

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 84th General Assembly  
3 Regular Session, 2003  
4

*As Engrossed: H3/27/03*

# A Bill

Act 1775 of 2003  
HOUSE BILL 2556

5 By: Representative Jones  
6  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW REGARDING PROCEDURES FOR  
10 THE INVESTIGATION OF UNFAIR HOUSING PRACTICES;  
11 AND FOR OTHER PURPOSES.  
12

### Subtitle

13 AN ACT TO AMEND THE LAW REGARDING  
14 PROCEDURES FOR THE INVESTIGATION OF  
15 UNFAIR HOUSING PRACTICES.  
16  
17  
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
20

21 SECTION 1. Arkansas Code § 16-123-304(f), concerning the powers and  
22 duties of the Arkansas Fair Housing Commission, is amended to read as  
23 follows:

24 (f)~~(1)~~ Witnesses summoned by a subpoena under this subchapter shall be  
25 entitled to witness fees payable in the same amount as set forth in rules of  
26 procedure for civil proceedings.

27 ~~(2) Fees payable to a witness summoned by a subpoena issued at~~  
28 ~~the request of a party shall be paid for by that party or, if a party is~~  
29 ~~unable to pay the fees, by the commission.~~  
30

31 SECTION 2. Arkansas Code § 16-123-307(a), concerning exemptions for  
32 religious organizations, private clubs, and others from the fair housing law,  
33 is amended to read as follows:

34 (a)(1) This subchapter does not prohibit a religious organization,  
35 association, or society or a nonprofit institution or organization operated,  
36 supervised, or controlled by or in conjunction with a religious organization,



1 association or society from:

2 (A) Limiting the sale, rental, or occupancy of dwellings  
3 that it owns or operates for other than a commercial purpose to persons of  
4 the same religion unless membership in the religion is restricted on account  
5 of race, color, or national origin; or

6 (B) Giving preference for those dwellings to persons of  
7 the same religion, unless membership in the religion is restricted on account  
8 of race, color, or national origin.

9  
10 SECTION 3. Arkansas Code § 16-123-310(c), exempting the application of  
11 the fair housing law regarding for persons convicted under federal drug laws,  
12 is repealed:

13 ~~(c) This section does not prohibit discrimination against a person~~  
14 ~~because the person has been convicted under federal law or the law of any~~  
15 ~~state of the illegal manufacture or distribution of a controlled substance as~~  
16 ~~defined in Section 102 of the Controlled Substance Act, 21 U.S.C. § 802, as~~  
17 ~~in effect January 1, 2001.~~

18  
19 SECTION 4. Arkansas Code § 16-123-318(b), concerning answers to fair  
20 housing complaints, is amended to read as follows:

21 (b) An answer must be:  
22 (1) In writing;  
23 (2) Under oath; and  
24 (3) In the form specified and standardized by this subchapter  
25 and the regulations promulgated by the commission which shall not require  
26 that the ~~complaint~~ answer be notarized.

27  
28 SECTION 5. Arkansas Code § 16-123-325(b), concerning a charge issued  
29 under the fair housing law, is amended to read as follows:

30 ~~(b) Not later than the tenth day after the director issues a charge,~~  
31 ~~the~~ The director shall immediately send a copy of the charge with information  
32 concerning the process of election of judicial determination, as under § 16-  
33 123-329 to:

34 (1) Each respondent, together with a notice of the opportunity  
35 for a hearing provided by § 16-123-331; and  
36 (2) Each aggrieved person on whose behalf the complaint was

1 filed.

2

3 SECTION 6. Arkansas Code § 16-123-330(a), concerning Attorney  
4 General's actions for enforcement under the fair housing law, is amended to  
5 read as follows:

6 (a) If a timely election is made ~~by a complainant~~ under § 16-123-329,  
7 the Arkansas Fair Housing Commission shall authorize and the Attorney General  
8 shall file and maintain on behalf of the aggrieved party a civil action in a  
9 court of competent jurisdiction in the county where the respondent resides  
10 seeking appropriate relief under this section.

11

12 SECTION 7. Arkansas Code § 16-123-332(c), concerning administrative  
13 penalties under the fair housing law is amended to read as follows:

14 (c) If the acts constituting the discriminatory housing practice that  
15 is the object of the charge are committed by the same ~~individual~~ natural  
16 person who has been previously adjudged to have committed acts constituting a  
17 discriminatory housing practice, the civil penalties in subdivisions (b)(2)  
18 and (3) of this section may be imposed without regard to the period of time  
19 within which any other discriminatory housing practice occurred.

20

21 SECTION 8. Arkansas Code § 16-123-336(e), concerning limits on civil  
22 actions under the fair housing law is amended to read as follows:

23 (e) ~~If a timely election was not made under § 16-123-329 or an~~  
24 ~~administrative hearing has begun considering a charge issued by the~~  
25 ~~commission, after the actual commencement of an administrative hearing,~~ an  
26 aggrieved person may not file a civil action under this section with respect  
27 to the alleged discriminatory housing practice forming the basis of that  
28 charge.

29

30 SECTION 9. Arkansas Code § 16-123-344(b), concerning intimidation or  
31 interference under the fair housing law, is repealed:

32 ~~(b) An offense under this section is a Class A misdemeanor.~~

33

34 SECTION 10. Arkansas Code § 16-123-345(a)(2), concerning incentives  
35 for self-testing under the fair housing law, is amended to read as follows:

36 (2) If a person meets the conditions specified in subdivision

1 (a)(1) of this section with respect to a self-test, any report or results of  
2 that self-test:

3 (A) Shall be privileged; and

4 (B) ~~Shall~~ May not be obtained or used by the commission or  
5 any applicant, department, or agency in any:

6 (i) Proceeding or civil action in which one (1) or  
7 more violations of this subchapter are alleged; or

8 (ii) Examination or investigation relating to  
9 compliance with this subchapter.

10  
11 SECTION 11. Arkansas Code § 16-123-345(b)(2), concerning incentives  
12 for self-testing under the fair housing law, is amended to read as follows:

13 (2) Any report or results of a self-test that are disclosed for  
14 the purpose specified in subdivision (b)(1)(B) of this section:

15 (A) Shall be used only for the particular proceeding in  
16 which the adjudication or admission referred to in subdivision (b)(1)(B) of  
17 this section is made; and

18 (B) ~~Shall~~ May not be used in any other action or  
19 proceeding.

20  
21 SECTION 12. Arkansas Code § 16-123-348(b) and (c), concerning criminal  
22 penalties for violations of the fair housing law, are amended to read as  
23 follows:

24 ~~(b) A violation of this section is a Class A misdemeanor.~~

25 (b) A person who violates any provision of subsection (a) of this  
26 section shall:

27 (1) If the violation results in bodily injury, be fined not more  
28 than two hundred fifty thousand dollars (\$250,000) or be imprisoned for not  
29 more than ten (10) years, or both;

30 (2) If the violation results in death, be imprisoned for not  
31 less than ten (10) years or life;

32 (3) If the violation results in property damage exceeding one  
33 hundred dollars (\$100), or if the violation involves the use or attempted use  
34 of fire or a firearm, be fined not more than two hundred fifty thousand  
35 dollars (\$250,000) or be imprisoned for not more than five (5) years, or  
36 both; or

