

*As Engrossed: 3/20/95*

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

# **A Bill**

**ACT 1129 OF 1995**  
**HOUSE BILL 1963**

## **For An Act To Be Entitled**

8 *"THE ARKANSAS FAIR HOUSING ACT."*

### **Subtitle**

12 *"THE ARKANSAS FAIR HOUSING ACT."*

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

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

19 "SUBCHAPTER 2. - FAIR HOUSING.

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

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

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

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

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1           (3) Real estate transaction means the sale, exchange, rental, or  
2 lease of real property, or an interest therein.

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

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

11

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

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

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

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

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

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

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

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

1 a real estate transaction or in the furnishing of facilities or services in  
2 connection therewith.

3 (b) This section shall not apply to:

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

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

14

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

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

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

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

33

34 16-123-205. (a) A condition, restriction, or prohibition, including a  
35 right of entry or possibility of reverter, which directly or indirectly limits

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

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

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

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

23

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

33

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

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

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

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

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

15

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

18

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

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

25          (c) As used in subsection (a), \_damages\_ means damages for injury or  
26 loss caused by each violation of this subchapter, including reasonable  
27 attorney\_s fees.

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

30

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

35

1 SECTION 2. All provisions of this act of a general and permanent  
2 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
3 Code Revision Commission shall incorporate the same in the Code.

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

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

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14 */s/J. Wilson, et al*

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16 APPROVED: 4-10-95

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