secretary or a State or local agency 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 Secretary if an administrative law judge has commenced a hearing on the record under this title 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, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the same extent as a private person.

(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 Secretary or civil action under this title.

(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 814(e) in a civil action to which such section applies.

[42 U.S.C. 3613]

ENFORCEMENT BY THE ATTORNEY GENERAL

SEC. 814. (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 title, or that any group of persons has been denied any of the rights granted by this title and such denial raises an issue of general public importance, the Attorney General may commence a civil action in any appropriate United States district court.

(b) ON REFERRAL OF DISCRIMINATORY HOUSING PRACTICE OR CONCILIATION AGREEMENT FOR ENFORCEMENT.—(1)(A) The Attorney General may commence a civil action in any appropriate United States district court for appropriate relief with respect to a discriminatory housing practice referred to the Attorney General by the Secretary under section 810(g).

(B) A civil action under this paragraph may be commenced not later than the expiration of 18 months after the date of the occur-

rence or the termination of the alleged discriminatory housing practice.

(2)(A) The Attorney General may commence a civil action in any appropriate United States district court for appropriate relief with respect to breach of a conciliation agreement referred to the Attorney General by the Secretary under section 810(c).

(B) A civil action may be commenced under this paragraph not later than the expiration of 90 days after the referral of the alleged breach under section 810(c).

(c) ENFORCEMENT OF SUBPOENAS.—The Attorney General, on behalf of the Secretary, or other party at whose request a subpoena is issued, under this title, may enforce such subpoena in appropriate proceedings in the United States district court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(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 title as is necessary to assure the full enjoyment of the rights granted by this title;

(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 \$50,000, for a first violation; and

(ii) in an amount not exceeding \$100,000, for any subsequent violation.

(2) In a civil action under this section, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the extent provided by section 2412 of title 28, United States Code.

(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 813.

[42 U.S.C. 3614]

SEC. 814A. INCENTIVES FOR SELF-TESTING AND SELF-CORRECTION.

(a) PRIVILEGED INFORMATION.—

(1) CONDITIONS FOR PRIVILEGE.—A report or result of a self-test (as that term is defined by regulation of the Secretary) shall be considered to be privileged under paragraph (2) if any person—

(A) conducts, or authorizes an independent third party to conduct, a self-test of any aspect of a residential real es-

- tate related lending transaction of that person, or any part of that transaction, in order to determine the level or effectiveness of compliance with this title by that person; and
- (B) has identified any possible violation of this title by that person and has taken, or is taking, appropriate corrective action to address any such possible violation.
- (2) PRIVILEGED SELF-TEST.—If a person meets the conditions specified in subparagraphs (A) and (B) of paragraph (1) with respect to a self-test described in that paragraph, any report or results of that self-test—
- (A) shall be privileged; and
- (B) may not be obtained or used by any applicant, department, or agency in any—
- (i) proceeding or civil action in which one or more violations of this title are alleged; or
- (ii) examination or investigation relating to compliance with this title.
- (b) RESULTS OF SELF-TESTING.—
- (1) IN GENERAL.—No provision of this section may be construed to prevent an aggrieved person, complainant, department, or agency from obtaining or using a report or results of any self-test in any proceeding or civil action in which a violation of this title is alleged, or in any examination or investigation of compliance with this title if—
- (A) the person to whom the self-test relates or any person with lawful access to the report or the results—
- (i) voluntarily releases or discloses all, or any part of, the report or results to the aggrieved person, complainant, department, or agency, or to the general public; or
- (ii) refers to or describes the report or results as a defense to charges of violations of this title against the person to whom the self-test relates; or
- (B) the report or results are sought in conjunction with an adjudication or admission of a violation of this title for the sole purpose of determining an appropriate penalty or remedy.
- (2) DISCLOSURE FOR DETERMINATION OF PENALTY OR REMEDY.—Any report or results of a self-test that are disclosed for the purpose specified in paragraph (1)(B)—
- (A) shall be used only for the particular proceeding in which the adjudication or admission referred to in paragraph (1)(B) is made; and
- (B) may not be used in any other action or proceeding.
- (c) ADJUDICATION.—An aggrieved person, complainant, department, or agency that challenges a privilege asserted under this section may seek a determination of the existence and application of that privilege in—
- (1) a court of competent jurisdiction; or
- (2) an administrative law proceeding with appropriate jurisdiction.

【42 U.S.C. 3614-1】

RULES TO IMPLEMENT TITLE

SEC. 815. The Secretary may make rules (including rules for the collection, maintenance, and analysis of appropriate data) to carry out this title. The Secretary shall give public notice and opportunity for comment with respect to all rules made under this section.

【42 U.S.C. 3614a】

EFFECT ON STATE LAWS

SEC. 816. Nothing in this title shall be construed to invalidate or limit any law of a State or political subdivision of a State, or of any other jurisdiction in which this title shall be effective, that grants, guarantees or protects the same rights as are granted by this title; but any law of a State, a political subdivision, or other such jurisdiction that purports to require or permit any action that would be a discriminatory housing practice under this title shall to that extent be invalid.

【42 U.S.C. 3615】

COOPERATION WITH STATE AND LOCAL AGENCIES ADMINISTERING FAIR HOUSING LAWS

SEC. 817. The Secretary may cooperate with State and local agencies charged with the administration of State and local fair housing laws and, with the consent of such agencies, utilize the services of such agencies and their employees and, notwithstanding any other provision of law, may reimburse such agencies and their employees for services rendered to assist him in carrying out this title. In furtherance of such cooperative efforts, the Secretary may enter into written agreements with such State or local agencies. All agreements and terminations thereof shall be published in the Federal Register.

【42 U.S.C. 3616】

INTERFERENCE, COERCION, OR INTIMIDATION

SEC. 818. 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 803, 804, 805, or 806.

【42 U.S.C. 3617】

APPROPRIATIONS

SEC. 819. There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this title.

【42 U.S.C. 3618】

SEPARABILITY OF PROVISIONS

SEC. 820. If any provision of this title or the application thereof to any person or circumstances is held invalid, the remainder of the

title and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

[42 U.S.C. 3619]

TITLE IX

PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES

SEC. 901. 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, handicap (as such term is defined in section 802 of this Act), familial status (as such term is defined in section 802 of this Act), 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, handicap (as such term is defined in section 802 of this Act), familial status (as such term is defined in section 802 of this Act), or national origin, in any of the activities, services, organizations or facilities described in subsection 901(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, handicap (as such term is defined in section 802 of this Act), familial status (as such term is defined in section 802 of this Act), or national origin, in any of the activities, services, organizations or facilities described in subsection 901(a), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate—

shall be fined under title 18, United States Code, 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 title 18, United States Code, 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 title 18, United States Code, or imprisoned for any term of years or for life, or both.

[42 U.S.C. 3631]

TITLE X—CIVIL OBEDIENCE

SHORT TITLE

SEC. 1001. This title may be cited as the “Civil Obedience Act of 1968”.

CRIMINAL PENALTIES FOR ACTS COMMITTED IN CIVIL DISORDERS

SEC. 1002. (a) **[Amends title 18, United States Code, by inserting a new chapter 12, civil disorders.]**

(b) **[Amends the table of contents to “PART I.—CRIMES” of title 18, United States Code.]**