

By Mr. McDonough of Boston, petition of John E. McDonough and Nelson Merced (with the approval of the mayor and city council) for legislation to grant certain judicial powers to the fair housing commission of the city of Boston. Housing and Urban Development. [Local Approval Received.]

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT TO EMPOWER THE BOSTON FAIR HOUSING COMMISSION TO ENFORCE BY JUDICIAL POWER THE PROVISIONS OF TITLE VIII AND IMPOSE CIVIL PENALTIES (SUBSTANTIAL EQUIVALENCY).

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Definitions

2 (A) "Housing Accommodations" shall be defined as any
3 building, structure or portion thereof which is used or occupied
4 or is intended, arranged or designed to be used or occupied as
5 the home, residence or sleeping place of one or more human beings
6 and any vacant land which is offered for sale or lease for the
7 construction or location thereon of any such building, structure
8 or portion thereof.

9 (B) "Aggrieved Person" shall be defined as any person who
10 claims to have been injured by a discriminatory housing practice
11 or believes such person will be injured by a discriminatory housing
12 practice that is about to occur.

13 (C) "Person" shall be defined as one or more individuals,
14 partnerships, associations, corporations, legal representatives,
15 trustees, trustees in bankruptcy, receivers, and the Common-
16 wealth and all political subdivisions and boards or commissions
17 thereof.

1 SECTION 2. Notwithstanding the provisions of Section Five
2 herein, classes protected by this act include race, color, religious

3 creed, marital status, handicap, military status, children, national
4 origin, sex, age, ancestry, sexual preference and source of income.

1 SECTION 3. (A) All housing accommodations in the City of
2 Boston are subject to this act, except as hereinafter provided.

3 (B) Nothing in this act shall apply to housing accommodations
4 which are specifically exempted from coverage by this Act.

5 (C) Nothing in this act shall apply to the leasing or rental to
6 two or fewer roomers, boarders, or lodgers who rent a unit in a
7 licensed lodging house.

1 SECTION 4. Nothing in this act shall prohibit a religious
2 organization, association or society, or any nonprofit institution
3 or organization operated, supervised, or controlled by or in
4 conjunction with a religious organization, association, or society,
5 from limiting the sale, rental or occupancy of housing
6 accommodations which it owns or operates for other than a
7 commercial purpose to persons of the same religion, or from
8 giving preference to such persons, unless membership in such
9 religion is restricted on account of race, color, marital status,
10 handicap, military status, children, national origin, sex, age,
11 ancestry, sexual preference or source of income.

1 SECTION 5. In the City of Boston, discriminatory housing
2 practices are prohibited, provided, however, that no practice shall
3 be prohibited hereunder unless such practice is also prohibited by
4 the federal Fair Housing Act or Chapter 151B of the Massachu-
5 setts General Laws.

1 SECTION 6. Any person who violates the provision of this act
2 as to discriminatory housing practices shall, pursuant to the
3 provisions of Section Seven of this act, be subject to orders,
4 temporary, equitable and legal, including compensatory damages,
5 punitive damages or civil penalties and attorneys' fees and costs.

1 SECTION 7. There shall be a Boston Fair Housing Commis-
2 sion (the "Commission") established pursuant to Chapter 10 of
3 the City of Boston Ordinances of 1982. The Commission shall
4 have jurisdiction of all housing accommodations subject to this

5 act and shall have the following powers and duties as to such
6 housing accommodations, except as to those housing accommo-
7 dations in any building or structure containing one, two, three
8 or four dwelling units, one of which is occupied by the owner
9 thereof as his/her permanent residence; provided, that no building
10 or structure shall be considered occupied by the owner thereof
11 unless all beneficial owners occupy one or more dwellings therein
12 as their permanent residence:

13 (A) Seek judicial action for temporary or preliminary relief
14 pending final disposition of a complaint; and upon issuance of
15 a final order:

16 (B) Grant compensatory damages or arrange to have
17 adjudicated in court at the Commission's expense the award of
18 compensatory damages to an aggrieved person;

19 (C) Grant injunctive or other equitable relief, or seek such relief
20 in a court of competent jurisdiction;

21 (D) Assess a civil penalty against any such person found to have
22 violated this act:

23 (1) in an amount not to exceed ten thousand dollars if the
24 person has not been adjudged to have committed a prior
25 discriminatory housing practice;

26 (2) in an amount not to exceed twenty-five thousand dollars
27 if the person has been adjudged to have committed one other
28 discriminatory housing practice during the five year period ending
29 on the date of the filing of the complaint; and

30 (3) in an amount not to exceed fifty thousand dollars if the
31 person has been adjudged to have committed two or more
32 discriminatory housing practices during the seven year period
33 ending on the date of the filing of the complaint;

34 (E) Arrange to have adjudicated in court at the Commission's
35 expense the award of punitive damages against such person;

36 (F) Award reasonable attorney's fees and costs to any
37 prevailing complainant; and

38 (G) Adopt rules and regulations to carry out the provisions of
39 this act and the powers and duties of the Commission in
40 connection therewith.

1 SECTION 8. (A) The actions of the Commission shall be
2 subject to judicial review upon application by any party aggrieved
3 by a final agency order;

4 (B) Judicial review of a final Commission order shall be in a
5 court of competent jurisdiction with authority to grant to any
6 party, such temporary relief, restraining order, or other order as
7 the court determines is just and proper; affirm, modify, or set
8 aside, in whole or in part, the order, or remand the order for
9 further proceedings; and enforce the order to the extent that the
10 order is affirmed or modified.

1 SECTION 9. An aggrieved person, with or without filing a
2 complaint at the Commission and without regard to the status
3 of such complaint, may commence a civil action in a court of
4 competent jurisdiction not later than two years after the
5 occurrence or termination of a discriminatory housing practice,
6 or the breach of a conciliation agreement entered into with the
7 Commission, whichever occurs last, to obtain appropriate relief
8 with respect to such discriminatory housing practice or breach;
9 provided, however, that if an aggrieved person has consented to
10 a conciliation agreement, such aggrieved person may not file a
11 civil action with respect to the alleged discriminatory housing
12 practice which forms the basis for such complaint except for the
13 purpose of enforcing such agreement; and provided, further, that
14 an aggrieved person may not commence a civil action with respect
15 to an alleged discriminatory housing practice if a hearing
16 commissioner determines that probable cause exists and a hearing
17 has commenced before the Commission. The computation of such
18 two-year period as to an alleged discriminatory housing practice,
19 but not as to a breach of a conciliation agreement, shall not include
20 any time during which an administrative proceeding is pending
21 with respect to a complaint based upon such discriminatory
22 housing practice. If the court finds that a discriminatory housing
23 practice has occurred or is about to occur, an aggrieved person
24 shall have available any and all remedies pursuant to Sections Six
25 and Seven of this act. This section does not preclude the right of
26 any aggrieved person to seek relief under M.G.L. c. 151B.

1 SECTION 10. This act shall take effect upon its passage.