

SENATE BILL NO. 199

INTRODUCED BY B. BROWN, YELLOWTAIL, J. RICE, STRIZICH
BY REQUEST OF THE COMMISSION FOR HUMAN RIGHTS

IN THE SENATE

JANUARY 25, 1991 INTRODUCED AND REFERRED TO COMMITTEE
 ON JUDICIARY.

 FIRST READING.

FEBRUARY 9, 1991 COMMITTEE RECOMMEND BILL
 DO PASS AS AMENDED. REPORT ADOPTED.

 PRINTING REPORT.

FEBRUARY 11, 1991 SECOND READING, DO PASS.

FEBRUARY 12, 1991 ENGROSSING REPORT.

 THIRD READING, PASSED.
 AYES, 47; NOES, 1.

 TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 12, 1991 INTRODUCED AND REFERRED TO COMMITTEE
 ON JUDICIARY.

FEBRUARY 13, 1991 FIRST READING.

MARCH 21, 1991 COMMITTEE RECOMMEND BILL BE
 CONCURRED IN. REPORT ADOPTED.

APRIL 5, 1991 SECOND READING, CONCURRED IN AS
 AMENDED.

APRIL 6, 1991 THIRD READING, CONCURRED IN.
 AYES, 89; NOES, 8.

 RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 6, 1991 RECEIVED FROM HOUSE.

APRIL 9, 1991 SECOND READING, AMENDMENTS NOT
 CONCURRED IN.

ON MOTION, CONFERENCE COMMITTEE
REQUESTED.

APRIL 16, 1991

CONFERENCE COMMITTEE APPOINTED.

IN THE HOUSE

APRIL 18, 1991

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 22, 1991

ON MOTION, CONFERENCE COMMITTEE
DISSOLVED.

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 23, 1991

ON MOTION, CONFERENCE COMMITTEE
DISSOLVED.

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 24, 1991

FREE CONFERENCE COMMITTEE REPORTED.

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

THIRD READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE HOUSE

APRIL 25, 1991

FREE CONFERENCE COMMITTEE
REPORT ADOPTED.

IN THE SENATE

APRIL 25, 1991

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *SENATE* BILL NO. *199*
 2 INTRODUCED BY *Bob Brown Yellowstone*
 3 BY REQUEST OF THE COMMISSION FOR HUMAN RIGHTS *Rice*
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE HOUSING
 6 DISCRIMINATION LAWS TO MAKE THEM SUBSTANTIALLY EQUIVALENT TO
 7 FEDERAL DISCRIMINATION LAW; PROVIDING PROCEDURES AND
 8 REMEDIES FOR ENFORCEMENT OF HOUSING DISCRIMINATION LAWS;
 9 PROHIBITING INTIMIDATION OR INTERFERENCE IN THE RIGHT TO BE
 10 FREE FROM HOUSING DISCRIMINATION; PROVIDING PENALTIES; AND
 11 AMENDING SECTIONS 49-2-305, 49-2-501, 49-2-503, 49-2-506,
 12 49-2-509, 49-3-304, 49-3-306, AND 49-4-212, MCA."
 13

14 WHEREAS, the Legislature has previously included housing
 15 discrimination as a subject of discrimination law in the
 16 Montana Human Rights Act; and

17 WHEREAS, the housing discrimination laws in the Montana
 18 Human Rights Act were modeled after the federal Fair Housing
 19 Act of 1968; and

20 WHEREAS, in 1988, Congress substantially amended the
 21 federal Fair Housing Act, enforced by the Department of
 22 Housing and Urban Development; and

23 WHEREAS, the Montana Commission for Human Rights
 24 processes housing discrimination complaints in Montana that
 25 allege a violation of both the Montana Human Rights Act and

1 the federal Fair Housing Act; and

2 WHEREAS, the Montana Commission for Human Rights
 3 receives a substantial portion of its funding from contracts
 4 with the Department of Housing and Urban Development for
 5 processing federal housing discrimination cases; and

6 WHEREAS, after January 13, 1992, the Department of
 7 Housing and Urban Development will no longer contract with
 8 any state fair housing agency that does not enforce a state
 9 law providing rights and remedies substantially equivalent
 10 to those provided by the federal Fair Housing Act; and

11 WHEREAS, the rights and remedies provided by the Montana
 12 Human Rights Act are not presently substantially equivalent
 13 to those provided by the federal Fair Housing Act.

14 THEREFORE, it is appropriate for the Legislature to
 15 amend the housing discrimination laws in the Montana Human
 16 Rights Act to maintain substantial equivalency with the
 17 federal Fair Housing Act.
 18

19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20 **Section 1.** Section 49-2-305, MCA, is amended to read:

21 **"49-2-305. Discrimination in housing -- exemptions. (1)**
 22 Except when the distinction is based on reasonable grounds,
 23 it is an unlawful discriminatory practice for the owner,
 24 lessee, manager, or other person having the right to sell,
 25 lease, or rent a housing accommodation or improved or

1 unimproved property:

2 (a) to refuse to sell, lease, or rent the housing
3 accommodation or property to a person because of sex, race,
4 creed, religion, color, age, familial status, physical or
5 mental handicap, or national origin;

6 (b) to discriminate against a person because of sex,
7 race, creed, religion, age, familial status, physical or
8 mental handicap, color, or national origin in a term,
9 condition, or privilege relating to the use, sale, lease, or
10 rental of the housing accommodation or property;

11 ~~(c) to make a written or oral inquiry or record of the~~
12 ~~sex, race, creed, religion, age, physical or mental~~
13 ~~handicap, color, or national origin of a person seeking to~~
14 ~~buy, lease, or rent the housing accommodation or property;~~
15 or

16 (d) (c) to refuse to negotiate for a sale or to make a
17 housing accommodation or property unavailable because of
18 sex, race, creed, religion, age, familial status, physical
19 or mental handicap, color, or national origin;

20 (d) to represent to a person that a housing
21 accommodation or property is not available for inspection,
22 sale, or rental because of that person's sex, race, creed,
23 religion, age, familial status, physical or mental handicap,
24 color, or national origin when the housing accommodation or
25 property is in fact available; or

1 (e) for profit, to induce or attempt to induce a person
2 to sell or rent a housing accommodation or property by
3 representations regarding the entry or prospective entry
4 into the neighborhood of a person or persons of a particular
5 sex, race, creed, religion, age, familial status, physical
6 or mental handicap, color, or national origin.

7 (2) A private residence designed for single-family
8 occupancy in which sleeping space is rented to guests and in
9 which the landlord also resides is excluded from the
10 provisions of subsection (1).

11 (3) It is also an unlawful discriminatory practice to
12 make, print, or publish or cause to be made, printed, or
13 published any notice, statement, or advertisement that
14 indicates any preference, limitation, or discrimination that
15 is prohibited by subsection (1) or any intention to make or
16 have such a preference, limitation, or discrimination.

17 (4) It is an unlawful discriminatory practice for a
18 person to discriminate because of a physical or mental
19 handicap of a buyer, lessee, or renter; a person residing in
20 or intending to reside in or on the housing accommodation or
21 property after it is sold, leased, rented, or made
22 available; or any person associated with that buyer, lessee,
23 or renter;

24 (a) in the sale, rental, or availability of the housing
25 accommodation or property;

1 (b) in the terms, conditions, or privileges of a sale
 2 or rental of the housing accommodation or property; or

3 (c) in the provision of services or facilities in
 4 connection with the housing accommodation or property.

5 (5) For purposes of subsections (1) and (4),
 6 discrimination because of physical or mental handicap
 7 includes:

8 (a) refusal to permit, at the expense of the
 9 handicapped person, reasonable modifications of existing
 10 premises occupied or to be occupied by the handicapped
 11 person if the modifications may be necessary to allow the
 12 person full enjoyment of the premises, except that in the
 13 case of a lease or rental, the landlord may, where it is
 14 reasonable to do so, condition permission for a modification
 15 on the lessor's or renter's agreement to restore the
 16 interior of the premises to the condition that existed
 17 before the modification, except for reasonable wear and
 18 tear;

19 (b) refusal to make reasonable accommodations in rules,
 20 policies, practices, or services when the accommodations may
 21 be necessary to allow the person equal opportunity to use
 22 and enjoy a housing accommodation or property; or

23 (c) (i) except as provided in subsection (5)(c)(ii), in
 24 connection with the design and construction of a covered
 25 multifamily housing accommodation, a failure to design and

1 construct the housing accommodation in a manner that:

2 (A) makes the public use and common use portions of the
 3 housing accommodation readily accessible to and usable by
 4 handicapped persons;

5 (B) provides doors designed to allow passage into and
 6 within all premises within the housing accommodation
 7 sufficiently wide to allow passage by handicapped persons in
 8 wheelchairs; and

9 (C) ensures that all premises within the housing
 10 accommodation contain the following features of adaptive
 11 design:

12 (I) an accessible route into and through the housing
 13 accommodation;

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

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

18 (IV) usable kitchens and bathrooms that allow an
 19 individual in a wheelchair to maneuver about the space;

20 (ii) a covered multifamily housing accommodation that
 21 does not have at least one building entrance on an
 22 accessible route because it is impractical to do so due to
 23 the terrain or unusual characteristics of the site is not
 24 required to comply with the requirements of subsection
 25 (5)(c)(i).

1 (6) For purposes of subsection (5), the term "covered
2 multifamily housing accommodation" means:

3 (a) a building consisting of four or more dwelling
4 units if the building has one or more elevators; and

5 (b) ground floor units in a building consisting of four
6 or more dwelling units.

7 (7) (a) It is an unlawful discriminatory practice for
8 any person or other entity whose business includes engaging
9 in residential real estate-related transactions to
10 discriminate because of sex, race, creed, religion, age,
11 familial status, physical or mental handicap, color, or
12 national origin against a person in making available a
13 transaction or in the terms or conditions of a transaction.

14 (b) For purposes of this subsection (7), the term
15 "residential real estate-related transaction" means any of
16 the following:

17 (i) the making or purchasing of loans or providing
18 other financial assistance:

19 (A) for purchasing, constructing, improving, repairing,
20 or maintaining a housing accommodation or property; or

21 (B) secured by residential real estate; or

22 (ii) the selling, brokering, or appraising of
23 residential real property.

24 (8) It is an unlawful discriminatory practice to deny a
25 person access to or membership or participation in a

1 multiple-listing service; real estate brokers' organization;
2 or other service, organization, or facility relating to the
3 business of selling, leasing, or renting housing
4 accommodations or property or to discriminate against the
5 person in the terms or conditions of access, membership, or
6 participation because of sex, race, creed, religion, age,
7 familial status, physical or mental handicap, color, or
8 national origin.

9 (9) It is an unlawful discriminatory practice to
10 coerce, intimidate, threaten, or interfere with a person in
11 the exercise or enjoyment of or because of his having
12 exercised or enjoyed or having aided or encouraged any other
13 person in the exercise or enjoyment of a right granted or
14 protected by this section.

15 (10) The prohibitions of this section against
16 discrimination because of age and familial status do not
17 extend to housing for older persons. "Housing for older
18 persons" means housing:

19 (a) provided under any state or federal program
20 specifically designed and operated to assist elderly
21 persons;

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

24 (c) intended and operated for occupancy by at least one
25 person 55 years of age or older per unit in accordance with

1 the provisions of 42 U.S.C. 3605(b)(2)(C) and (3) and 24
2 C.F.R. 100.304, as those sections read on October 1, 1989.

3 ~~(5)~~(11) The prohibitions of this section against
4 discrimination because of age and familial status do not
5 extend to rooms or units in dwellings containing living
6 quarters occupied or intended to be occupied by no more than
7 two families living independently of each other, if the
8 owner actually maintains and occupies one of the living
9 quarters as his residence.

10 ~~(6)~~(12) For purposes of this section, "familial status"
11 means having a child or children who live or will live with
12 a person. A distinction based on familial status includes
13 one that is based on the age of a child or children who live
14 or will live with a person."

15 NEW SECTION. **Section 2.** Procedures and remedies for
16 enforcement of housing discrimination laws. (1) (a) Except
17 as provided in subsection (1)(b), if the commission, in a
18 hearing under 49-2-505, finds that a person, institution,
19 entity, or agency against whom a complaint was filed under
20 this part has engaged in a discriminatory practice in
21 violation of 49-2-305, the commission may, in addition to
22 the remedies provided by 49-2-506, to vindicate the public
23 interest, assess a civil penalty:

24 (i) in an amount not exceeding \$10,000 if the
25 respondent has not been found to have committed any prior

1 discriminatory housing practice in violation of 49-2-305;

2 (ii) in an amount not exceeding \$25,000 if the
3 respondent has been found to have committed one other
4 discriminatory housing practice in violation of 49-2-305
5 during the 5-year period ending on the date of the filing of
6 the complaint; and

7 (iii) in an amount not exceeding \$50,000 if the
8 respondent has been found to have committed two or more
9 discriminatory housing practices in violation of 49-2-305
10 during the 7-year period ending on the date of the filing of
11 the complaint.

12 (b) If the acts constituting the discriminatory housing
13 practice that is the object of the complaint are committed
14 by the same natural person who has been previously found to
15 have committed acts constituting a discriminatory housing
16 practice, the civil penalties provided in subsections
17 (1)(a)(ii) and (1)(a)(iii) may be imposed without regard to
18 the period of time within which any prior discriminatory
19 housing practice occurred.

20 (2) In the case of an order with respect to a
21 discriminatory housing practice in violation of 49-2-305
22 that occurred in the course of a business subject to
23 licensing or regulation by a governmental agency, the
24 commission shall, no later than 30 days after the date of
25 the issuance of the order or, if the order is judicially

1 reviewed, no later than 30 days after the order is in
2 substance affirmed:

3 (a) send copies of the findings of fact, the
4 conclusions of law, and the order to the licensing or
5 regulatory agency; and

6 (b) recommend to the licensing or regulatory agency
7 appropriate disciplinary action, including, where
8 appropriate, the suspension or revocation of the license of
9 the respondent.

10 (3) (a) When a complaint is filed under 49-2-305, a
11 complainant, respondent, or aggrieved person on whose behalf
12 the complaint was filed may elect to have the claims decided
13 in a civil action in lieu of a hearing under 49-2-505. The
14 election must be made no later than 20 days after receipt by
15 the electing person of service of notice of certification
16 for hearing under 49-2-505. The person making the election
17 shall give notice to the commission and to all other
18 complainants and respondents to whom the complaint relates.
19 Within 30 days after the election is made, the commission
20 shall commence a civil action in an appropriate district
21 court on behalf of the aggrieved person if the commission
22 staff has made a finding that the allegations of the
23 complaint are supported by substantial evidence. If the
24 commission staff has made a finding that the allegations of
25 the complaint are not supported by substantial evidence, the

1 complainant may commence a civil action in an appropriate
2 district court in accordance with subsection (4). An
3 aggrieved person with respect to the issues to be determined
4 in a civil action brought by the commission staff may
5 intervene in the action.

6 (b) The commission may not continue administrative
7 proceedings on a complaint after an election is made in
8 accordance with subsection (3)(a).

9 (4) (a) An aggrieved person may commence a civil action
10 in an appropriate district court within 2 years after an
11 alleged unlawful discriminatory practice under 49-2-305
12 occurred or was discovered or within 2 years of the breach
13 of a conciliation agreement entered into under 49-2-504 in a
14 case alleging a violation of 49-2-305. The computation of
15 the 2-year period does not include any time during which an
16 administrative proceeding under this title was pending with
17 respect to a complaint alleging a violation of 49-2-305. The
18 tolling of the time limit for commencing a civil action does
19 not apply to actions arising from breach of a conciliation
20 agreement.

21 (b) An aggrieved person may commence a civil action
22 under this subsection for a violation of 49-2-305 whether or
23 not a complaint has been filed under 49-2-501 and without
24 regard to the status of a complaint filed with the
25 commission except as provided in subsection (4)(d). If the

1 commission has obtained a conciliation agreement with the
 2 consent of the aggrieved person, an action may not be filed
 3 under this subsection by the aggrieved person regarding the
 4 alleged violation of 49-2-305 that forms the basis for the
 5 complaint except for the purpose of enforcing the terms of
 6 the agreement.

7 (c) The commission may not continue administrative
 8 proceedings on a complaint after the beginning of a trial of
 9 a civil action commenced by the aggrieved party under this
 10 subsection (4) seeking relief with respect to the same
 11 alleged violation of 49-2-305.

12 (d) An aggrieved person may not commence a civil action
 13 under this subsection (4) with respect to an alleged
 14 violation of 49-2-305 if the commission has commenced a
 15 hearing on the record under 49-2-505 regarding the same
 16 complaint.

17 (e) Upon application by a person alleging a violation
 18 of 49-2-305 in a civil action under this subsection (4) or
 19 by a person against whom the violation is alleged, the court
 20 may:

21 (i) appoint an attorney for the applicant; or

22 (ii) authorize the commencement or continuation of a
 23 civil action without the payment of fees, costs, or security
 24 if, in the opinion of the court, the applicant is
 25 financially unable to bear the costs of the civil action.

1 (f) Upon timely application, the commission may
 2 intervene in a civil action brought under this subsection
 3 (4) if the commission certifies that the case is of general
 4 public importance. Upon intervention, the commission may
 5 obtain the same relief that would be available to the
 6 commission under subsection (6).

7 (5) If the court finds that a person, institution,
 8 entity, or agency against whom a complaint was filed under
 9 this section has engaged in a discriminatory practice in
 10 violation of 49-2-305, the court may, in addition to the
 11 other remedies provided under 49-2-506, award punitive
 12 damages. The court may also award attorney fees to the
 13 prevailing party.

14 (6) (a) Whenever the commission has reasonable cause to
 15 believe that a person or group of persons is engaged in a
 16 pattern or practice in violation of 49-2-305 or that a group
 17 of persons has been discriminated against in violation of
 18 49-2-305 and the denial raises an issue of general public
 19 importance, the commission may commence a civil action in an
 20 appropriate district court. The commission may also commence
 21 a civil action in any appropriate district court for relief
 22 regarding breach of a conciliation agreement in a case
 23 regarding an alleged violation of 49-2-305 if the commission
 24 is a party to the agreement.

25 (b) The commission may file a civil action under this

1 subsection (6) within 18 months after the alleged breach of
2 the conciliation agreement or unlawful discriminatory
3 practice occurred or was discovered.

4 (c) In a civil action under this subsection (6), the
5 court may, in addition to the remedies provided under
6 49-2-506, assess a civil penalty against the respondent:

7 (i) in an amount not exceeding \$50,000 for a first
8 violation; and

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

11 (d) Upon timely application, a person may intervene in
12 a civil action under this subsection (6) that involves an
13 alleged violation of 49-2-305 with respect to which the
14 intervenor is an aggrieved person.

15 (7) Civil penalties under this section must be paid to
16 the state treasurer to be deposited in an account in the
17 state special revenue fund to be used by the commission for
18 housing discrimination enforcement.

19 **Section 3.** Section 49-2-501, MCA, is amended to read:

20 "49-2-501. Filing complaints. (1) A complaint may be
21 filed by or on behalf of any person claiming to be aggrieved
22 by any discriminatory practice prohibited by this chapter.
23 The complaint must be in the form of a written, verified
24 complaint stating the name and address of the person,
25 educational institution, financial institution, or

1 governmental entity or agency alleged to have engaged in the
2 discriminatory practice and the particulars of the alleged
3 discriminatory practice. The commission staff may file a
4 complaint in like manner when a discriminatory practice
5 comes to its attention.

6 (2) (a) Except as provided in subsection (2)(b), a
7 complaint under this chapter must be filed with the
8 commission within ~~180~~-days 1 year after the alleged unlawful
9 discriminatory practice occurred or was discovered.

10 (b) If the complainant has initiated efforts to resolve
11 the dispute underlying the complaint by filing a grievance
12 in accordance with any grievance procedure established by a
13 collective bargaining agreement, contract, or written rule
14 or policy, the complaint may be filed within ~~180~~-days 1 year
15 after the conclusion of the grievance procedure if the
16 grievance procedure concludes within 120 days after the
17 alleged unlawful discriminatory practice occurred or was
18 discovered. If the grievance procedure does not conclude
19 within 120 days, the complaint must be filed within ~~90~~ 485
20 days after the alleged unlawful discriminatory practice
21 occurred or was discovered.

22 (c) Any complaint not filed within the times set forth
23 herein may not be considered by the commission."

24 **Section 4.** Section 49-2-503, MCA, is amended to read:

25 "49-2-503. Temporary relief by court order. ~~{}~~ At any

1 time after a complaint is filed under this chapter alleging
 2 ~~an unlawful discriminatory practice, the commission may file~~
 3 ~~a petition in the district court in the county in which the~~
 4 ~~subject of the complaint occurs or in the county in which a~~
 5 ~~respondent resides or transacts business seeking appropriate~~
 6 ~~temporary relief against this practice, including an order~~
 7 ~~restraining the respondent from interfering in any manner~~
 8 ~~with an order the commission may enter with respect to the~~
 9 ~~complaint.~~

10 (2) ~~The court has the power to grant the temporary~~
 11 ~~relief or restraining order it considers just and proper.~~
 12 ~~However, no relief or order extending beyond 14 days may be~~
 13 ~~granted except by consent of the respondent or upon a~~
 14 ~~finding by the court that there is reasonable cause to~~
 15 ~~believe that the respondent has engaged in discriminatory~~
 16 ~~practices, a district court may, upon the application of the~~
 17 ~~commission or the complainant, enter a preliminary~~
 18 ~~injunction against a respondent in the case. The procedure~~
 19 ~~for granting the order is as provided by statute for~~
 20 ~~preliminary injunctions in civil actions."~~

21 **Section 5.** Section 49-2-506, MCA, is amended to read:

22 "49-2-506. Procedure upon a finding of discrimination.

23 (1) If the commission finds that a person, institution,
 24 entity, or agency against whom a complaint was filed has
 25 engaged in the discriminatory practice alleged in the

1 complaint, the commission shall order him or it to refrain
 2 from engaging in the discriminatory conduct. The order may:

3 (a) prescribe conditions on the accused's future
 4 conduct relevant to the type of discriminatory practice
 5 found;

6 (b) require any reasonable measure to correct the
 7 discriminatory practice and to rectify any harm, pecuniary
 8 or otherwise, to the person discriminated against;

9 (c) require a report on the manner of compliance.

10 (2) The Except as provided in [section 2], the order
 11 may not require the payment of any punitive damages.

12 (3) Whenever a commission order or conciliation
 13 agreement requires inspection by the commission staff for a
 14 period of time to determine if the respondent is complying
 15 with that order or agreement, the period of time may not be
 16 more than 3 years."

17 **Section 6.** Section 49-2-509, MCA, is amended to read:

18 "49-2-509. Filing a complaint in district court. (1)
 19 Except as provided in subsection (2) or with respect to
 20 complaints alleging a violation of 49-2-305, the commission
 21 staff shall, at the request of either party, issue a letter
 22 entitling the complainant to file a discrimination action in
 23 district court if:

24 (a) the commission has not yet held a contested case
 25 hearing pursuant to 49-2-505; and

1 (b) 12 months have elapsed since the complaint was
2 filed.

3 (2) The commission staff may refuse to permit removal
4 of a case to district court if:

5 (a) the party requesting removal fails to comply with
6 the terms of a lawful subpoena issued in the investigative
7 process;

8 (b) the party requesting removal has waived the right
9 to request removal to the district court;

10 (c) more than 30 days have elapsed since service of
11 notice of hearing under 49-2-505, unless the commission
12 fails to schedule a hearing to be held within 90 days of
13 service of notice of hearing; or

14 (d) the party requesting removal has unsuccessfully
15 attempted through court litigation to prevent the commission
16 staff from investigating the complaint.

17 (3) The commission staff may dismiss a complaint filed
18 under 49-2-501 and allow the complainant to file a
19 discrimination action in district court if:

20 (a) the commission staff determines that the commission
21 lacks jurisdiction over the complaint;

22 (b) the complainant fails to cooperate in the staff's
23 investigation of the complaint or fails to keep the
24 commission advised of changes of address; or

25 (c) the commission staff determines that the

1 allegations of the complaint are not supported by
2 substantial evidence.

3 (4) A decision of the commission staff to dismiss a
4 complaint or to refuse to permit removal to the district
5 court is final unless a party seeks review by filing
6 objections within 14 days after the decision is served on
7 him. The commission shall review the decision in informal
8 proceedings under 2-4-604, except that 2-4-604(5) applies
9 only to review of a refusal to permit removal.

10 (5) Within 90 days after receipt of a notice of
11 dismissal under subsection (3) or an order under subsection
12 (4) of affirmance of a dismissal, whichever occurs later, or
13 of a letter issued under subsection (1), the complainant may
14 petition the district court in the district in which the
15 alleged violation occurred for appropriate relief. If Except
16 as provided in [section 2], if the claimant fails to
17 petition the district court within 90 days after receipt of
18 the letter, notice, or order issued by the commission staff,
19 the claim shall be barred.

20 (6) If the district court finds, in an action under
21 this section, that a person, institution, entity, or agency
22 against whom or which a complaint was filed has engaged in
23 the unlawful discriminatory practice alleged in the
24 complaint, the court may provide the same relief as
25 described in 49-2-506 for a commission order. In addition,

1 the court may in its discretion allow the prevailing party
2 reasonable attorney fees.

3 (7) The provisions of this chapter establish the
4 exclusive remedy for acts constituting an alleged violation
5 of this chapter, including acts that may otherwise also
6 constitute a violation of the discrimination provisions of
7 Article II, section 4, of the Montana constitution or
8 49-1-102. No other claim or request for relief based upon
9 such acts may be entertained by a district court other than
10 by the procedures specified in this chapter."

11 **Section 7.** Section 49-3-304, MCA, is amended to read:

12 "49-3-304. Filing complaints. (1) Except as provided in
13 subsection (2), a complaint under this chapter must be filed
14 with the commission within ~~180 days~~ 1 year after the alleged
15 unlawful discriminatory practice occurred or was discovered.

16 (2) If the complainant has initiated efforts to resolve
17 the dispute underlying the complaint by filing a grievance
18 in accordance with any grievance procedure established by a
19 collective bargaining agreement, contract, or written rule
20 or policy, the complaint may be filed within ~~180 days~~ 1 year
21 after the conclusion of the grievance procedure if the
22 grievance procedure concludes within 120 days after the
23 alleged unlawful discriminatory practice occurred or was
24 discovered. If the grievance procedure does not conclude
25 within 120 days, the complaint must be filed within ~~300~~ 485

1 days after the alleged unlawful discriminatory practice
2 occurred or was discovered.

3 (3) A complaint not filed within the times set forth in
4 this section may not be considered by the commission."

5 **Section 8.** Section 49-3-306, MCA, is amended to read:

6 "49-3-306. Temporary relief by court order. ~~(1)~~ At any
7 time after a complaint is filed with the commission under
8 this chapter ~~alleging an unlawful discriminatory practice,~~
9 ~~the commission may file a petition in the district court in~~
10 ~~the county in which the subject of the complaint occurred or~~
11 ~~in the county in which a respondent resides or transacts~~
12 ~~business, seeking appropriate temporary relief against this~~
13 ~~practice, including an order restraining the respondent from~~
14 ~~interfering in any manner with an order the commission may~~
15 ~~enter with respect to the complaint;~~

16 ~~(2) The court has the power to grant the temporary~~
17 ~~relief or restraining order it considers just and proper.~~
18 ~~However, no relief or order extending beyond 14 days may be~~
19 ~~granted except by consent of the respondent or upon a~~
20 ~~finding by the court that there is reasonable cause to~~
21 ~~believe that the respondent has engaged in discriminatory~~
22 ~~practices, a district court may, upon the application of the~~
23 ~~commission or the complainant, enter a preliminary~~
24 ~~injunction against a respondent in the case. The procedure~~
25 ~~for granting the order is as provided by statute for~~

1 preliminary injunctions in civil actions."

2 NEW SECTION. Section 9. Intimidation or interference
3 in the right to be free from housing discrimination --
4 penalties. (1) It is unlawful for a person, whether or not
5 acting under color of law, by force or threat of force to
6 purposefully or knowingly injure, intimidate, or interfere
7 with or attempt to injure, intimidate, or interfere with:

8 (a) a person because of sex, race, creed, religion,
9 age, familial status, physical or mental handicap, color, or
10 national origin and because the person is or has been:

11 (i) selling, purchasing, renting, leasing, financing,
12 or occupying or contracting or negotiating for the sale,
13 purchase, lease, rental, financing, or occupation of any
14 housing accommodation or property; or

15 (ii) applying for or participating in any service,
16 organization, or facility relating to the business of
17 selling, leasing, or renting housing accommodations or
18 property;

19 (b) a person because he is or has been:

20 (i) participating, without discrimination because of
21 sex, race, creed, religion, age, familial status, physical
22 or mental handicap, color, or national origin in any of the
23 activities, services, organizations, or facilities described
24 in this subsection (1); or

25 (ii) affording another person or class of persons

1 opportunity or protection to participate in those
2 activities, services, organizations, or facilities; or

3 (c) a citizen because he is or has been, or in order to
4 discourage him or any other citizen from, lawfully aiding or
5 encouraging other persons to participate in any of the
6 activities, services, organizations, or facilities described
7 in this subsection (1) or because he is or has lawfully
8 participated in speech or peaceful assembly opposing any
9 denial of the opportunity to participate.

10 (2) A person who violates a provision of subsection
11 (1):

12 (a) shall be fined not more than \$1,000 or imprisoned
13 for not more than 1 year, or both;

14 (b) if bodily injury results, shall be fined not more
15 than \$10,000 or imprisoned for not more than 10 years, or
16 both; or

17 (c) if death results, shall be subject to imprisonment
18 for any term of years or for life.

19 **Section 10.** Section 49-4-212, MCA, is amended to read:

20 "49-4-212. Access to housing accommodations. ~~{1}~~ Blind,
21 visually handicapped, and deaf persons are entitled to as
22 full and equal access as other members of the general public
23 to any housing accommodation offered for compensation in
24 this state.

25 ~~{2}~~--Nothing--in-this-section-requires-a-person-renting,

1 leasing,--or--providing--real--property--for--compensation--to
2 modify--his--property--in--any--way--or--provide--a--higher--degree--of
3 care--for--a--blind,--visually--handicapped,--or--deaf--person--than
4 for--a--person--who--is--not--so--disabled."

5 NEW SECTION. **Section 11.** Codification instruction. (1)
6 [Section 2] is intended to be codified as an integral part
7 of Title 49, chapter 2, part 5, and the provisions of Title
8 49, chapter 2, part 5, apply to [section 2].

9 (2) [Section 9] is intended to be codified as an
10 integral part of Title 49, chapter 2, part 6, and the
11 provisions of Title 49, chapter 2, part 6, apply to [section
12 9].

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0199, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill to: amend the housing discrimination laws to make them substantially equivalent to federal discrimination law; provide procedures and remedies for enforcement of housing discrimination laws; prohibit intimidation or interference in the right to be free from housing discrimination; and provide penalties.

ASSUMPTIONS:

1. The state will remain eligible to receive federal grants from the US Department of Housing and Urban Development after September 30, 1991, as a result of the proposed bill.
2. The current level executive budget has federal revenue of \$18,625 in FY92 and \$23,500 in FY93 which would be replaced with general fund in the Human Rights Commission if the state law were not substantially equivalent to federal law.
3. Therefore, for purposes of showing the impact, the executive budget is used under "proposed law" below and "current law" shows the general fund increase without enactment of SB0199.
4. Changes in workload will be minimal and have no fiscal impact.
5. The proposed bill will enable the commission to be eligible for educational and other grants from HUD in the future.
6. Civil penalty revenues will be accumulated for at least one biennium before any significant fund balance would be available for appropriation. There is insufficient information at this time to estimate the amount of penalty collections.

FISCAL IMPACT:

Expenditures:

	FY92			FY93		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Human Rights Comm.</u>						
FTE	9.00	9.00	0.00	9.00	9.00	0.00
Personal Services	267,306	267,306	0	267,462	267,462	0
Operating Expenses	108,064	108,064	0	108,488	108,488	0
Equipment	4,000	4,000	0	4,000	4,000	0
Total	379,370	379,370	0	379,950	379,950	0
<u>Funding:</u>						
General Fund (01)	295,134	276,509	(18,625)	300,590	277,090	(23,500)
Federal Funds (03)	84,236	102,861	18,625	79,360	102,860	23,500
Total	379,370	379,370	0	379,950	379,950	0

LONG RANGE EFFECTS OF PROPOSED LEGISLATION:

Some amount of penalty revenue may be available for appropriation in the 1995 biennium. The amount of penalties collected over the 1993 biennium can not be estimated at this time.

Rod Sundsted 1-20-91
ROD SUNDSTED, BUDGET DIRECTOR DATE

Office of Budget and Program Planning

Bob Brown
BOB BROWN, PRIMARY SPONSOR

Feb. 1 / 91
DATE

Fiscal Note for SB0199, as introduced.

SB 199

APPROVED BY COMMITTEE
ON JUDICIARY

SENATE BILL NO. 199

INTRODUCED BY B. BROWN, YELLOWTAIL, J. RICE, STRIZICH

BY REQUEST OF THE COMMISSION FOR HUMAN RIGHTS

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE HOUSING DISCRIMINATION LAWS TO MAKE THEM SUBSTANTIALLY EQUIVALENT TO FEDERAL DISCRIMINATION LAW; PROVIDING PROCEDURES AND REMEDIES FOR ENFORCEMENT OF HOUSING DISCRIMINATION LAWS; PROHIBITING INTIMIDATION OR INTERFERENCE IN THE RIGHT TO BE FREE FROM HOUSING DISCRIMINATION; PROVIDING PENALTIES; AND AMENDING SECTIONS 49-2-305, 49-2-501, 49-2-503, 49-2-506, 49-2-509, 49-3-304, 49-3-306, AND 49-4-212, MCA."

WHEREAS, the Legislature has previously included housing discrimination as a subject of discrimination law in the Montana Human Rights Act; and

WHEREAS, the housing discrimination laws in the Montana Human Rights Act were modeled after the federal Fair Housing Act of 1968; and

WHEREAS, in 1988, Congress substantially amended the federal Fair Housing Act, enforced by the Department of Housing and Urban Development; and

WHEREAS, the Montana Commission for Human Rights processes housing discrimination complaints in Montana that allege a violation of both the Montana Human Rights Act and

the federal Fair Housing Act; and

WHEREAS, the Montana Commission for Human Rights receives a substantial portion of its funding from contracts with the Department of Housing and Urban Development for processing federal housing discrimination cases; and

WHEREAS, after January 13, 1992, the Department of Housing and Urban Development will no longer contract with any state fair housing agency that does not enforce a state law providing rights and remedies substantially equivalent to those provided by the federal Fair Housing Act; and

WHEREAS, the rights and remedies provided by the Montana Human Rights Act are not presently substantially equivalent to those provided by the federal Fair Housing Act.

THEREFORE, it is appropriate for the Legislature to amend the housing discrimination laws in the Montana Human Rights Act to maintain substantial equivalency with the federal Fair Housing Act.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 49-2-305, MCA, is amended to read:

"49-2-305. Discrimination in housing -- exemptions. (1) Except when the distinction is based on reasonable grounds, it is an unlawful discriminatory practice for the owner, lessee, manager, or other person having the right to sell, lease, or rent a housing accommodation or improved or

SECOND READING

1 unimproved property:

2 (a) to refuse to sell, lease, or rent the housing
3 accommodation or property to a person because of sex, race,
4 creed, religion, color, age, familial status, physical or
5 mental handicap, or national origin;

6 (b) to discriminate against a person because of sex,
7 race, creed, religion, age, familial status, physical or
8 mental handicap, color, or national origin in a term,
9 condition, or privilege relating to the use, sale, lease, or
10 rental of the housing accommodation or property;

11 ~~(c) to make a written or oral inquiry or record of the~~
12 ~~sex, race, creed, religion, age, physical or mental~~
13 ~~handicap, color, or national origin of a person seeking to~~
14 ~~buy, lease, or rent the housing accommodation or property;~~
15 or

16 (C) TO MAKE AN INQUIRY FOR THE PURPOSE OF
17 DISCRIMINATING ON THE BASIS OF THE SEX, RACE, CREED,
18 RELIGION, AGE, FAMILIAL STATUS, PHYSICAL OR MENTAL HANDICAP,
19 COLOR, OR NATIONAL ORIGIN OF A PERSON SEEKING TO BUY, LEASE,
20 OR RENT THE HOUSING ACCOMMODATION OR PROPERTY;

21 ~~(d)~~(D) to refuse to negotiate for a sale or to make
22 a housing accommodation or property unavailable because of
23 sex, race, creed, religion, age, familial status, physical
24 or mental handicap, color, or national origin;

25 ~~(e)~~(E) to represent to a person that a housing

1 accommodation or property is not available for inspection,
2 sale, or rental because of that person's sex, race, creed,
3 religion, age, familial status, physical or mental handicap,
4 color, or national origin when the housing accommodation or
5 property is in fact available; or

6 ~~(f)~~(F) for profit, to induce or attempt to induce a
7 person to sell or rent a housing accommodation or property
8 by representations regarding the entry or prospective entry
9 into the neighborhood of a person or persons of a particular
10 sex, race, creed, religion, age, familial status, physical
11 or mental handicap, color, or national origin.

12 (2) A private residence designed for single-family
13 occupancy in which sleeping space is rented to guests and in
14 which the landlord also resides is excluded from the
15 provisions of subsection (1).

16 (3) It is also an unlawful discriminatory practice to
17 make, print, or publish or cause to be made, printed, or
18 published any notice, statement, or advertisement that
19 indicates any preference, limitation, or discrimination that
20 is prohibited by subsection (1) or any intention to make or
21 have such a preference, limitation, or discrimination.

22 (4) It is an unlawful discriminatory practice for a
23 person to discriminate because of a physical or mental
24 handicap of a buyer, lessee, or renter; a person residing in
25 or intending to reside in or on the housing accommodation or

1 property after it is sold, leased, rented, or made
 2 available; or any person associated with that buyer, lessee,
 3 or renter:

4 (a) in the sale, rental, or availability of the housing
 5 accommodation or property;

6 (b) in the terms, conditions, or privileges of a sale
 7 or rental of the housing accommodation or property; or

8 (c) in the provision of services or facilities in
 9 connection with the housing accommodation or property.

10 (5) For purposes of subsections (1) and (4),
 11 discrimination because of physical or mental handicap
 12 includes:

13 (a) refusal to permit, at the expense of the
 14 handicapped person, reasonable modifications of existing
 15 premises occupied or to be occupied by the handicapped
 16 person if the modifications may be necessary to allow the
 17 person full enjoyment of the premises, except that in the
 18 case of a lease or rental, the landlord may, where it is
 19 reasonable to do so, condition permission for a modification
 20 on the lessor's or renter's agreement to restore the
 21 interior of the premises to the condition that existed
 22 before the modification, except for reasonable wear and
 23 tear;

24 (b) refusal to make reasonable accommodations in rules,
 25 policies, practices, or services when the accommodations may

1 be necessary to allow the person equal opportunity to use
 2 and enjoy a housing accommodation or property; or

3 (c) (i) except as provided in subsection (5)(c)(ii), in
 4 connection with the design and construction of a covered
 5 multifamily housing accommodation, a failure to design and
 6 construct the housing accommodation in a manner that:

7 (A) makes the public use and common use portions of the
 8 housing accommodation readily accessible to and usable by
 9 handicapped persons;

10 (B) provides doors designed to allow passage into and
 11 within all premises within the housing accommodation
 12 sufficiently wide to allow passage by handicapped persons in
 13 wheelchairs; and

14 (C) ensures that all premises within the housing
 15 accommodation contain the following features of adaptive
 16 design:

17 (I) an accessible route into and through the housing
 18 accommodation;

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

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

23 (IV) usable kitchens and bathrooms that allow an
 24 individual in a wheelchair to maneuver about the space;

25 (ii) a covered multifamily housing accommodation that

1 does not have at least one building entrance on an
2 accessible route because it is impractical to do so due to
3 the terrain or unusual characteristics of the site is not
4 required to comply with the requirements of subsection
5 (5)(c)(i).

6 (6) For purposes of subsection (5), the term "covered
7 multifamily housing accommodation" means:

8 (a) a building consisting of four or more dwelling
9 units if the building has one or more elevators; and

10 (b) ground floor units in a building consisting of four
11 or more dwelling units.

12 (7) (a) It is an unlawful discriminatory practice for
13 any person or other entity whose business includes engaging
14 in residential real estate-related transactions to
15 discriminate because of sex, race, creed, religion, age,
16 familial status, physical or mental handicap, color, or
17 national origin against a person in making available a
18 transaction or in the terms or conditions of a transaction.

19 (b) For purposes of this subsection (7), the term
20 "residential real estate-related transaction" means any of
21 the following:

22 (i) the making or purchasing of loans or providing
23 other financial assistance;

24 (A) for purchasing, constructing, improving, repairing,
25 or maintaining a housing accommodation or property; or

1 (B) secured by residential real estate; or
2 (ii) the selling, brokering, or appraising of
3 residential real property.

4 (8) It is an unlawful discriminatory practice to deny a
5 person access to or membership or participation in a
6 multiple-listing service; real estate brokers' organization;
7 or other service, organization, or facility relating to the
8 business of selling, leasing, or renting housing
9 accommodations or property or to discriminate against the
10 person in the terms or conditions of access, membership, or
11 participation because of sex, race, creed, religion, age,
12 familial status, physical or mental handicap, color, or
13 national origin.

14 (9) It is an unlawful discriminatory practice to
15 coerce, intimidate, threaten, or interfere with a person in
16 the exercise or enjoyment of or because of his having
17 exercised or enjoyed or having aided or encouraged any other
18 person in the exercise or enjoyment of a right granted or
19 protected by this section.

20 (10) The prohibitions of this section against
21 discrimination because of age and familial status do not
22 extend to housing for older persons. "Housing for older
23 persons" means housing:

24 (a) provided under any state or federal program
25 specifically designed and operated to assist elderly

1 persons;

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

4 (c) intended and operated for occupancy by at least one
5 person 55 years of age or older per unit in accordance with
6 the provisions of 42 U.S.C. 3605(b)(2)(C) and (3) and 24
7 C.F.R. 100.304, as those sections read on October 1, 1989.

8 ~~(5)~~(11) The prohibitions of this section against
9 discrimination because of age and familial status do not
10 extend to rooms or units in dwellings containing living
11 quarters occupied or intended to be occupied by no more than
12 two families living independently of each other, if the
13 owner actually maintains and occupies one of the living
14 quarters as his residence.

15 ~~(6)~~(12) For purposes of this section, "familial status"
16 means having a child or children who live or will live with
17 a person. A distinction based on familial status includes
18 one that is based on the age of a child or children who live
19 or will live with a person."

20 NEW SECTION. Section 2. Procedures and remedies for
21 enforcement of housing discrimination laws. (1) A COMPLAINT
22 MAY BE FILED WITH THE COMMISSION BY OR ON BEHALF OF A PERSON
23 CLAIMING TO BE AGGRIEVED BY ANY DISCRIMINATORY PRACTICE
24 PROHIBITED BY 49-2-305. THE COMPLAINT MUST BE IN WRITTEN
25 FORM AND MUST BE FILED WITH THE COMMISSION WITHIN 1 YEAR

1 AFTER THE ALLEGED UNLAWFUL DISCRIMINATORY PRACTICE OCCURRED
2 OR WAS DISCOVERED.

3 ~~(1)~~(2) (a) Except as provided in subsection ~~(1)~~(b)
4 (2)(B), if the commission, in a hearing under 49-2-505,
5 finds that a person, institution, entity, or agency against
6 whom a complaint was filed under this part has engaged in a
7 discriminatory practice in violation of 49-2-305, the
8 commission may, in addition to the remedies provided by
9 49-2-506, to vindicate the public interest, assess a civil
10 penalty:

11 (i) in an amount not exceeding \$10,000 if the
12 respondent has not been found to have committed any prior
13 discriminatory housing practice in violation of 49-2-305;

14 (ii) in an amount not exceeding \$25,000 if the
15 respondent has been found to have committed one other
16 discriminatory housing practice in violation of 49-2-305
17 during the 5-year period ending on the date of the filing of
18 the complaint; and

19 (iii) in an amount not exceeding \$50,000 if the
20 respondent has been found to have committed two or more
21 discriminatory housing practices in violation of 49-2-305
22 during the 7-year period ending on the date of the filing of
23 the complaint.

24 (b) If the acts constituting the discriminatory housing
25 practice that is the object of the complaint are committed

1 by the same natural person who has been previously found to
 2 have committed acts constituting a discriminatory housing
 3 practice, the civil penalties provided in subsections
 4 ~~(1)(a)(ii)-and-(1)(a)(iii)~~ (2)(A)(II) AND (2)(A)(III) may be
 5 imposed without regard to the period of time within which
 6 any prior discriminatory housing practice occurred.

7 ~~(2)(3)~~ In the case of an order with respect to a
 8 discriminatory housing practice in violation of 49-2-305
 9 that occurred in the course of a business subject to
 10 licensing or regulation by a governmental agency, the
 11 commission shall, no later than 30 days after the date of
 12 the issuance of the order or, if the order is judicially
 13 reviewed, no later than 30 days after the order is in
 14 substance affirmed:

15 (a) send copies of the findings of fact, the
 16 conclusions of law, and the order to the licensing or
 17 regulatory agency; and

18 (b) recommend to the licensing or regulatory agency
 19 appropriate disciplinary action, including, where
 20 appropriate, the suspension or revocation of the license of
 21 the respondent.

22 ~~(3)(4)~~ (a) When a complaint is filed under 49-2-305, a
 23 complainant, respondent, or aggrieved person on whose behalf
 24 the complaint was filed may elect to have the claims decided
 25 in a civil action in lieu of a hearing under 49-2-505. The

1 election must be made no later than 20 days after receipt by
 2 the electing person of service of notice of certification
 3 for hearing under 49-2-505. The person making the election
 4 shall give notice to the commission and to all other
 5 complainants and respondents to whom the complaint relates.
 6 Within 30 days after the election is made, the commission
 7 shall commence a civil action in an appropriate district
 8 court on behalf of the aggrieved person if the commission
 9 staff has made a finding that the allegations of the
 10 complaint are supported by substantial evidence. If the
 11 commission staff has made a finding that the allegations of
 12 the complaint are not supported by substantial evidence, the
 13 complainant may commence a civil action in an appropriate
 14 district court in accordance with subsection ~~(4)~~ (5). An
 15 aggrieved person with respect to the issues to be determined
 16 in a civil action brought by the commission staff may
 17 intervene in the action.

18 (b) The commission may not continue administrative
 19 proceedings on a complaint after an election is made in
 20 accordance with subsection ~~(3)(a)~~ (4)(A).

21 ~~(4)(5)~~ (a) An aggrieved person may commence a civil
 22 action in an appropriate district court within 2 years after
 23 an alleged unlawful discriminatory practice under 49-2-305
 24 occurred or was discovered or within 2 years of the breach
 25 of a conciliation agreement entered into under 49-2-504 in a

1 case alleging a violation of 49-2-305. The computation of
 2 the 2-year period does not include any time during which an
 3 administrative proceeding under this title was pending with
 4 respect to a complaint alleging a violation of 49-2-305. The
 5 tolling of the time limit for commencing a civil action does
 6 not apply to actions arising from breach of a conciliation
 7 agreement.

8 (b) An aggrieved person may commence a civil action
 9 under this subsection for a violation of 49-2-305 whether or
 10 not a complaint has been filed under 49-2-501 and without
 11 regard to the status of a complaint filed with the
 12 commission except as provided in subsection ~~(4)~~(d) (5)(D).
 13 If the commission has obtained a conciliation agreement with
 14 the consent of the aggrieved person, an action may not be
 15 filed under this subsection by the aggrieved person
 16 regarding the alleged violation of 49-2-305 that forms the
 17 basis for the complaint except for the purpose of enforcing
 18 the terms of the agreement.

19 (c) The commission may not continue administrative
 20 proceedings on a complaint after the beginning of a trial of
 21 a civil action commenced by the aggrieved party under this
 22 subsection ~~(4)~~ (5) seeking relief with respect to the same
 23 alleged violation of 49-2-305.

24 (d) An aggrieved person may not commence a civil action
 25 under this subsection ~~(4)~~ (5) with respect to an alleged

1 violation of 49-2-305 if the commission has commenced a
 2 hearing on the record under 49-2-505 regarding the same
 3 complaint.

4 (e) Upon application by a person alleging a violation
 5 of 49-2-305 in a civil action under this subsection ~~(4)~~ (5)
 6 or by a person against whom the violation is alleged, the
 7 court may:

8 (i) appoint an attorney for the applicant; or

9 (ii) authorize the commencement or continuation of a
 10 civil action without the payment of fees, costs, or security
 11 if, in the opinion of the court, the applicant is
 12 financially unable to bear the costs of the civil action.

13 (f) Upon timely application, the commission may
 14 intervene in a civil action brought under this subsection
 15 ~~(4)~~ (5) if the commission certifies that the case is of
 16 general public importance. Upon intervention, the commission
 17 may obtain the same relief that would be available to the
 18 commission under subsection ~~(6)~~ (7).

19 ~~(5)~~(6) If the court finds that a person, institution,
 20 entity, or agency against whom a complaint was filed under
 21 this section has engaged in a discriminatory practice in
 22 violation of 49-2-305, the court may, in addition to the
 23 other remedies provided under 49-2-506, award punitive
 24 damages. The court may also award attorney fees to the
 25 prevailing party.

1 ~~(6)~~(7) (a) Whenever the commission has reasonable cause
 2 to believe that a person or group of persons is engaged in a
 3 pattern or practice in violation of 49-2-305 or that a group
 4 of persons has been discriminated against in violation of
 5 49-2-305 and the denial raises an issue of general public
 6 importance, the commission may commence a civil action in an
 7 appropriate district court. The commission may also commence
 8 a civil action in any appropriate district court for relief
 9 regarding breach of a conciliation agreement in a case
 10 regarding an alleged violation of 49-2-305 if the commission
 11 is a party to the agreement.

12 (b) The commission may file a civil action under this
 13 subsection ~~(6)~~ (7) within 18 months after the alleged breach
 14 of the conciliation agreement or unlawful discriminatory
 15 practice occurred or was discovered.

16 (c) In a civil action under this subsection ~~(6)~~ (7),
 17 the court may, in addition to the remedies provided under
 18 49-2-506, assess a civil penalty against the respondent:

19 (i) in an amount not exceeding \$50,000 for a first
 20 violation; and

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

23 (d) Upon timely application, a person may intervene in
 24 a civil action under this subsection ~~(6)~~ (7) that involves
 25 an alleged violation of 49-2-305 with respect to which the

1 intervenor is an aggrieved person.

2 ~~(7)~~(8) Civil penalties under this section must be paid
 3 to the state treasurer to be deposited in an account in the
 4 state special revenue fund to be used by the commission for
 5 housing discrimination enforcement.

6 **Section 3.** Section 49-2-501, MCA, is amended to read:

7 ***49-2-501. Filing complaints.** (1) A complaint may be
 8 filed by or on behalf of any person claiming to be aggrieved
 9 by any discriminatory practice prohibited by this chapter.
 10 The complaint must be in the form of a written, verified
 11 complaint stating the name and address of the person,
 12 educational institution, financial institution, or
 13 governmental entity or agency alleged to have engaged in the
 14 discriminatory practice and the particulars of the alleged
 15 discriminatory practice. The commission staff may file a
 16 complaint in like manner when a discriminatory practice
 17 comes to its attention.

18 (2) (a) Except as provided in [SECTION 2] AND
 19 subsection (2)(b) OF THIS SECTION, a complaint under this
 20 chapter must be filed with the commission within ~~180-days~~ ±
 21 year 180 DAYS after the alleged unlawful discriminatory
 22 practice occurred or was discovered.

23 (b) If the complainant has initiated efforts to resolve
 24 the dispute underlying the complaint by filing a grievance
 25 in accordance with any grievance procedure established by a

1 collective bargaining agreement, contract, or written rule
 2 or policy, the complaint may be filed within ~~100 days~~ 1 year
 3 180 DAYS after the conclusion of the grievance procedure if
 4 the grievance procedure concludes within 120 days after the
 5 alleged unlawful discriminatory practice occurred or was
 6 discovered. If the grievance procedure does not conclude
 7 within 120 days, the complaint must be filed within ~~300~~ 485
 8 300 days after the alleged unlawful discriminatory practice
 9 occurred or was discovered.

10 (c) Any complaint not filed within the times set forth
 11 herein may not be considered by the commission."

12 **Section 4.** Section 49-2-503, MCA, is amended to read:

13 "~~49-2-503. Temporary relief by court order. (1) At any~~
 14 ~~time after a complaint is filed under this chapter alleging~~
 15 ~~an-unlawful-discriminatory-practice, the-commission-may-file~~
 16 ~~a-petition-in-the-district-court-in-the-county-in-which--the~~
 17 ~~subject--of-the-complaint-occurs-or-in-the-county-in-which-a~~
 18 ~~respondent-resides-or-transacts-business-seeking-appropriate~~
 19 ~~temporary-relief-against-this-practice, including--an--order~~
 20 ~~restraining--the--respondent--from-interfering-in-any-manner~~
 21 ~~with-an-order-the-commission-may-enter-with-respect--to--the~~
 22 ~~complaint.~~

23 ~~(2)--The--court--has--the--power--to-grant-the-temporary~~
 24 ~~relief-or-restraining-order-it-considers--just--and--proper.~~
 25 ~~However,--no-relief-or-order-extending-beyond-14-days-may-be~~

1 ~~granted-except-by--consent--of--the--respondent--or--upon--a~~
 2 ~~finding--by--the--court--that--there--is--reasonable-cause-to~~
 3 ~~believe-that-the-respondent-has--engaged--in--discriminatory~~
 4 ~~practices, a district court may, upon the application of the~~
 5 ~~commission or the complainant, enter a preliminary~~
 6 ~~injunction against a respondent in the case. The procedure~~
 7 ~~for granting the order is as provided by statute for~~
 8 ~~preliminary injunctions in civil actions."~~

9 **Section 5.** Section 49-2-506, MCA, is amended to read:

10 "~~49-2-506. Procedure upon a finding of discrimination.~~

11 (1) If the commission finds that a person, institution,
 12 entity, or agency against whom a complaint was filed has
 13 engaged in the discriminatory practice alleged in the
 14 complaint, the commission shall order him or it to refrain
 15 from engaging in the discriminatory conduct. The order may:

16 (a) prescribe conditions on the accused's future
 17 conduct relevant to the type of discriminatory practice
 18 found;

19 (b) require any reasonable measure to correct the
 20 discriminatory practice and to rectify any harm, pecuniary
 21 or otherwise, to the person discriminated against;

22 (c) require a report on the manner of compliance.

23 (2) ~~The~~ Except as provided in [section 2], the order
 24 may not require the payment of any punitive damages.

25 (3) Whenever a commission order or conciliation

1 agreement requires inspection by the commission staff for a
 2 period of time to determine if the respondent is complying
 3 with that order or agreement, the period of time may not be
 4 more than 3 years."

5 **Section 6.** Section 49-2-509, MCA, is amended to read:

6 **"49-2-509. Filing a complaint in district court.** (1)

7 Except as provided in subsection (2) or with respect to
 8 complaints alleging a violation of 49-2-305, the commission
 9 staff shall, at the request of either party, issue a letter
 10 entitling the complainant to file a discrimination action in
 11 district court if:

12 (a) the commission has not yet held a contested case
 13 hearing pursuant to 49-2-505; and

14 (b) 12 months have elapsed since the complaint was
 15 filed.

16 (2) The commission staff may refuse to permit removal
 17 of a case to district court if:

18 (a) the party requesting removal fails to comply with
 19 the terms of a lawful subpoena issued in the investigative
 20 process;

21 (b) the party requesting removal has waived the right
 22 to request removal to the district court;

23 (c) more than 30 days have elapsed since service of
 24 notice of hearing under 49-2-505, unless the commission
 25 fails to schedule a hearing to be held within 90 days of

1 service of notice of hearing; or

2 (d) the party requesting removal has unsuccessfully
 3 attempted through court litigation to prevent the commission
 4 staff from investigating the complaint.

5 (3) The commission staff may dismiss a complaint filed
 6 under 49-2-501 and allow the complainant to file a
 7 discrimination action in district court if:

8 (a) the commission staff determines that the commission
 9 lacks jurisdiction over the complaint;

10 (b) the complainant fails to cooperate in the staff's
 11 investigation of the complaint or fails to keep the
 12 commission advised of changes of address; or

13 (c) the commission staff determines that the
 14 allegations of the complaint are not supported by
 15 substantial evidence.

16 (4) A decision of the commission staff to dismiss a
 17 complaint or to refuse to permit removal to the district
 18 court is final unless a party seeks review by filing
 19 objections within 14 days after the decision is served on
 20 him. The commission shall review the decision in informal
 21 proceedings under 2-4-604, except that 2-4-604(5) applies
 22 only to review of a refusal to permit removal.

23 (5) Within 90 days after receipt of a notice of
 24 dismissal under subsection (3) or an order under subsection
 25 (4) of affirmance of a dismissal, whichever occurs later, or

1 of a letter issued under subsection (1), the complainant may
 2 petition the district court in the district in which the
 3 alleged violation occurred for appropriate relief. if Except
 4 as provided in [section 2], if the claimant fails to
 5 petition the district court within 90 days after receipt of
 6 the letter, notice, or order issued by the commission staff,
 7 the claim shall be barred.

8 (6) If the district court finds, in an action under
 9 this section, that a person, institution, entity, or agency
 10 against whom or which a complaint was filed has engaged in
 11 the unlawful discriminatory practice alleged in the
 12 complaint, the court may provide the same relief as
 13 described in 49-2-506 for a commission order. In addition,
 14 the court may in its discretion allow the prevailing party
 15 reasonable attorney fees.

16 (7) The provisions of this chapter establish the
 17 exclusive remedy for acts constituting an alleged violation
 18 of this chapter, including acts that may otherwise also
 19 constitute a violation of the discrimination provisions of
 20 Article II, section 4, of the Montana constitution or
 21 49-1-102. No other claim or request for relief based upon
 22 such acts may be entertained by a district court other than
 23 by the procedures specified in this chapter."

24 ~~Section 7. Section 49-3-304, MCA, is amended to read:~~
 25 ~~"49-3-304. Filing complaints. (1) Except as provided in~~

1 ~~subsection (2), a complaint under this chapter must be filed~~
 2 ~~with the commission within 180 days 1 year after the alleged~~
 3 ~~unlawful discriminatory practice occurred or was discovered;~~
 4 ~~(2) If the complainant has initiated efforts to resolve~~
 5 ~~the dispute underlying the complaint by filing a grievance~~
 6 ~~in accordance with any grievance procedure established by a~~
 7 ~~collective bargaining agreement, contract, or written rule~~
 8 ~~or policy, the complaint may be filed within 180 days 1 year~~
 9 ~~after the conclusion of the grievance procedure if the~~
 10 ~~grievance procedure concludes within 120 days after the~~
 11 ~~alleged unlawful discriminatory practice occurred or was~~
 12 ~~discovered; if the grievance procedure does not conclude~~
 13 ~~within 120 days, the complaint must be filed within 300 485~~
 14 ~~days after the alleged unlawful discriminatory practice~~
 15 ~~occurred or was discovered;~~

16 ~~(3) A complaint not filed within the times set forth in~~
 17 ~~this section may not be considered by the commission."~~

18 **Section 7.** Section 49-3-306, MCA, is amended to read:
 19 **"49-3-306. Temporary relief by court order.** (1) At any
 20 time after a complaint is filed with the commission under
 21 this chapter ~~alleging an unlawful discriminatory practice,~~
 22 ~~the commission may file a petition in the district court in~~
 23 ~~the county in which the subject of the complaint occurred or~~
 24 ~~in the county in which a respondent resides or transacts~~
 25 ~~business, seeking appropriate temporary relief against this~~

1 ~~practice, including an order restraining the respondent from~~
 2 ~~interfering in any manner with an order the commission may~~
 3 ~~enter with respect to the complaint.~~

4 (2) ~~The court has the power to grant the temporary~~
 5 ~~relief or restraining order it considers just and proper.~~
 6 ~~However, no relief or order extending beyond 14 days may be~~
 7 ~~granted except by consent of the respondent or upon a~~
 8 ~~finding by the court that there is reasonable cause to~~
 9 ~~believe that the respondent has engaged in discriminatory~~
 10 ~~practices, a district court may, upon the application of the~~
 11 ~~commission or the complainant, enter a preliminary~~
 12 ~~injunction against a respondent in the case. The procedure~~
 13 ~~for granting the order is as provided by statute for~~
 14 ~~preliminary injunctions in civil actions."~~

15 NEW SECTION. Section 8. Intimidation or interference
 16 in the right to be free from housing discrimination --
 17 penalties. (1) It is unlawful for a person, whether or not
 18 acting under color of law, by force or threat of force to
 19 purposefully or knowingly injure, intimidate, or interfere
 20 with or attempt to injure, intimidate, or interfere with:

21 (a) a person because of sex, race, creed, religion,
 22 age, familial status, physical or mental handicap, color, or
 23 national origin and because the person is or has been:

24 (i) selling, purchasing, renting, leasing, financing,
 25 or occupying or contracting or negotiating for the sale,

1 purchase, lease, rental, financing, or occupation of any
 2 housing accommodation or property; or

3 (ii) applying for or participating in any service,
 4 organization, or facility relating to the business of
 5 selling, leasing, or renting housing accommodations or
 6 property;

7 (b) a person because he is or has been:

8 (i) participating, without discrimination because of
 9 sex, race, creed, religion, age, familial status, physical
 10 or mental handicap, color, or national origin in any of the
 11 activities, services, organizations, or facilities described
 12 in this subsection (1); or

13 (ii) affording another person or class of persons
 14 opportunity or protection to participate in those
 15 activities, services, organizations, or facilities; or

16 (c) a citizen because he is or has been, or in order to
 17 discourage him or any other citizen from, lawfully aiding or
 18 encouraging other persons to participate in any of the
 19 activities, services, organizations, or facilities described
 20 in this subsection (1) or because he is or has lawfully
 21 participated in speech or peaceful assembly opposing any
 22 denial of the opportunity to participate.

23 (2) A person who violates a provision of subsection
 24 (1):

25 (a) shall be fined not more than \$1,000 or imprisoned

1 for not more than 1 year, or both;

2 (b) if bodily injury results, shall be fined not more
3 than \$10,000 or imprisoned for not more than 10 years, or
4 both; or

5 (c) if death results, shall be subject to imprisonment
6 for any term of years or for life.

7 **Section 9.** Section 49-4-212, MCA, is amended to read:

8 "49-4-212. Access to housing accommodations. ~~{1}~~ Blind,
9 visually handicapped, and deaf persons are entitled to as
10 full and equal access as other members of the general public
11 to any housing accommodation offered for compensation in
12 this state.

13 ~~{2}--Nothing-in-this-section-requires-a-person--renting,
14 leasing,--or--providing--real--property--for-compensation-to
15 modify-his-property-in-any-way-or-provide-a-higher-degree-of
16 care-for-a-blind,visually-handicapped,or-deaf-person--than
17 for-a-person-who-is-not-so-disabled."~~

18 NEW SECTION. **Section 10.** Codification instruction. (1)
19 [Section 2] is intended to be codified as an integral part
20 of Title 49, chapter 2, part 5, and the provisions of Title
21 49, chapter 2, part 5, apply to [section 2].

22 (2) [Section 9 8] is intended to be codified as an
23 integral part of Title 49, chapter 2, part 6, and the
24 provisions of Title 49, chapter 2, part 6, apply to [section
25 9 8].

-End-

-25-

SB 199

1 SENATE BILL NO. 199
 2 INTRODUCED BY B. BROWN, YELLOWTAIL, J. RICE, STRIZICH
 3 BY REQUEST OF THE COMMISSION FOR HUMAN RIGHTS
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE HOUSING
 6 DISCRIMINATION LAWS TO MAKE THEM SUBSTANTIALLY EQUIVALENT TO
 7 FEDERAL DISCRIMINATION LAW; PROVIDING PROCEDURES AND
 8 REMEDIES FOR ENFORCEMENT OF HOUSING DISCRIMINATION LAWS;
 9 PROHIBITING INTIMIDATION OR INTERFERENCE IN THE RIGHT TO BE
 10 FREE FROM HOUSING DISCRIMINATION; PROVIDING PENALTIES; AND
 11 AMENDING SECTIONS 49-2-305, 49-2-501, 49-2-503, 49-2-506,
 12 49-2-509, ~~49-3-304~~, 49-3-306, AND 49-4-212, MCA."

13
 14 WHEREAS, the Legislature has previously included housing
 15 discrimination as a subject of discrimination law in the
 16 Montana Human Rights Act; and

17 WHEREAS, the housing discrimination laws in the Montana
 18 Human Rights Act were modeled after the federal Fair Housing
 19 Act of 1968; and

20 WHEREAS, in 1988, Congress substantially amended the
 21 federal Fair Housing Act, enforced by the Department of
 22 Housing and Urban Development; and

23 WHEREAS, the Montana Commission for Human Rights
 24 processes housing discrimination complaints in Montana that
 25 allege a violation of both the Montana Human Rights Act and

There are no changes in this bill,
 and will not be reprinted. Please
 refer to yellow copy for complete
 text.



HOUSE COMMITTEE OF THE WHOLE AMENDMENT
Senate Bill 199
Representative Measure

March 26, 1991 11:51 am
Page 1 of 3

Mr. Chairman: I move to amend Senate Bill 199 (third reading copy -- blue).

Signed: 
Representative Measure

And, that such amendments to Senate Bill 199 read as follows:

1. Title, line 10.
Following: "DISCRIMINATION"
Insert: "EXTENDING THE TIME TO FILE ALL COMPLAINTS UNDER THE DISCRIMINATION LAWS TO BE CONSISTENT WITH THE TIME LIMITS FOR COMPLAINTS OF HOUSING DISCRIMINATION;"
Following: "PENALTIES"
Strike: "AND"
2. Title, line 12.
Following: "~~49-3-304~~"
Insert: "49-3-904"
Following: "MCA"
Insert: "; AND REPEALING 49-2-401 AND 49-3-105, MCA"
3. Page 2, lines 22 and 23.
Strike: "Except" on line 22 through "it" on line 23.
Insert: "it"
4. Page 2, line 24.
Following: "lessee"
Insert: "or"
Following: "manager"
Insert: "having the right to sell, lease, or rent a housing accommodation or improved or unimproved property"
5. Page 2, line 24 through page 3 line 1.
Strike: "having" on line 24 through "property" on line 1
6. Page 3, lines 16 and 17.
Following: "INQUIRY"
Strike: "FOR THE PURPOSE OF DISCRIMINATING ON THE BASIS"
7. Page 3, line 20.
Following: "RENT"

Strike: "THE"
Insert: "a"
Following: "PROPERTY"
Insert: "for the purpose of discriminating on the basis of sex, race, creed, religion, age, familial status, physical or mental handicap, color, or national origin"

8. Page 3, line 21.
Following: "or to"
Insert: "otherwise"
Following: "make"
Insert: "unavailable or deny"

9. Page 3, line 22.
Following: "property"
Strike: "unavailable"

10. Page 4.
Strike: lines 12 through 15 in their entirety
Insert: "(2) The rental of sleeping rooms in a private residence designed for single family occupancy in which the lessor also resides is excluded from the provisions of subsection (1), provided that the lessor rents no more than 3 sleeping rooms within the residence."

11. Page 6, line 7.
Following: line 6
Insert: "(A) the housing accommodation has at least one accessible building entrance on an accessible route;"
Renummer: subsequent subsections

12. Page 6, line 10.
Following: "provides"
Insert: "that all"

13. Page 6, line 11.
Following: "accommodation"
Insert: "are"

14. Page 9, line 8.
Following: "of"
Strike: "this section"
Insert: "subsection (1)"

15. Page 10, line 8.
Following: "remedies"
Insert: "and injunctive and equitable relief"

16. Page 14, line 23.

ADOPT

REJECT

651150CW.Hpd

April 1, 1991
Page 2 of 3

HOUSE
SB 199

Following: "remedies"
Insert: "and injunctive and equitable relief"

17. Page 16, line 18.
Following: "in"
Strike: "SECTION 2 AND"

18. Page 16, line 21.
Following: "~~year~~"
Strike: "180 DAYS"
Insert: "1 year"

19. Page 17, line 3.
Strike: "180 DAYS"
Insert: "1 year"

20. Page 17, line 8.
Strike: "300"
Insert: "485"

21. Page 22.
Following: line 17
Insert: " Section 7. Section 49-3-304, MCA, is amended to read:
"49-3-304. Filing complaints. (1) Except as provided in
subsection (2), a complaint under this chapter must be filed with
the commission within ~~180 days~~ 1 year after the alleged unlawful
discriminatory practice occurred or was discovered.
(2) If the complainant has initiated efforts to resolve the
dispute underlying the complaint by filing a grievance in
accordance with any grievance procedure established by a
collective bargaining agreement, contract, or written rule or
policy, the complaint may be filed within ~~180 days~~ 1 year after
the conclusion of the grievance procedure if the grievance
procedure concludes within 120 days after the alleged unlawful
discriminatory practice occurred or was discovered. If the
grievance procedure does not conclude within 120 days, the
complaint must be filed within 300 days after the alleged
unlawful discriminatory practice occurred or was discovered.
(3) A complaint not filed within the times set forth in
this section may not be considered by the commission."

Renumber: subsequent sections

22. Page 25.

Following: line 17
Insert: "SECTION 11. REPEALER. Sections 49-2-401 and 49-3-105,
MCA are repealed."
Renumber: subsequent section

1 SENATE BILL NO. 199

2 INTRODUCED BY B. BROWN, YELLOWTAIL, J. RICE, STRIZICH

3 BY REQUEST OF THE COMMISSION FOR HUMAN RIGHTS

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE HOUSING
6 DISCRIMINATION LAWS TO MAKE THEM SUBSTANTIALLY EQUIVALENT TO
7 FEDERAL DISCRIMINATION LAW; PROVIDING PROCEDURES AND
8 REMEDIES FOR ENFORCEMENT OF HOUSING DISCRIMINATION LAWS;
9 PROHIBITING INTIMIDATION OR INTERFERENCE IN THE RIGHT TO BE
10 FREE FROM HOUSING DISCRIMINATION; EXTENDING THE TIME TO FILE
11 ALL COMPLAINTS UNDER THE DISCRIMINATION LAWS TO BE
12 CONSISTENT WITH THE TIME LIMITS FOR COMPLAINTS OF HOUSING
13 DISCRIMINATION; PROVIDING PENALTIES; AND AMENDING SECTIONS
14 49-2-305, 49-2-501, 49-2-503, 49-2-506, 49-2-509, 49-3-304,
15 49-3-306, 49-3-904, AND 49-4-212, MCA; AND REPEALING
16 SECTIONS 49-2-401 AND 49-3-105, MCA."

17
18 WHEREAS, the Legislature has previously included housing
19 discrimination as a subject of discrimination law in the
20 Montana Human Rights Act; and

21 WHEREAS, the housing discrimination laws in the Montana
22 Human Rights Act were modeled after the federal Fair Housing
23 Act of 1968; and

24 WHEREAS, in 1988, Congress substantially amended the
25 federal Fair Housing Act, enforced by the Department of

1 Housing and Urban Development; and

2 WHEREAS, the Montana Commission for Human Rights
3 processes housing discrimination complaints in Montana that
4 allege a violation of both the Montana Human Rights Act and
5 the federal Fair Housing Act; and

6 WHEREAS, the Montana Commission for Human Rights
7 receives a substantial portion of its funding from contracts
8 with the Department of Housing and Urban Development for
9 processing federal housing discrimination cases; and

10 WHEREAS, after January 13, 1992, the Department of
11 Housing and Urban Development will no longer contract with
12 any state fair housing agency that does not enforce a state
13 law providing rights and remedies substantially equivalent
14 to those provided by the federal Fair Housing Act; and

15 WHEREAS, the rights and remedies provided by the Montana
16 Human Rights Act are not presently substantially equivalent
17 to those provided by the federal Fair Housing Act.

18 THEREFORE, it is appropriate for the Legislature to
19 amend the housing discrimination laws in the Montana Human
20 Rights Act to maintain substantial equivalency with the
21 federal Fair Housing Act.

22
23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

24 **Section 1.** Section 49-2-305, MCA, is amended to read:

25 "49-2-305. Discrimination in housing -- exemptions. (1)

1 ~~Except when the distinction is based on reasonable grounds,~~
 2 ~~it~~ IT is an unlawful discriminatory practice for the owner,
 3 lessee, OR manager, HAVING THE RIGHT TO SELL, LEASE, OR RENT
 4 A HOUSING ACCOMMODATION OR IMPROVED OR UNIMPROVED PROPERTY
 5 or FOR ANY other person ~~having the right to sell, lease, or~~
 6 ~~rent a housing accommodation or improved or unimproved~~
 7 ~~property:~~

8 (a) to refuse to sell, lease, or rent the housing
 9 accommodation or property to a person because of sex, race,
 10 creed, religion, color, age, familial status, physical or
 11 mental handicap, or national origin;

12 (b) to discriminate against a person because of sex,
 13 race, creed, religion, age, familial status, physical or
 14 mental handicap, color, or national origin in a term,
 15 condition, or privilege relating to the use, sale, lease, or
 16 rental of the housing accommodation or property;

17 ~~(c) to make a written or oral inquiry or record of the~~
 18 ~~sex, race, creed, religion, age, physical or mental~~
 19 ~~handicap, color, or national origin of a person seeking to~~
 20 ~~buy, lease, or rent the housing accommodation or property;~~
 21 or

22 (C) TO MAKE AN INQUIRY FOR THE PURPOSE OF
 23 DISCRIMINATING ON THE BASIS OF THE SEX, RACE, CREED,
 24 RELIGION, AGE, FAMILIAL STATUS, PHYSICAL OR MENTAL HANDICAP,
 25 COLOR, OR NATIONAL ORIGIN OF A PERSON SEEKING TO BUY, LEASE,

1 OR RENT THE A HOUSING ACCOMMODATION OR PROPERTY FOR THE
 2 PURPOSE OF DISCRIMINATING ON THE BASIS OF SEX, RACE, CREED,
 3 RELIGION, AGE, FAMILIAL STATUS, PHYSICAL OR MENTAL HANDICAP,
 4 COLOR, OR NATIONAL ORIGIN;

5 ~~(d)(e)(D)~~ to refuse to negotiate for a sale or to
 6 OTHERWISE make UNAVAILABLE OR DENY a housing accommodation
 7 or property unavailable because of sex, race, creed,
 8 religion, age, familial status, physical or mental handicap,
 9 color, or national origin;

10 ~~(d)(E)~~ to represent to a person that a housing
 11 accommodation or property is not available for inspection,
 12 sale, or rental because of that person's sex, race, creed,
 13 religion, age, familial status, physical or mental handicap,
 14 color, or national origin when the housing accommodation or
 15 property is in fact available; or

16 ~~(e)(F)~~ for profit, to induce or attempt to induce a
 17 person to sell or rent a housing accommodation or property
 18 by representations regarding the entry or prospective entry
 19 into the neighborhood of a person or persons of a particular
 20 sex, race, creed, religion, age, familial status, physical
 21 or mental handicap, color, or national origin.

22 ~~(2) A private residence designed for single-family~~
 23 ~~occupancy in which sleeping space is rented to guests and in~~
 24 ~~which the landlord also resides is excluded from the~~
 25 ~~provisions of subsection (1);~~

1 (2) THE RENTAL OF SLEEPING ROOMS IN A PRIVATE RESIDENCE
 2 DESIGNED FOR SINGLE-FAMILY OCCUPANCY IN WHICH THE LESSOR
 3 ALSO RESIDES IS EXCLUDED FROM THE PROVISIONS OF SUBSECTION
 4 (1), PROVIDED THAT THE LESSOR RENTS NO MORE THAN THREE
 5 SLEEPING ROOMS WITHIN THE RESIDENCE.

6 (3) It is also an unlawful discriminatory practice to
 7 make, print, or publish or cause to be made, printed, or
 8 published any notice, statement, or advertisement that
 9 indicates any preference, limitation, or discrimination that
 10 is prohibited by subsection (1) or any intention to make or
 11 have such a preference, limitation, or discrimination.

12 (4) It is an unlawful discriminatory practice for a
 13 person to discriminate because of a physical or mental
 14 handicap of a buyer, lessee, or renter; a person residing in
 15 or intending to reside in or on the housing accommodation or
 16 property after it is sold, leased, rented, or made
 17 available; or any person associated with that buyer, lessee,
 18 or renter:

19 (a) in the sale, rental, or availability of the housing
 20 accommodation or property;

21 (b) in the terms, conditions, or privileges of a sale
 22 or rental of the housing accommodation or property; or

23 (c) in the provision of services or facilities in
 24 connection with the housing accommodation or property.

25 (5) For purposes of subsections (1) and (4),

1 discrimination because of physical or mental handicap
 2 includes:

3 (a) refusal to permit, at the expense of the
 4 handicapped person, reasonable modifications of existing
 5 premises occupied or to be occupied by the handicapped
 6 person if the modifications may be necessary to allow the
 7 person full enjoyment of the premises, except that in the
 8 case of a lease or rental, the landlord may, where it is
 9 reasonable to do so, condition permission for a modification
 10 on the lessor's or renter's agreement to restore the
 11 interior of the premises to the condition that existed
 12 before the modification, except for reasonable wear and
 13 tear;

14 (b) refusal to make reasonable accommodations in rules,
 15 policies, practices, or services when the accommodations may
 16 be necessary to allow the person equal opportunity to use
 17 and enjoy a housing accommodation or property; or

18 (c) (i) except as provided in subsection (5)(c)(ii), in
 19 connection with the design and construction of a covered
 20 multifamily housing accommodation, a failure to design and
 21 construct the housing accommodation in a manner that:

22 (A) THE HOUSING ACCOMMODATION HAS AT LEAST ONE
 23 ACCESSIBLE BUILDING ENTRANCE ON AN ACCESSIBLE ROUTE;

24 (B) makes the public use and common use portions of
 25 the housing accommodation readily accessible to and usable

1 by handicapped persons;

2 (B)(C) provides THAT ALL doors designed to allow
 3 passage into and within all premises within the housing
 4 accommodation ARE sufficiently wide to allow passage by
 5 handicapped persons in wheelchairs; and

6 (E)(D) ensures that all premises within the housing
 7 accommodation contain the following features of adaptive
 8 design:

9 (I) an accessible route into and through the housing
 10 accommodation;

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

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

15 (IV) usable kitchens and bathrooms that allow an
 16 individual in a wheelchair to maneuver about the space;

17 (ii) a covered multifamily housing accommodation that
 18 does not have at least one building entrance on an
 19 accessible route because it is impractical to do so due to
 20 the terrain or unusual characteristics of the site is not
 21 required to comply with the requirements of subsection
 22 (5)(c)(i).

23 (6) For purposes of subsection (5), the term "covered
 24 multifamily housing accommodation" means:

25 (a) a building consisting of four or more dwelling

1 units if the building has one or more elevators; and

2 (b) ground floor units in a building consisting of four
 3 or more dwelling units.

4 (7) (a) It is an unlawful discriminatory practice for
 5 any person or other entity whose business includes engaging
 6 in residential real estate-related transactions to
 7 discriminate because of sex, race, creed, religion, age,
 8 familial status, physical or mental handicap, color, or
 9 national origin against a person in making available a
 10 transaction or in the terms or conditions of a transaction.

11 (b) For purposes of this subsection (7), the term
 12 "residential real estate-related transaction" means any of
 13 the following:

14 (i) the making or purchasing of loans or providing
 15 other financial assistance;

16 (A) for purchasing, constructing, improving, repairing,
 17 or maintaining a housing accommodation or property; or

18 (B) secured by residential real estate; or

19 (ii) the selling, brokering, or appraising of
 20 residential real property.

21 (8) It is an unlawful discriminatory practice to deny a
 22 person access to or membership or participation in a
 23 multiple-listing service; real estate brokers' organization;
 24 or other service, organization, or facility relating to the
 25 business of selling, leasing, or renting housing

1 accommodations or property or to discriminate against the
 2 person in the terms or conditions of access, membership, or
 3 participation because of sex, race, creed, religion, age,
 4 familial status, physical or mental handicap, color, or
 5 national origin.

6 (9) It is an unlawful discriminatory practice to
 7 coerce, intimidate, threaten, or interfere with a person in
 8 the exercise or enjoyment of or because of his having
 9 exercised or enjoyed or having aided or encouraged any other
 10 person in the exercise or enjoyment of a right granted or
 11 protected by this section.

12 ††(10) The prohibitions of this section against
 13 discrimination because of age and familial status do not
 14 extend to housing for older persons. "Housing for older
 15 persons" means housing:

16 (a) provided under any state or federal program
 17 specifically designed and operated to assist elderly
 18 persons;

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

21 (c) intended and operated for occupancy by at least one
 22 person 55 years of age or older per unit in accordance with
 23 the provisions of 42 U.S.C. 3605(b)(2)(C) and (3) and 24
 24 C.F.R. 100.304, as those sections read on October 1, 1989.

25 †5(11) The prohibitions of ~~this-section~~ SUBSECTION (1)

1 against discrimination because of age and familial status do
 2 not extend to rooms or units in dwellings containing living
 3 quarters occupied or intended to be occupied by no more than
 4 two families living independently of each other, if the
 5 owner actually maintains and occupies one of the living
 6 quarters as his residence.

7 †6(12) For purposes of this section, "familial status"
 8 means having a child or children who live or will live with
 9 a person. A distinction based on familial status includes
 10 one that is based on the age of a child or children who live
 11 or will live with a person."

12 NEW SECTION. Section 2. Procedures and remedies for
 13 enforcement of housing discrimination laws. (1) A COMPLAINT
 14 MAY BE FILED WITH THE COMMISSION BY OR ON BEHALF OF A PERSON
 15 CLAIMING TO BE AGGRIEVED BY ANY DISCRIMINATORY PRACTICE
 16 PROHIBITED BY 49-2-305. THE COMPLAINT MUST BE IN WRITTEN
 17 FORM AND MUST BE FILED WITH THE COMMISSION WITHIN 1 YEAR
 18 AFTER THE ALLEGED UNLAWFUL DISCRIMINATORY PRACTICE OCCURRED
 19 OR WAS DISCOVERED.

20 ††(2) (a) Except as provided in subsection †††b†
 21 (2)(B), if the commission, in a hearing under 49-2-505,
 22 finds that a person, institution, entity, or agency against
 23 whom a complaint was filed under this part has engaged in a
 24 discriminatory practice in violation of 49-2-305, the
 25 commission may, in addition to the remedies AND INJUNCTIVE

1 AND EQUITABLE RELIEF provided by 49-2-506, to vindicate the
2 public interest, assess a civil penalty:

3 (i) in an amount not exceeding \$10,000 if the
4 respondent has not been found to have committed any prior
5 discriminatory housing practice in violation of 49-2-305;

6 (ii) in an amount not exceeding \$25,000 if the
7 respondent has been found to have committed one other
8 discriminatory housing practice in violation of 49-2-305
9 during the 5-year period ending on the date of the filing of
10 the complaint; and

11 (iii) in an amount not exceeding \$50,000 if the
12 respondent has been found to have committed two or more
13 discriminatory housing practices in violation of 49-2-305
14 during the 7-year period ending on the date of the filing of
15 the complaint.

16 (b) If the acts constituting the discriminatory housing
17 practice that is the object of the complaint are committed
18 by the same natural person who has been previously found to
19 have committed acts constituting a discriminatory housing
20 practice, the civil penalties provided in subsections
21 ~~(1)(a)(iii)-and-(1)(a)(iii)~~ (2)(A)(II) AND (2)(A)(III) may be
22 imposed without regard to the period of time within which
23 any prior discriminatory housing practice occurred.

24 ~~(2)(3)~~ In the case of an order with respect to a
25 discriminatory housing practice in violation of 49-2-305

1 that occurred in the course of a business subject to
2 licensing or regulation by a governmental agency, the
3 commission shall, no later than 30 days after the date of
4 the issuance of the order or, if the order is judicially
5 reviewed, no later than 30 days after the order is in
6 substance affirmed:

7 (a) send copies of the findings of fact, the
8 conclusions of law, and the order to the licensing or
9 regulatory agency; and

10 (b) recommend to the licensing or regulatory agency
11 appropriate disciplinary action, including, where
12 appropriate, the suspension or revocation of the license of
13 the respondent.

14 ~~(3)(4)~~ (a) When a complaint is filed under 49-2-305, a
15 complainant, respondent, or aggrieved person on whose behalf
16 the complaint was filed may elect to have the claims decided
17 in a civil action in lieu of a hearing under 49-2-505. The
18 election must be made no later than 20 days after receipt by
19 the electing person of service of notice of certification
20 for hearing under 49-2-505. The person making the election
21 shall give notice to the commission and to all other
22 complainants and respondents to whom the complaint relates.
23 Within 30 days after the election is made, the commission
24 shall commence a civil action in an appropriate district
25 court on behalf of the aggrieved person if the commission

1 staff has made a finding that the allegations of the
 2 complaint are supported by substantial evidence. If the
 3 commission staff has made a finding that the allegations of
 4 the complaint are not supported by substantial evidence, the
 5 complainant may commence a civil action in an appropriate
 6 district court in accordance with subsection ~~(4)~~ (5). An
 7 aggrieved person with respect to the issues to be determined
 8 in a civil action brought by the commission staff may
 9 intervene in the action.

10 (b) The commission may not continue administrative
 11 proceedings on a complaint after an election is made in
 12 accordance with subsection ~~(3)~~~~(a)~~ (4)(A).

13 ~~(4)~~(5) (a) An aggrieved person may commence a civil
 14 action in an appropriate district court within 2 years after
 15 an alleged unlawful discriminatory practice under 49-2-305
 16 occurred or was discovered or within 2 years of the breach
 17 of a conciliation agreement entered into under 49-2-504 in a
 18 case alleging a violation of 49-2-305. The computation of
 19 the 2-year period does not include any time during which an
 20 administrative proceeding under this title was pending with
 21 respect to a complaint alleging a violation of 49-2-305. The
 22 tolling of the time limit for commencing a civil action does
 23 not apply to actions arising from breach of a conciliation
 24 agreement.

25 (b) An aggrieved person may commence a civil action

1 under this subsection for a violation of 49-2-305 whether or
 2 not a complaint has been filed under 49-2-501 and without
 3 regard to the status of a complaint filed with the
 4 commission except as provided in subsection ~~(4)~~~~(d)~~ (5)(D).
 5 If the commission has obtained a conciliation agreement with
 6 the consent of the aggrieved person, an action may not be
 7 filed under this subsection by the aggrieved person
 8 regarding the alleged violation of 49-2-305 that forms the
 9 basis for the complaint except for the purpose of enforcing
 10 the terms of the agreement.

11 (c) The commission may not continue administrative
 12 proceedings on a complaint after the beginning of a trial of
 13 a civil action commenced by the aggrieved party under this
 14 subsection ~~(4)~~ (5) seeking relief with respect to the same
 15 alleged violation of 49-2-305.

16 (d) An aggrieved person may not commence a civil action
 17 under this subsection ~~(4)~~ (5) with respect to an alleged
 18 violation of 49-2-305 if the commission has commenced a
 19 hearing on the record under 49-2-505 regarding the same
 20 complaint.

21 (e) Upon application by a person alleging a violation
 22 of 49-2-305 in a civil action under this subsection ~~(4)~~ (5)
 23 or by a person against whom the violation is alleged, the
 24 court may:

25 (i) appoint an attorney for the applicant; or

1 (ii) authorize the commencement or continuation of a
2 civil action without the payment of fees, costs, or security
3 if, in the opinion of the court, the applicant is
4 financially unable to bear the costs of the civil action.

5 (f) Upon timely application, the commission may
6 intervene in a civil action brought under this subsection
7 ~~††~~ (5) if the commission certifies that the case is of
8 general public importance. Upon intervention, the commission
9 may obtain the same relief that would be available to the
10 commission under subsection ~~††~~ (7).

11 ~~†5~~(6) If the court finds that a person, institution,
12 entity, or agency against whom a complaint was filed under
13 this section has engaged in a discriminatory practice in
14 violation of 49-2-305, the court may, in addition to the
15 other remedies AND INJUNCTIVE AND EQUITABLE RELIEF provided
16 under 49-2-506, award punitive damages. The court may also
17 award attorney fees to the prevailing party.

18 ~~†6~~(7) (a) Whenever the commission has reasonable cause
19 to believe that a person or group of persons is engaged in a
20 pattern or practice in violation of 49-2-305 or that a group
21 of persons has been discriminated against in violation of
22 49-2-305 and the denial raises an issue of general public
23 importance, the commission may commence a civil action in an
24 appropriate district court. The commission may also commence
25 a civil action in any appropriate district court for relief

1 regarding breach of a conciliation agreement in a case
2 regarding an alleged violation of 49-2-305 if the commission
3 is a party to the agreement.

4 (b) The commission may file a civil action under this
5 subsection ~~†6~~ (7) within 18 months after the alleged breach
6 of the conciliation agreement or unlawful discriminatory
7 practice occurred or was discovered.

8 (c) In a civil action under this subsection ~~†6~~ (7),
9 the court may, in addition to the remedies provided under
10 49-2-506, assess a civil penalty against the respondent:

11 (i) in an amount not exceeding \$50,000 for a first
12 violation; and

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

15 (d) Upon timely application, a person may intervene in
16 a civil action under this subsection ~~†6~~ (7) that involves
17 an alleged violation of 49-2-305 with respect to which the
18 intervenor is an aggrieved person.

19 ~~†7~~(8) Civil penalties under this section must be paid
20 to the state treasurer to be deposited in an account in the
21 state ' special revenue fund to be used by the commission for
22 housing discrimination enforcement.

23 **Section 3.** Section 49-2-501, MCA, is amended to read:

24 "49-2-501. **Filing complaints.** (1) A complaint may be
25 filed by or on behalf of any person claiming to be aggrieved

1 by any discriminatory practice prohibited by this chapter.
 2 The complaint must be in the form of a written, verified
 3 complaint stating the name and address of the person,
 4 educational institution, financial institution, or
 5 governmental entity or agency alleged to have engaged in the
 6 discriminatory practice and the particulars of the alleged
 7 discriminatory practice. The commission staff may file a
 8 complaint in like manner when a discriminatory practice
 9 comes to its attention.

10 (2) (a) Except as provided in ~~{SECTION--2}~~ AND
 11 subsection (2)(b) ~~OF--THIS-SECTION~~, a complaint under this
 12 chapter must be filed with the commission within ~~100-days~~ 1
 13 year ~~100--DAYS~~ 1 YEAR after the alleged unlawful
 14 discriminatory practice occurred or was discovered.

15 (b) If the complainant has initiated efforts to resolve
 16 the dispute underlying the complaint by filing a grievance
 17 in accordance with any grievance procedure established by a
 18 collective bargaining agreement, contract, or written rule
 19 or policy, the complaint may be filed within ~~100-days~~ 1-year
 20 100--DAYS 1 YEAR after the conclusion of the grievance
 21 procedure if the grievance procedure concludes within 120
 22 days after the alleged unlawful discriminatory practice
 23 occurred or was discovered. If the grievance procedure does
 24 not conclude within 120 days, the complaint must be filed
 25 within ~~300~~ 405 ~~300~~ 485 days after the alleged unlawful

1 discriminatory practice occurred or was discovered.

2 (c) Any complaint not filed within the times set forth
 3 herein may not be considered by the commission."

4 **Section 4.** Section 49-2-503, MCA, is amended to read:

5 **"49-2-503. Temporary relief by court order.** (1) At any
 6 time after a complaint is filed under this chapter ~~alleging~~
 7 ~~an-unlawful-discriminatory-practice,~~ the commission may file
 8 ~~a-petition-in-the-district-court-in-the-county-in-which--the~~
 9 ~~subject--of-the-complaint-occurs-or-in-the-county-in-which-a~~
 10 ~~respondent-resides-or-transacts-business-seeking-appropriate~~
 11 ~~temporary-relief-against-this-practice,~~ including--an--order
 12 ~~restraining--the--respondent--from-interfering-in-any-manner~~
 13 ~~with-an-order-the-commission-may-enter-with-respect--to--the~~
 14 ~~complaint.~~

15 (2) ~~The--court--has--the--power--to-grant-the-temporary~~
 16 ~~relief-or-restraining-order-it-considers--just--and--proper.~~
 17 ~~However,~~ no relief or order extending beyond 14 days may be
 18 ~~granted-except-by-consent--of--the--respondent--or--upon--a~~
 19 ~~finding--by--the--court--that--there--is-reasonable-cause-to~~
 20 ~~believe-that-the-respondent-has--engaged--in--discriminatory~~
 21 ~~practices,~~ a district court may, upon the application of the
 22 commission or the complainant, enter a preliminary
 23 injunction against a respondent in the case. The procedure
 24 for granting the order is as provided by statute for
 25 preliminary injunctions in civil actions."

1 **Section 5.** Section 49-2-506, MCA, is amended to read:

2 **"49-2-506. Procedure upon a finding of discrimination.**

3 (1) If the commission finds that a person, institution,
4 entity, or agency against whom a complaint was filed has
5 engaged in the discriminatory practice alleged in the
6 complaint, the commission shall order him or it to refrain
7 from engaging in the discriminatory conduct. The order may:

8 (a) prescribe conditions on the accused's future
9 conduct relevant to the type of discriminatory practice
10 found;

11 (b) require any reasonable measure to correct the
12 discriminatory practice and to rectify any harm, pecuniary
13 or otherwise, to the person discriminated against;

14 (c) require a report on the manner of compliance.

15 (2) ~~The~~ Except as provided in [section 2], the order
16 may not require the payment of any punitive damages.

17 (3) Whenever a commission order or conciliation
18 agreement requires inspection by the commission staff for a
19 period of time to determine if the respondent is complying
20 with that order or agreement, the period of time may not be
21 more than 3 years."

22 **Section 6.** Section 49-2-509, MCA, is amended to read:

23 **"49-2-509. Filing a complaint in district court.** (1)
24 Except as provided in subsection (2) or with respect to
25 complaints alleging a violation of 49-2-305, the commission

1 staff shall, at the request of either party, issue a letter
2 entitling the complainant to file a discrimination action in
3 district court if:

4 (a) the commission has not yet held a contested case
5 hearing pursuant to 49-2-505; and

6 (b) 12 months have elapsed since the complaint was
7 filed.

8 (2) The commission staff may refuse to permit removal
9 of a case to district court if:

10 (a) the party requesting removal fails to comply with
11 the terms of a lawful subpoena issued in the investigative
12 process;

13 (b) the party requesting removal has waived the right
14 to request removal to the district court;

15 (c) more than 30 days have elapsed since service of
16 notice of hearing under 49-2-505, unless the commission
17 fails to schedule a hearing to be held within 90 days of
18 service of notice of hearing; or

19 (d) the party requesting removal has unsuccessfully
20 attempted through court litigation to prevent the commission
21 staff from investigating the complaint.

22 (3) The commission staff may dismiss a complaint filed
23 under 49-2-501 and allow the complainant to file a
24 discrimination action in district court if:

25 (a) the commission staff determines that the commission

1 lacks jurisdiction over the complaint;

2 (b) the complainant fails to cooperate in the staff's
3 investigation of the complaint or fails to keep the
4 commission advised of changes of address; or

5 (c) the commission staff determines that the
6 allegations of the complaint are not supported by
7 substantial evidence.

8 (4) A decision of the commission staff to dismiss a
9 complaint or to refuse to permit removal to the district
10 court is final unless a party seeks review by filing
11 objections within 14 days after the decision is served on
12 him. The commission shall review the decision in informal
13 proceedings under 2-4-604, except that 2-4-604(5) applies
14 only to review of a refusal to permit removal.

15 (5) Within 90 days after receipt of a notice of
16 dismissal under subsection (3) or an order under subsection
17 (4) of affirmance or a dismissal, whichever occurs later, or
18 of a letter issued under subsection (1), the complainant may
19 petition the district court in the district in which the
20 alleged violation occurred for appropriate relief. If Except
21 as provided in [section 2], if the claimant fails to
22 petition the district court within 90 days after receipt of
23 the letter, notice, or order issued by the commission staff,
24 the claim shall be barred.

25 (6) If the district court finds, in an action under

1 this section, that a person, institution, entity, or agency
2 against whom or which a complaint was filed has engaged in
3 the unlawful discriminatory practice alleged in the
4 complaint, the court may provide the same relief as
5 described in 49-2-506 for a commission order. In addition,
6 the court may in its discretion allow the prevailing party
7 reasonable attorney fees.

8 (7) The provisions of this chapter establish the
9 exclusive remedy for acts constituting an alleged violation
10 of this chapter, including acts that may otherwise also
11 constitute a violation of the discrimination provisions of
12 Article II, section 4, of the Montana constitution or
13 49-1-102. No other claim or request for relief based upon
14 such acts may be entertained by a district court other than
15 by the procedures specified in this chapter."

16 ~~Section 7--Section 49-3-304, MCA, is amended to read:~~
17 ~~"49-3-304--Filing complaints--(1)--Except as provided in~~
18 ~~subsection (2), a complaint under this chapter must be filed~~
19 ~~with the commission within 180 days 1-year after the alleged~~
20 ~~unlawful discriminatory practice occurred or was discovered;~~
21 ~~(2)--if the complainant has initiated efforts to resolve~~
22 ~~the dispute underlying the complaint by filing a grievance~~
23 ~~in accordance with any grievance procedure established by a~~
24 ~~collective bargaining agreement, contract, or written rule~~
25 ~~or policy, the complaint may be filed within 180 days 1-year~~

1 after the conclusion of the grievance procedure if the
 2 grievance procedure concludes within 120 days after the
 3 alleged unlawful discriminatory practice occurred or was
 4 discovered. If the grievance procedure does not conclude
 5 within 120 days, the complaint must be filed within 300 485
 6 days after the alleged unlawful discriminatory practice
 7 occurred or was discovered.

8 {3} A complaint not filed within the times set forth in
 9 this section may not be considered by the commission."

10 **SECTION 7.** SECTION 49-3-304, MCA, IS AMENDED TO READ:

11 "49-3-304. Filing complaints. (1) Except as provided in
 12 subsection (2), a complaint under this chapter must be filed
 13 with the commission within 180 days 1 year days after the
 14 alleged unlawful discriminatory practice occurred or was
 15 discovered.

16 (2) If the complainant has initiated efforts to resolve
 17 the dispute underlying the complaint by filing a grievance
 18 in accordance with any grievance procedure established by a
 19 collective bargaining agreement, contract, or written rule
 20 or policy, the complaint may be filed within 180 days 1 year
 21 after the conclusion of the grievance procedure if the
 22 grievance procedure concludes within 120 days after the
 23 alleged unlawful discriminatory practice occurred or was
 24 discovered. If the grievance procedure does not conclude
 25 within 120 days, the complaint must be filed within 300 days

1 after the alleged unlawful discriminatory practice occurred
 2 or was discovered.

3 (3) A complaint not filed within the times set forth in
 4 this section may not be considered by the commission."

5 **Section 8.** Section 49-3-306, MCA, is amended to read:

6 "49-3-306. Temporary relief by court order. {1} At any
 7 time after a complaint is filed with the commission under
 8 this chapter alleging an unlawful discriminatory practice,
 9 the commission may file a petition in the district court in
 10 the county in which the subject of the complaint occurred or
 11 in the county in which a respondent resides or transacts
 12 business, seeking appropriate temporary relief against this
 13 practice, including an order restraining the respondent from
 14 interfering in any manner with an order the commission may
 15 enter with respect to the complaint.

16 {2} The court has the power to grant the temporary
 17 relief or restraining order it considers just and proper.
 18 However, no relief or order extending beyond 14 days may be
 19 granted except by consent of the respondent or upon a
 20 finding by the court that there is reasonable cause to
 21 believe that the respondent has engaged in discriminatory
 22 practices, a district court may, upon the application of the
 23 commission or the complainant, enter a preliminary
 24 injunction against a respondent in the case. The procedure
 25 for granting the order is as provided by statute for

1 preliminary injunctions in civil actions."

2 **NEW SECTION. Section 9. Intimidation or interference**
 3 **in the right to be free from housing discrimination --**
 4 **penalties. (1) It is unlawful for a person, whether or not**
 5 **acting under color of law, by force or threat of force to**
 6 **purposefully or knowingly injure, intimidate, or interfere**
 7 **with or attempt to injure, intimidate, or interfere with:**
 8 (a) a person because of sex, race, creed, religion,
 9 age, familial status, physical or mental handicap, color, or
 10 national origin and because the person is or has been:
 11 (i) selling, purchasing, renting, leasing, financing,
 12 or occupying or contracting or negotiating for the sale,
 13 purchase, lease, rental, financing, or occupation of any
 14 housing accommodation or property; or
 15 (ii) applying for or participating in any service,
 16 organization, or facility relating to the business of
 17 selling, leasing, or renting housing accommodations or
 18 property;
 19 (b) a person because he is or has been:
 20 (i) participating, without discrimination because of
 21 sex, race, creed, religion, age, familial status, physical
 22 or mental handicap, color, or national origin in any of the
 23 activities, services, organizations, or facilities described
 24 in this subsection (1); or
 25 (ii) affording another person or class of persons

1 opportunity or protection to participate in those
 2 activities, services, organizations, or facilities; or

3 (c) a citizen because he is or has been, or in order to
 4 discourage him or any other citizen from, lawfully aiding or
 5 encouraging other persons to participate in any of the
 6 activities, services, organizations, or facilities described
 7 in this subsection (1) or because he is or has lawfully
 8 participated in speech or peaceful assembly opposing any
 9 denial of the opportunity to participate.

10 (2) A person who violates a provision of subsection
 11 (1):

12 (a) shall be fined not more than \$1,000 or imprisoned
 13 for not more than 1 year, or both;

14 (b) if bodily injury results, shall be fined not more
 15 than \$10,000 or imprisoned for not more than 10 years, or
 16 both; or

17 (c) if death results, shall be subject to imprisonment
 18 for any term of years or for life.

19 **Section 10. Section 49-4-212, MCA, is amended to read:**

20 **"49-4-212. Access to housing accommodations. (±) Blind,**
 21 **visually handicapped, and deaf persons are entitled to as**
 22 **full and equal access as other members of the general public**
 23 **to any housing accommodation offered for compensation in**
 24 **this state.**

25 ~~(2)--Nothing-in-this-section-requires-a-person--renting~~

1 ~~leasing, or providing real property for compensation to~~
2 ~~modify his property in any way or provide a higher degree of~~
3 ~~care for a blind, visually handicapped, or deaf person than~~
4 ~~for a person who is not so disabled."~~

5 NEW SECTION. SECTION 11. REPEALER. SECTIONS 49-2-401
6 AND 49-3-105, MCA, ARE REPEALED.

7 NEW SECTION. Section 12. Codification instruction. (1)
8 [Section 2] is intended to be codified as an integral part
9 of Title 49, chapter 2, part 5, and the provisions of Title
10 49, chapter 2, part 5, apply to [section 2].

11 (2) [Section 9 8 9] is intended to be codified as an
12 integral part of Title 49, chapter 2, part 6, and the
13 provisions of Title 49, chapter 2, part 6, apply to [section
14 9 8 9].

-End-

Page 1 of 2

Mr. President and Mr. Speaker:

We, your Free Conference Committee on Senate Bill No. 199, met and considered Senate Bill No. 199 (reference copy - salmon).

We recommend that Senate Bill No. 199 (reference copy - salmon) be amended as follows:

1. Title, lines 10 through 13.
Following: "DISCRIMINATION;" on line 10
Strike: remainder of line 10 through "DISCRIMINATION;" on line 13
2. Title, line 14.
Following: "~~49-3-304,~~"
Insert: "49-3-106,"
3. Title, line 15.
Strike: "49-3-904,"
4. Page 4, lines 12 and 20.
Following: "sex,"
Insert: "marital status,"
5. Page 5, lines 2 and 4.
Strike: "LESSOR"
Insert: "owner"
6. Page 6, line 22.
Strike: "THE HOUSING ACCOMMODATION HAS"
Insert: "provides"
7. Page 11, line 1.
Following: "AND"
Insert: "other"
8. Page 15, line 15.
Following: second "AND"
Insert: "other"
9. Page 17, line 10.
Following: "AND"
Insert: "[section 2] and"
10. Page 17, line 11.
Following: "SECTION"
Insert: "of this section"

11. Page 17, line 13.
Strike: "1 YEAR"
Insert: "180 days"

12. Page 17, line 20.
Strike: "1 YEAR"
Insert: "180 days"

13. Page 17, line 25.
Strike: "485"
Insert: "300"


14. Page 23, line 10 through page 24, line 4.
Strike: section 7 in its entirety
Insert: "Section 7. Section 49-3-106, MCA, is amended to read:
"49-3-106. Rulemaking authority. The commission may adopt rules necessary for the implementation of this chapter, in accordance with the Montana Administrative Procedure Act. The rules may include but are not limited to procedural rules for:
(1) filing of complaints;
(2) conducting investigations of complaints;
(3) petitioning for a declaratory ruling, ~~as provided in 49-3-105;~~ and
(4) conduct of hearings."

And that this Free Conference Committee report be adopted.

For the Senate:



Chair, Sen. Pinoneault

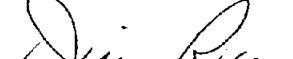

Sen. Nazarek

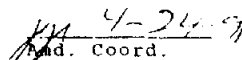

Sen. Brown

For the House:


Chair, Rep. Russell


Rep. Measure


Rep. J. Rice


Ad. Coord.


Sec. of Senate

ADOPT

REJECT

880632CC.Sji

FCCR #1
SB 199
880632CC.Sji

SENATE BILL NO. 199

INTRODUCED BY B. BROWN, YELLOWTAIL, J. RICE, STRIZICH

BY REQUEST OF THE COMMISSION FOR HUMAN RIGHTS

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE HOUSING DISCRIMINATION LAWS TO MAKE THEM SUBSTANTIALLY EQUIVALENT TO FEDERAL DISCRIMINATION LAW; PROVIDING PROCEDURES AND REMEDIES FOR ENFORCEMENT OF HOUSING DISCRIMINATION LAWS; PROHIBITING INTIMIDATION OR INTERFERENCE IN THE RIGHT TO BE FREE FROM HOUSING DISCRIMINATION; ~~EXTENDING-THE-TIME-TO-FILE~~ ~~ALL-COMPLAINTS-UNDER-THE-DISCRIMINATION-LAWS-TO-BE~~ ~~CONSISTENT-WITH-THE-TIME-LIMITS-FOR-COMPLAINTS-OF-HOUSING~~ ~~DISCRIMINATION~~; PROVIDING PENALTIES; AND AMENDING SECTIONS 49-2-305, 49-2-501, 49-2-503, 49-2-506, 49-2-509, 49-3-304, 49-3-106, 49-3-306, ~~49-3-904~~, AND 49-4-212, MCA; AND REPEALING SECTIONS 49-2-401 AND 49-3-105, MCA."

WHEREAS, the Legislature has previously included housing discrimination as a subject of discrimination law in the Montana Human Rights Act; and

WHEREAS, the housing discrimination laws in the Montana Human Rights Act were modeled after the federal Fair Housing Act of 1968; and

WHEREAS, in 1988, Congress substantially amended the federal Fair Housing Act, enforced by the Department of

Housing and Urban Development; and

WHEREAS, the Montana Commission for Human Rights processes housing discrimination complaints in Montana that allege a violation of both the Montana Human Rights Act and the federal Fair Housing Act; and

WHEREAS, the Montana Commission for Human Rights receives a substantial portion of its funding from contracts with the Department of Housing and Urban Development for processing federal housing discrimination cases; and

WHEREAS, after January 13, 1992, the Department of Housing and Urban Development will no longer contract with any state fair housing agency that does not enforce a state law providing rights and remedies substantially equivalent to those provided by the federal Fair Housing Act; and

WHEREAS, the rights and remedies provided by the Montana Human Rights Act are not presently substantially equivalent to those provided by the federal Fair Housing Act.

THEREFORE, it is appropriate for the Legislature to amend the housing discrimination laws in the Montana Human Rights Act to maintain substantial equivalency with the federal Fair Housing Act.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 49-2-305, MCA, is amended to read:

"49-2-305. Discrimination in housing -- exemptions. (1)

1 ~~Except when the distinction is based on reasonable grounds,~~
 2 ~~it~~ IT is an unlawful discriminatory practice for the owner,
 3 lessee, OR manager, HAVING THE RIGHT TO SELL, LEASE, OR RENT
 4 A HOUSING ACCOMMODATION OR IMPROVED OR UNIMPROVED PROPERTY
 5 or FOR ANY other person ~~having the right to sell, lease, or~~
 6 ~~rent a housing accommodation or improved or unimproved~~
 7 ~~property:~~

8 (a) to refuse to sell, lease, or rent the housing
 9 accommodation or property to a person because of sex, race,
 10 creed, religion, color, age, familial status, physical or
 11 mental handicap, or national origin;

12 (b) to discriminate against a person because of sex,
 13 race, creed, religion, age, familial status, physical or
 14 mental handicap, color, or national origin in a term,
 15 condition, or privilege relating to the use, sale, lease, or
 16 rental of the housing accommodation or property;

17 ~~(c) to make a written or oral inquiry or record of the~~
 18 ~~sex, race, creed, religion, age, physical or mental~~
 19 ~~handicap, color, or national origin of a person seeking to~~
 20 ~~buy, lease, or rent the housing accommodation or property,~~
 21 or

22 (C) TO MAKE AN INQUIRY FOR THE PURPOSE OF
 23 DISCRIMINATING ON THE BASIS OF THE SEX, RACE, CREED,
 24 RELIGION, AGE, FAMILIAL STATUS, PHYSICAL OR MENTAL HANDICAP,
 25 COLOR, OR NATIONAL ORIGIN OF A PERSON SEEKING TO BUY, LEASE,

1 OR RENT THE A HOUSING ACCOMMODATION OR PROPERTY FOR THE
 2 PURPOSE OF DISCRIMINATING ON THE BASIS OF SEX, RACE, CREED,
 3 RELIGION, AGE, FAMILIAL STATUS, PHYSICAL OR MENTAL HANDICAP,
 4 COLOR, OR NATIONAL ORIGIN;

5 ~~(d)(c)(D)~~ to refuse to negotiate for a sale or to
 6 OTHERWISE make UNAVAILABLE OR DENY a housing accommodation
 7 or property unavailable because of sex, race, creed,
 8 religion, age, familial status, physical or mental handicap,
 9 color, or national origin;

10 ~~(d)(E)~~ to represent to a person that a housing
 11 accommodation or property is not available for inspection,
 12 sale, or rental because of that person's sex, MARITAL
 13 STATUS, race, creed, religion, age, familial status,
 14 physical or mental handicap, color, or national origin when
 15 the housing accommodation or property is in fact available;
 16 or

17 ~~(e)(F)~~ for profit, to induce or attempt to induce a
 18 person to sell or rent a housing accommodation or property
 19 by representations regarding the entry or prospective entry
 20 into the neighborhood of a person or persons of a particular
 21 sex, MARITAL STATUS, race, creed, religion, age, familial
 22 status, physical or mental handicap, color, or national
 23 origin.

24 ~~(2) A private residence designed for single family~~
 25 ~~occupancy in which sleeping space is rented to guests and in~~

1 ~~which the landlord also resides is excluded from the~~
2 ~~provisions of subsection (1):~~

3 (2) THE RENTAL OF SLEEPING ROOMS IN A PRIVATE RESIDENCE
4 DESIGNED FOR SINGLE-FAMILY OCCUPANCY IN WHICH THE LESSOR
5 OWNER ALSO RESIDES IS EXCLUDED FROM THE PROVISIONS OF
6 SUBSECTION (1), PROVIDED THAT THE LESSOR OWNER RENTS NO MORE
7 THAN THREE SLEEPING ROOMS WITHIN THE RESIDENCE.

8 (3) It is also an unlawful discriminatory practice to
9 make, print, or publish or cause to be made, printed, or
10 published any notice, statement, or advertisement that
11 indicates any preference, limitation, or discrimination that
12 is prohibited by subsection (1) or any intention to make or
13 have such a preference, limitation, or discrimination.

14 (4) It is an unlawful discriminatory practice for a
15 person to discriminate because of a physical or mental
16 handicap of a buyer, lessee, or renter; a person residing in
17 or intending to reside in or on the housing accommodation or
18 property after it is sold, leased, rented, or made
19 available; or any person associated with that buyer, lessee,
20 or renter:

21 (a) in the sale, rental, or availability of the housing
22 accommodation or property;

23 (b) in the terms, conditions, or privileges of a sale
24 or rental of the housing accommodation or property; or

25 (c) in the provision of services or facilities in

1 connection with the housing accommodation or property.

2 (5) For purposes of subsections (1) and (4),
3 discrimination because of physical or mental handicap
4 includes:

5 (a) refusal to permit, at the expense of the
6 handicapped person, reasonable modifications of existing
7 premises occupied or to be occupied by the handicapped
8 person if the modifications may be necessary to allow the
9 person full enjoyment of the premises, except that in the
10 case of a lease or rental, the landlord may, where it is
11 reasonable to do so, condition permission for a modification
12 on the lessor's or renter's agreement to restore the
13 interior of the premises to the condition that existed
14 before the modification, except for reasonable wear and
15 tear;

16 (b) refusal to make reasonable accommodations in rules,
17 policies, practices, or services when the accommodations may
18 be necessary to allow the person equal opportunity to use
19 and enjoy a housing accommodation or property; or

20 (c) (i) except as provided in subsection (5)(c)(ii), in
21 connection with the design and construction of a covered
22 multifamily housing accommodation, a failure to design and
23 construct the housing accommodation in a manner that:

24 (A) THE HOUSING ACCOMMODATION HAS PROVIDES AT LEAST ONE
25 ACCESSIBLE BUILDING ENTRANCE ON AN ACCESSIBLE ROUTE;

1 (A)(B) makes the public use and common use portions of
 2 the housing accommodation readily accessible to and usable
 3 by handicapped persons;

4 (B)(C) provides THAT ALL doors designed to allow
 5 passage into and within all premises within the housing
 6 accommodation ARE sufficiently wide to allow passage by
 7 handicapped persons in wheelchairs; and

8 (E)(D) ensures that all premises within the housing
 9 accommodation contain the following features of adaptive
 10 design:

11 (I) an accessible route into and through the housing
 12 accommodation;

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

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

17 (IV) usable kitchens and bathrooms that allow an
 18 individual in a wheelchair to maneuver about the space;

19 (ii) a covered multifamily housing accommodation that
 20 does not have at least one building entrance on an
 21 accessible route because it is impractical to do so due to
 22 the terrain or unusual characteristics of the site is not
 23 required to comply with the requirements of subsection
 24 (5)(c)(i).

25 (6) For purposes of subsection (5), the term "covered

1 multifamily housing accommodation" means:

2 (a) a building consisting of four or more dwelling
 3 units if the building has one or more elevators; and

4 (b) ground floor units in a building consisting of four
 5 or more dwelling units.

6 (7) (a) It is an unlawful discriminatory practice for
 7 any person or other entity whose business includes engaging
 8 in residential real estate-related transactions to
 9 discriminate because of sex, race, creed, religion, age,
 10 familial status, physical or mental handicap, color, or
 11 national origin against a person in making available a
 12 transaction or in the terms or conditions of a transaction.

13 (b) For purposes of this subsection (7), the term
 14 "residential real estate-related transaction" means any of
 15 the following:

16 (i) the making or purchasing of loans or providing
 17 other financial assistance:

18 (A) for purchasing, constructing, improving, repairing,
 19 or maintaining a housing accommodation or property; or

20 (B) secured by residential real estate; or
 21 (ii) the selling, brokering, or appraising of
 22 residential real property.

23 (8) It is an unlawful discriminatory practice to deny a
 24 person access to or membership or participation in a
 25 multiple-listing service; real estate brokers' organization;

1 or other service, organization, or facility relating to the
 2 business of selling, leasing, or renting housing
 3 accommodations or property or to discriminate against the
 4 person in the terms or conditions of access, membership, or
 5 participation because of sex, race, creed, religion, age,
 6 familial status, physical or mental handicap, color, or
 7 national origin.

8 (9) It is an unlawful discriminatory practice to
 9 coerce, intimidate, threaten, or interfere with a person in
 10 the exercise or enjoyment of or because of his having
 11 exercised or enjoyed or having aided or encouraged any other
 12 person in the exercise or enjoyment of a right granted or
 13 protected by this section.

14 (4)(10) The prohibitions of this section against
 15 discrimination because of age and familial status do not
 16 extend to housing for older persons. "Housing for older
 17 persons" means housing:

18 (a) provided under any state or federal program
 19 specifically designed and operated to assist elderly
 20 persons;

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

23 (c) intended and operated for occupancy by at least one
 24 person 55 years of age or older per unit in accordance with
 25 the provisions of 42 U.S.C. 3605(b)(2)(C) and (3) and 24

1 C.F.R. 100.304, as those sections read on October 1, 1989.

2 ~~(5)~~(11) The prohibitions of this-section SUBSECTION (1)
 3 against discrimination because of age and familial status do
 4 not extend to rooms or units in dwellings containing living
 5 quarters occupied or intended to be occupied by no more than
 6 two families living independently of each other, if the
 7 owner actually maintains and occupies one of the living
 8 quarters as his residence.

9 ~~(6)~~(12) For purposes of this section, "familial status"
 10 means having a child or children who live or will live with
 11 a person. A distinction based on familial status includes
 12 one that is based on the age of a child or children who live
 13 or will live with a person."

14 NEW SECTION. Section 2. Procedures and remedies for
 15 enforcement of housing discrimination laws. (1) A COMPLAINT
 16 MAY BE FILED WITH THE COMMISSION BY OR ON BEHALF OF A PERSON
 17 CLAIMING TO BE AGGRIEVED BY ANY DISCRIMINATORY PRACTICE
 18 PROHIBITED BY 49-2-305. THE COMPLAINT MUST BE IN WRITTEN
 19 FORM AND MUST BE FILED WITH THE COMMISSION WITHIN 1 YEAR
 20 AFTER THE ALLEGED UNLAWFUL DISCRIMINATORY PRACTICE OCCURRED
 21 OR WAS DISCOVERED.

22 ~~(1)~~(2) (a) Except as provided in subsection ~~(1)~~(b)
 23 ~~(2)~~(B), if the commission, in a hearing under 49-2-505,
 24 finds that a person, institution, entity, or agency against
 25 whom a complaint was filed under this part has engaged in a

1 discriminatory practice in violation of 49-2-305, the
 2 commission may, in addition to the remedies AND INJUNCTIVE
 3 AND OTHER EQUITABLE RELIEF provided by 49-2-506, to
 4 vindicate the public interest, assess a civil penalty:

5 (i) in an amount not exceeding \$10,000 if the
 6 respondent has not been found to have committed any prior
 7 discriminatory housing practice in violation of 49-2-305;

8 (ii) in an amount not exceeding \$25,000 if the
 9 respondent has been found to have committed one other
 10 discriminatory housing practice in violation of 49-2-305
 11 during the 5-year period ending on the date of the filing of
 12 the complaint; and

13 (iii) in an amount not exceeding \$50,000 if the
 14 respondent has been found to have committed two or more
 15 discriminatory housing practices in violation of 49-2-305
 16 during the 7-year period ending on the date of the filing of
 17 the complaint.

18 (b) If the acts constituting the discriminatory housing
 19 practice that is the object of the complaint are committed
 20 by the same natural person who has been previously found to
 21 have committed acts constituting a discriminatory housing
 22 practice, the civil penalties provided in subsections
 23 ~~(1)(a)(i) and (1)(a)(ii)~~ (2)(A)(II) AND (2)(A)(III) may be
 24 imposed without regard to the period of time within which
 25 any prior discriminatory housing practice occurred.

1 ~~(2)(3)~~ In the case of an order with respect to a
 2 discriminatory housing practice in violation of 49-2-305
 3 that occurred in the course of a business subject to
 4 licensing or regulation by a governmental agency, the
 5 commission shall, no later than 30 days after the date of
 6 the issuance of the order or, if the order is judicially
 7 reviewed, no later than 30 days after the order is in
 8 substance affirmed:

9 (a) send copies of the findings of fact, the
 10 conclusions of law, and the order to the licensing or
 11 regulatory agency; and

12 (b) recommend to the licensing or regulatory agency
 13 appropriate disciplinary action, including, where
 14 appropriate, the suspension or revocation of the license of
 15 the respondent.

16 ~~(3)(4)~~ (a) When a complaint is filed under 49-2-305, a
 17 complainant, respondent, or aggrieved person on whose behalf
 18 the complaint was filed may elect to have the claims decided
 19 in a civil action in lieu of a hearing under 49-2-505. The
 20 election must be made no later than 20 days after receipt by
 21 the electing person of service of notice of certification
 22 for hearing under 49-2-505. The person making the election
 23 shall give notice to the commission and to all other
 24 complainants and respondents to whom the complaint relates.
 25 Within 30 days after the election is made, the commission

1 shall commence a civil action in an appropriate district
 2 court on behalf of the aggrieved person if the commission
 3 staff has made a finding that the allegations of the
 4 complaint are supported by substantial evidence. If the
 5 commission staff has made a finding that the allegations of
 6 the complaint are not supported by substantial evidence, the
 7 complainant may commence a civil action in an appropriate
 8 district court in accordance with subsection ~~4~~ 5. An
 9 aggrieved person with respect to the issues to be determined
 10 in a civil action brought by the commission staff may
 11 intervene in the action.

12 (b) The commission may not continue administrative
 13 proceedings on a complaint after an election is made in
 14 accordance with subsection ~~3~~~~a~~ 4A.

15 ~~4~~5 (a) An aggrieved person may commence a civil
 16 action in an appropriate district court within 2 years after
 17 an alleged unlawful discriminatory practice under 49-2-305
 18 occurred or was discovered or within 2 years of the breach
 19 of a conciliation agreement entered into under 49-2-504 in a
 20 case alleging a violation of 49-2-305. The computation of
 21 the 2-year period does not include any time during which an
 22 administrative proceeding under this title was pending with
 23 respect to a complaint alleging a violation of 49-2-305. The
 24 tolling of the time limit for commencing a civil action does
 25 not apply to actions arising from breach of a conciliation

1 agreement.

2 (b) An aggrieved person may commence a civil action
 3 under this subsection for a violation of 49-2-305 whether or
 4 not a complaint has been filed under 49-2-501 and without
 5 regard to the status of a complaint filed with the
 6 commission except as provided in subsection ~~4~~~~d~~ 5D.
 7 If the commission has obtained a conciliation agreement with
 8 the consent of the aggrieved person, an action may not be
 9 filed under this subsection by the aggrieved person
 10 regarding the alleged violation of 49-2-305 that forms the
 11 basis for the complaint except for the purpose of enforcing
 12 the terms of the agreement.

13 (c) The commission may not continue administrative
 14 proceedings on a complaint after the beginning of a trial of
 15 a civil action commenced by the aggrieved party under this
 16 subsection ~~4~~ 5 seeking relief with respect to the same
 17 alleged violation of 49-2-305.

18 (d) An aggrieved person may not commence a civil action
 19 under this subsection ~~4~~ 5 with respect to an alleged
 20 violation of 49-2-305 if the commission has commenced a
 21 hearing on the record under 49-2-505 regarding the same
 22 complaint.

23 (e) Upon application by a person alleging a violation
 24 of 49-2-305 in a civil action under this subsection ~~4~~ 5
 25 or by a person against whom the violation is alleged, the

1 court may:

2 (i) appoint an attorney for the applicant; or

3 (ii) authorize the commencement or continuation of a
4 civil action without the payment of fees, costs, or security
5 if, in the opinion of the court, the applicant is
6 financially unable to bear the costs of the civil action.

7 (f) Upon timely application, the commission may
8 intervene in a civil action brought under this subsection
9 ~~(4)~~ (5) if the commission certifies that the case is of
10 general public importance. Upon intervention, the commission
11 may obtain the same relief that would be available to the
12 commission under subsection ~~(6)~~ (7).

13 ~~(5)~~(6) If the court finds that a person, institution,
14 entity, or agency against whom a complaint was filed under
15 this section has engaged in a discriminatory practice in
16 violation of 49-2-305, the court may, in addition to the
17 other remedies AND INJUNCTIVE AND OTHER EQUITABLE RELIEF
18 provided under 49-2-506, award punitive damages. The court
19 may also award attorney fees to the prevailing party.

20 ~~(6)~~(7) (a) Whenever the commission has reasonable cause
21 to believe that a person or group of persons is engaged in a
22 pattern or practice in violation of 49-2-305 or that a group
23 of persons has been discriminated against in violation of
24 49-2-305 and the denial raises an issue of general public
25 importance, the commission may commence a civil action in an

1 appropriate district court. The commission may also commence
2 a civil action in any appropriate district court for relief
3 regarding breach of a conciliation agreement in a case
4 regarding an alleged violation of 49-2-305 if the commission
5 is a party to the agreement.

6 (b) The commission may file a civil action under this
7 subsection ~~(6)~~ (7) within 18 months after the alleged breach
8 of the conciliation agreement or unlawful discriminatory
9 practice occurred or was discovered.

10 (c) In a civil action under this subsection ~~(6)~~ (7),
11 the court may, in addition to the remedies provided under
12 49-2-506, assess a civil penalty against the respondent:

13 (i) in an amount not exceeding \$50,000 for a first
14 violation; and

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

17 (d) Upon timely application, a person may intervene in
18 a civil action under this subsection ~~(6)~~ (7) that involves
19 an alleged violation of 49-2-305 with respect to which the
20 intervenor is an aggrieved person.

21 ~~(7)~~(8) Civil penalties under this section must be paid
22 to the state treasurer to be deposited in an account in the
23 state special revenue fund to be used by the commission for
24 housing discrimination enforcement.

25 **Section 3.** Section 49-2-501, MCA, is amended to read:

1 "49-2-501. Filing complaints. (1) A complaint may be
 2 filed by or on behalf of any person claiming to be aggrieved
 3 by any discriminatory practice prohibited by this chapter.
 4 The complaint must be in the form of a written, verified
 5 complaint stating the name and address of the person,
 6 educational institution, financial institution, or
 7 governmental entity or agency alleged to have engaged in the
 8 discriminatory practice and the particulars of the alleged
 9 discriminatory practice. The commission staff may file a
 10 complaint in like manner when a discriminatory practice
 11 comes to its attention.

12 (2) (a) Except as provided in ~~{SECTION-2}~~ AND [SECTION
 13 2] AND subsection (2)(b) ~~OF THIS SECTION OF THIS SECTION~~, a
 14 complaint under this chapter must be filed with the
 15 commission within ~~100-days~~ 1-year ~~100-DAYS~~ 1-YEAR 180 DAYS
 16 after the alleged unlawful discriminatory practice occurred
 17 or was discovered.

18 (b) If the complainant has initiated efforts to resolve
 19 the dispute underlying the complaint by filing a grievance
 20 in accordance with any grievance procedure established by a
 21 collective bargaining agreement, contract, or written rule
 22 or policy, the complaint may be filed within ~~100-days~~ 1-year
 23 100-DAYS 1-YEAR 180 DAYS after the conclusion of the
 24 grievance procedure if the grievance procedure concludes
 25 within 120 days after the alleged unlawful discriminatory

1 practice occurred or was discovered. If the grievance
 2 procedure does not conclude within 120 days, the complaint
 3 must be filed within ~~300~~ 405 ~~300~~ 405 300 days after the
 4 alleged unlawful discriminatory practice occurred or was
 5 discovered.

6 (c) Any complaint not filed within the times set forth
 7 herein may not be considered by the commission."

8 **Section 4.** Section 49-2-503, MCA, is amended to read:

9 "49-2-503. Temporary relief by court order. (1) At any
 10 time after a complaint is filed under this chapter alleging
 11 ~~an-unlawful-discriminatory-practice,~~ ~~the-commission-may-file~~
 12 ~~a-petition-in-the-district-court-in-the-county-in-which--the~~
 13 ~~subject--of-the-complaint-occurs-or-in-the-county-in-which-a~~
 14 ~~respondent-resides-or-transacts-business-seeking-appropriate~~
 15 ~~temporary-relief-against-this-practice,~~ ~~including--an--order~~
 16 ~~restraining--the--respondent--from-interfering-in-any-manner~~
 17 ~~with-an-order-the-commission-may-enter-with-respect--to--the~~
 18 ~~complaint.~~

19 (2) ~~The--court--has--the--power--to-grant-the-temporary~~
 20 ~~relief-or-restraining-order-it-considers--just--and--proper.~~
 21 ~~However,~~ ~~no-relief-or-order-extending-beyond-14-days-may-be~~
 22 ~~granted-except-by--consent--of--the--respondent--or--upon--a~~
 23 ~~finding--by--the--court--that--there--is-reasonable-cause-to~~
 24 ~~believe-that-the-respondent-has--engaged--in--discriminatory~~
 25 ~~practices,~~ a district court may, upon the application of the

1 commission or the complainant, enter a preliminary
 2 injunction against a respondent in the case. The procedure
 3 for granting the order is as provided by statute for
 4 preliminary injunctions in civil actions."

5 **Section 5.** Section 49-2-506, MCA, is amended to read:

6 **"49-2-506. Procedure upon a finding of discrimination.**

7 (1) If the commission finds that a person, institution,
 8 entity, or agency against whom a complaint was filed has
 9 engaged in the discriminatory practice alleged in the
 10 complaint, the commission shall order him or it to refrain
 11 from engaging in the discriminatory conduct. The order may:

12 (a) prescribe conditions on the accused's future
 13 conduct relevant to the type of discriminatory practice
 14 found;

15 (b) require any reasonable measure to correct the
 16 discriminatory practice and to rectify any harm, pecuniary
 17 or otherwise, to the person discriminated against;

18 (c) require a report on the manner of compliance.

19 (2) The Except as provided in [section 2], the order
 20 may not require the payment of any punitive damages.

21 (3) Whenever a commission order or conciliation
 22 agreement requires inspection by the commission staff for a
 23 period of time to determine if the respondent is complying
 24 with that order or agreement, the period of time may not be
 25 more than 3 years."

1 **Section 6.** Section 49-2-509, MCA, is amended to read:

2 **"49-2-509. Filing a complaint in district court. (1)**
 3 **Except as provided in subsection (2) or with respect to**
 4 **complaints alleging a violation of 49-2-305, the commission**
 5 **staff shall, at the request of either party, issue a letter**
 6 **entitling the complainant to file a discrimination action in**
 7 **district court if:**

8 (a) the commission has not yet held a contested case
 9 hearing pursuant to 49-2-505; and

10 (b) 12 months have elapsed since the complaint was
 11 filed.

12 (2) The commission staff may refuse to permit removal
 13 of a case to district court if:

14 (a) the party requesting removal fails to comply with
 15 the terms of a lawful subpoena issued in the investigative
 16 process;

17 (b) the party requesting removal has waived the right
 18 to request removal to the district court;

19 (c) more than 30 days have elapsed since service of
 20 notice of hearing under 49-2-505, unless the commission
 21 fails to schedule a hearing to be held within 90 days of
 22 service of notice of hearing; or

23 (d) the party requesting removal has unsuccessfully
 24 attempted through court litigation to prevent the commission
 25 staff from investigating the complaint.

1 (3) The commission staff may dismiss a complaint filed
2 under 49-2-501 and allow the complainant to file a
3 discrimination action in district court if:

4 (a) the commission staff determines that the commission
5 lacks jurisdiction over the complaint;

6 (b) the complainant fails to cooperate in the staff's
7 investigation of the complaint or fails to keep the
8 commission advised of changes of address; or

9 (c) the commission staff determines that the
10 allegations of the complaint are not supported by
11 substantial evidence.

12 (4) A decision of the commission staff to dismiss a
13 complaint or to refuse to permit removal to the district
14 court is final unless a party seeks review by filing
15 objections within 14 days after the decision is served on
16 him. The commission shall review the decision in informal
17 proceedings under 2-4-604, except that 2-4-604(5) applies
18 only to review of a refusal to permit removal.

19 (5) Within 90 days after receipt of a notice of
20 dismissal under subsection (3) or an order under subsection
21 (4) of affirmance of a dismissal, whichever occurs later, or
22 of a letter issued under subsection (1), the complainant may
23 petition the district court in the district in which the
24 alleged violation occurred for appropriate relief. If Except
25 as provided in [section 2], if the claimant fails to

1 petition the district court within 90 days after receipt of
2 the letter, notice, or order issued by the commission staff,
3 the claim shall be barred.

4 (6) If the district court finds, in an action under
5 this section, that a person, institution, entity, or agency
6 against whom or which a complaint was filed has engaged in
7 the unlawful discriminatory practice alleged in the
8 complaint, the court may provide the same relief as
9 described in 49-2-506 for a commission order. In addition,
10 the court may in its discretion allow the prevailing party
11 reasonable attorney fees.

12 (7) The provisions of this chapter establish the
13 exclusive remedy for acts constituting an alleged violation
14 of this chapter, including acts that may otherwise also
15 constitute a violation of the discrimination provisions of
16 Article II, section 4, of the Montana constitution or
17 49-1-102. No other claim or request for relief based upon
18 such acts may be entertained by a district court other than
19 by the procedures specified in this chapter."

20 ~~Section 7,--Section 49-3-304, MCA, is amended to read:~~

21 ~~"49-3-304,--Filing complaints--(1)--Except as provided in~~
22 ~~subsection (2), a complaint under this chapter must be filed~~
23 ~~with the commission within 180 days 1-year after the alleged~~
24 ~~unlawful discriminatory practice occurred or was discovered.~~
25 ~~(2)--If the complainant has initiated efforts to resolve~~

1 the dispute underlying the complaint by filing a grievance
 2 in accordance with any grievance procedure established by a
 3 collective bargaining agreement, contract, or written rule
 4 or policy, the complaint may be filed within 180 days 1 year
 5 after the conclusion of the grievance procedure if the
 6 grievance procedure concludes within 120 days after the
 7 alleged unlawful discriminatory practice occurred or was
 8 discovered; if the grievance procedure does not conclude
 9 within 120 days, the complaint must be filed within 300 485
 10 days after the alleged unlawful discriminatory practice
 11 occurred or was discovered.

12 (3) A complaint not filed within the times set forth in
 13 this section may not be considered by the commission."

14 SECTION 7. SECTION 49-3-304, MCA, IS AMENDED TO READ:

15 "49-3-304. Filing complaints. (1) Except as provided in
 16 subsection (2), a complaint under this chapter must be filed
 17 with the commission within 180 days 1 year days after the
 18 alleged unlawful discriminatory practice occurred or was
 19 discovered.

20 (2) If the complainant has initiated efforts to resolve
 21 the dispute underlying the complaint by filing a grievance
 22 in accordance with any grievance procedure established by a
 23 collective bargaining agreement, contract, or written rule
 24 or policy, the complaint may be filed within 180 days 1 year
 25 after the conclusion of the grievance procedure if the

1 grievance procedure concludes within 120 days after the
 2 alleged unlawful discriminatory practice occurred or was
 3 discovered; if the grievance procedure does not conclude
 4 within 120 days, the complaint must be filed within 300 days
 5 after the alleged unlawful discriminatory practice occurred
 6 or was discovered.

7 (3) A complaint not filed within the times set forth in
 8 this section may not be considered by the commission."

9 SECTION 7. SECTION 49-3-106, MCA, IS AMENDED TO READ:

10 "49-3-106. Rulemaking authority. The commission may
 11 adopt rules necessary for the implementation of this
 12 chapter, in accordance with the Montana Administrative
 13 Procedure Act. The rules may include but are not limited to
 14 procedural rules for:

- 15 (1) filing of complaints;
- 16 (2) conducting investigations of complaints;
- 17 (3) petitioning for a declaratory ruling, as provided
 18 in 49-3-105; and
- 19 (4) conduct of hearings."

20 Section 8. Section 49-3-306, MCA, is amended to read:

21 "49-3-306. Temporary relief by court order. (1) At any
 22 time after a complaint is filed with the commission under
 23 this chapter alleging an unlawful discriminatory practice,
 24 the commission may file a petition in the district court in
 25 the county in which the subject of the complaint occurred or

1 in-the-county-in-which-a--respondent--resides--or--transacts
 2 business,--seeking-appropriate-temporary-relief-against-this
 3 practice,--including-an-order-restraining-the-respondent-from
 4 interfering-in-any-manner-with-an-order-the--commission--may
 5 enter-with-respect-to-the-complaint;

6 (2)--The--court--has--the--power--to-grant-the-temporary
 7 relief-or-restraining-order-it-considers--just--and--proper.
 8 However,--no-relief-or-order-extending-beyond-14-days-may-be
 9 granted-except-by--consent--of--the--respondent--or--upon--a
 10 finding-by--the--court--that--there--is--reasonable-cause-to
 11 believe-that-the-respondent-has--engaged--in--discriminatory
 12 practices, a district court may, upon the application of the
 13 commission or the complainant, enter a preliminary
 14 injunction against a respondent in the case. The procedure
 15 for granting the order is as provided by statute for
 16 preliminary injunctions in civil actions."

17 NEW SECTION. Section 9. Intimidation or interference
 18 in the right to be free from housing discrimination --
 19 penalties. (1) It is unlawful for a person, whether or not
 20 acting under color of law, by force or threat of force to
 21 purposefully or knowingly injure, intimidate, or interfere
 22 with or attempt to injure, intimidate, or interfere with:

23 (a) a person because of sex, race, creed, religion,
 24 age, familial status, physical or mental handicap, color, or
 25 national origin and because the person is or has been:

1 (i) selling, purchasing, renting, leasing, financing,
 2 or occupying or contracting or negotiating for the sale,
 3 purchase, lease, rental, financing, or occupation of any
 4 housing accommodation or property; or

5 (ii) applying for or participating in any service,
 6 organization, or facility relating to the business of
 7 selling, leasing, or renting housing accommodations or
 8 property;

9 (b) a person because he is or has been:

10 (i) participating, without discrimination because of
 11 sex, race, creed, religion, age, familial status, physical
 12 or mental handicap, color, or national origin in any of the
 13 activities, services, organizations, or facilities described
 14 in this subsection (1); or

15 (ii) affording another person or class of persons
 16 opportunity or protection to participate in those
 17 activities, services, organizations, or facilities; or

18 (c) a citizen because he is or has been, or in order to
 19 discourage him or any other citizen from, lawfully aiding or
 20 encouraging other persons to participate in any of the
 21 activities, services, organizations, or facilities described
 22 in this subsection (1) or because he is or has lawfully
 23 participated in speech or peaceful assembly opposing any
 24 denial of the opportunity to participate.

25 (2) A person who violates a provision of subsection

1 (1):

2 (a) shall be fined not more than \$1,000 or imprisoned
3 for not more than 1 year, or both;

4 (b) if bodily injury results, shall be fined not more
5 than \$10,000 or imprisoned for not more than 10 years, or
6 both; or

7 (c) if death results, shall be subject to imprisonment
8 for any term of years or for life.

9 **Section 10.** Section 49-4-212, MCA, is amended to read:

10 "49-4-212. Access to housing accommodations. ~~{1}~~ Blind,
11 visually handicapped, and deaf persons are entitled to as
12 full and equal access as other members of the general public
13 to any housing accommodation offered for compensation in
14 this state.

15 ~~{2}--Nothing--in--this--section--requires--a--person--renting,
16 leasing,--or--providing--real--property--for--compensation--to
17 modify--his--property--in--any--way--or--provide--a--higher--degree--of
18 care--for--a--blind,--visually--handicapped,--or--deaf--person--than
19 for--a--person--who--is--not--so--disabled."~~

20 NEW SECTION. SECTION 11. REPEALER. SECTIONS 49-2-401
21 AND 49-3-105, MCA, ARE REPEALED.

22 NEW SECTION. Section 12. Codification instruction. (1)
23 [Section 2] is intended to be codified as an integral part
24 of Title 49, chapter 2, part 5, and the provisions of Title
25 49, chapter 2, part 5, apply to [section 2].

1 (2) [Section 9 8 9] is intended to be codified as an
2 integral part of Title 49, chapter 2, part 6, and the
3 provisions of Title 49, chapter 2, part 6, apply to [section
4 9 8 9].

-End-