

As Engrossed: 3/24/95

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**
4 **By: Senator Lewellen**
5 ***By: Representative J. Wilson***

A Bill

ACT 1327 OF 1995
SENATE BILL 825

For An Act To Be Entitled

"*THE ARKANSAS FAIR HOUSING ACT.*"

Subtitle

"*THE ARKANSAS FAIR HOUSING ACT.*"

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

16 SECTION 1. Arkansas Code Title 16, Chapter 123 is amended to add the
17 following new subchapter:

18 "SUBCHAPTER 2. - FAIR HOUSING.

20 *16-123-201. (a) This subchapter shall be known and may be cited as the*
21 *'Arkansas Fair Housing Act'.*

22 *(b) As used in this subchapter:*

23 (1) *_Housing accommodation_ includes improved or unimproved real*
24 *property, or a part thereof, which is used or occupied, or is intended,*
25 *arranged, or designed to be used or occupied, as the home or residence of one*
26 *or more persons.*

27 (2) *_Real estate broker or salesman_ means a person, whether licensed*
28 *or not, who, for or with the expectation of receiving a consideration, lists,*
29 *sells, purchases, exchanges, rents, or leases real property; who negotiates or*
30 *attempts to negotiate any of those activities; who holds himself out as*
31 *engaged in those activities; who negotiates or attempts to negotiate a loan*
32 *secured or to be secured by a mortgage or other encumbrance upon real*
33 *property; who is engaged in the business of listing real property in a*
34 *publication; or a person employed by or acting on behalf of a real estate*
35 *broker or salesman.*

36 (3) *_Real estate transaction_ means the sale, exchange, rental, or*

0308951539.mih642

1 lease of real property, or an interest therein.

2 (4) Real property includes a building, structure, mobile home, real
3 estate, land, mobile home park, trailer park, tenement, leasehold, or an
4 interest in a real estate cooperative or condominium.

5

6 16-123-202. The opportunity to obtain housing and other real estate
7 without discrimination because of religion, race, color, national origin, sex,
8 disability, or familial status as prohibited by this chapter, is recognized
9 and declared to be a civil right.

10

11 16-123-203. (a) A person engaging in a real estate transaction, or a
12 real estate broker or salesman, shall not on the basis of religion, race,
13 color, national origin, sex, disability, or familial status of a person or a
14 person residing with that person:

15 (1) Refuse to engage in a real estate transaction with a person.

16 (2) Discriminate against a person in the terms, conditions, or
17 privileges of a real estate transaction or in the furnishing of facilities or
18 services in connection therewith.

19 (3) Refuse to receive from a person or transmit to a person a
20 bona fide offer to engage in a real estate transaction.

21 (4) Refuse to negotiate for a real estate transaction with a
22 person.

23 (5) Represent to a person that real property is not available for
24 inspection, sale rental, or lease when in fact it is so available, or
25 knowingly fail to bring a property listing to a person_s attention, or refuse
26 to permit a person to inspect real property.

27 (6) *Make, print, or publish or cause to be made, printed or*
28 *published, any notice, statement, or advertisement with respect to the sale or*
29 *rental of a dwelling that indicates any preference, limitation or*
30 *discrimination based on race, color, religion, sex, handicap, familial status,*
31 *or national origin or an intention to make any such preference, limitation or*
32 *discrimination.*

33 (7) Offer, solicit, accept, use, or retain a listing of real
34 property with the understanding that a person may be discriminated against in
35 a real estate transaction or in the furnishing of facilities or services in

1 connection therewith.

2 (b) This section shall not apply to:

3 (1) the rental of a housing accommodation in a building which
4 contains housing accommodations for not more than two families living
5 independently of each other if the owner or a member of the owner_s
6 immediately family resides in one of the housing accommodations, or to the
7 rental of a room or rooms in a single family dwelling by a person if the
8 lessor or a member of the lessor_s immediate family resides therein.

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

13

14 16-123-204. (a) A person to whom application is made for financial
15 assistance or financing in connection with a real estate transaction or in
16 connection with the construction, rehabilitation, repair, maintenance, or
17 improvement of real property, or a representative of that person, shall not:

18 (1) Discriminate against the applicant because of the religion,
19 race, color, national origin, sex, disability, or familial status of the
20 applicant or a person residing with the applicant.

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

27 (2) Subsection (a)(2) shall not apply to a form of application
28 for financial assistance prescribed for the use of a lender regulated as a
29 mortgagee under the National Housing Act, as amended, being 12 U.S.C. sections
30 1701 to 1750g (Supp. 1973) or by a regulatory board or officer acting under
31 the statutory authority of this state or the United States.

32

33 16-123-205. (a) A condition, restriction, or prohibition, including a
34 right of entry or possibility of reverter, which directly or indirectly limits
35 the use or occupancy of real property on the basis of religion, race, color,

1 national origin, sex, disability, or familial status is void, except this
2 section shall not prohibit a religious organization, association, or society,
3 or any nonprofit institution or organization operated, supervised or
4 controlled by or in conjunction with a religious organization, association, or
5 society, from limiting the sale, rental or occupancy of dwellings which it
6 owns or operates for other than a commercial purpose to persons of the same
7 religion or from giving preference to such persons, unless membership in such
8 religion is restricted because of race, color, sex, disability, familial
9 status or national origin.

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

13 (c) A person shall not threaten, intimidate, or interfere with persons
14 in the enjoyment of their dwelling because of the race, color, national
15 origin, sex, or familial status of such persons, or of visitors or associates
16 of such persons.

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

22

23 16-123-206. A person shall not represent, for the purpose of inducing a
24 real estate transaction from which the person may benefit financially, that a
25 change has occurred or will or may occur in the composition with respect to
26 religion, race, color, national origin, sex, disability, or familial status of
27 the owners or occupants in the block, neighborhood, or area in which the real
28 property is located represents that this change will or may result in the
29 lowering of property values, an increase in criminal or antisocial behavior,
30 or decline in the quality of schools in the block, neighborhood, or area in
31 which in the real property is located.

32

33 16-123-207. Two or more persons shall not conspire to, or a person
34 shall not:

35 (1) Retaliate or discriminate against a person because the person has

1 opposed a violation of this subchapter, or because the person has made a
2 charge, filed a complaint, testified, assisted, or participated in an
3 investigation, proceeding, or hearing under this subchapter.

4 (2) Attempt directly or indirectly to commit an act prohibited by this
5 subchapter.

6 (3) Willfully interfere, obstruct or prevent a person from complying
7 with this subchapter or an order issued or rule promulgated under the
8 sections.

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

14

15 16-123-208. A person shall not violate the terms of an order to an
16 adjustment order made under this subchapter.

17

18 16-123-209. (a) A person alleging a violation of this subchapter may
19 bring civil action for appropriate injunctive relief or damages or both.

20 (b) An action commenced pursuant to subsection (a) may be brought in
21 the circuit court for the county where the alleged violation occurred, or for
22 the county where the person against whom the civil complaint is filed resides
23 or has his principal place of business.

24 (c) As used in subsection (a), damages means damages for injury or
25 loss caused by each violation of this subchapter, including reasonable
26 attorney_s fees.

27 (d) *In a civil action under this subchapter the court in its discretion*
28 *may allow the prevailing party a reasonable attorney's fees and costs.*

29

30 16-123-210. A court, rendering a judgment in an action brought pursuant
31 to this subchapter, may award all or a portion of the costs of litigation,
32 including reasonable attorney fees and witness fees, to the complainant in the
33 action if the court determines that the award is appropriate."

34

35 SECTION 2. All provisions of this act of a general and permanent

1 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
2 Code Revision Commission shall incorporate the same in the Code.

3

4 SECTION 3. If any provision of this act or the application thereof to
5 any person or circumstance is held invalid, such invalidity shall not affect
6 other provisions or applications of the act which can be given effect without
7 the invalid provision or application, and to this end the provisions of this
8 act are declared to be severable.

9

10 SECTION 4. All laws and parts of laws in conflict with this act are
11 hereby repealed.

12

13

/s/Lewellen

14

15

APPROVED: 4-14-95

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

1

2

3

4