



# Human Services, Human Rights & Equity Meeting Agenda

Committee Chair: Catherine Parker

800 Michaelian Office Bldg.  
148 Martine Avenue, 8th Floor  
White Plains, NY 10601  
[www.westchesterlegislators.com](http://www.westchesterlegislators.com)

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**Monday, May 15, 2023**

**1:00 PM**

**Committee Room**

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## CALL TO ORDER

Please note: Meetings of the Board of Legislators and its committees are held at the Michaelian Office Building, 148 Martine Avenue, White Plains, New York, 10601, and remotely via the WebEx video conferencing system. Legislators may participate in person or via Webex. Members of the public may attend meetings in person at any of its locations, or view it online on the Westchester County Legislature's website:

<https://westchestercountyny.legistar.com/> This website also provides links to materials for all matters to be discussed at a given meeting.

## MINUTES APPROVAL

March 20th, 2023 2:30 PM Minutes

April 14th, 2023 10:00 AM Minutes

May 8th, 2023 1:00 PM Minutes

## I. ITEMS FOR DISCUSSION

[2023-106](#)

### **PH-County's Human Rights Law and Fair Housing Law**

A RESOLUTION to set a Public Hearing on "A LOCAL LAW amending Chapter 700 of the Laws of Westchester County to harmonize the County's Human Rights Law and Fair Housing Law with New York State and Federal law." [Public Hearing set for \_\_\_\_\_, 2023 at \_\_\_\_\_ .m.]. LOCAL LAW INTRO: 2023-107.

**COMMITTEE REFERRAL: COMMITTEES ON LEGISLATION AND HOUSING**

Joint with Legislation and Housing committees.

Guests: Human Rights Commission: Tejash Sanchala, Executive Director, and Joshua Levin, Fair Housing Director; Law Dept.: Chief Deputy County Attorney Stacey Dolgin-Kmetz

[2023-107](#)

**LOCAL LAW-County's Human Rights Law and Fair Housing Law**

A LOCAL LAW amending Chapter 700 of the Laws of Westchester County to harmonize the County's Human Rights Law and Fair Housing Law with New York State and Federal law.

**COMMITTEE REFERRAL: COMMITTEES ON LEGISLATION AND HOUSING**

Joint with Legislation and Housing committees.

Guests: Human Rights Commission: Tejash Sanchala, Executive Director, and Joshua Levin, Fair Housing Director; Law Dept.: Chief Deputy County Attorney Stacey Dolgin-Kmetz


**II. OTHER BUSINESS**

**III. RECEIVE & FILE**

**ADJOURNMENT**

March 17, 2023

TO: Hon. Catherine Borgia, Chair  
Hon. Nancy Barr, Vice Chair  
Hon. Christopher Johnson, Majority Leader  
Hon. Margaret Cunzio, Minority Leader

FROM: George Latimer   
Westchester County Executive

RE: Message Requesting Immediate Consideration: **LOCAL LAW –  
County's Human Rights Law and Fair Housing Law.**

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This will confirm my request that the Board of Legislators allow submission of the referenced communication to be submitted to the Board of Legislators March 20, 2023 Agenda.

Transmitted herewith for your consideration and approval is an amending Local Law which would harmonize the County's Human Rights Law and Fair Housing Law.

Therefore, since this communication is of the utmost importance, it is respectfully submitted that the County Board of Legislators accepts this submission for March 20, 2023 "blue sheet" calendar.

Thank you for your prompt attention to this matter.



George Latimer  
County Executive

March 17, 2023

Westchester County Board of Legislators  
800 Michaelian Office Building  
148 Martine Avenue, 8<sup>th</sup> Floor  
White Plains, New York 10601

Dear Honorable Members of the Board:

I respectfully request that your Honorable Board adopt the attached Local Law amending Chapter 700 of the Laws of Westchester County to harmonize the County's Human Rights Law and Fair Housing Law with New York State and Federal law.

The Westchester County Human Rights Law and Westchester County Fair Housing Law are intended to address and prevent discrimination, bigotry, prejudice, and intolerance in Westchester County because of a person's actual or perceived membership in a protected class. It is unlawful to discriminate under these Laws.

Recent amendments and additions to the State and Federal equivalents of these Laws have strengthened them and added additional protections. For example, the New York State Human Rights Law now provides discrimination protections for veterans and current military service members; extends workplace protections to interns, contractors, and vendors; applies to all employers, regardless of the number of employees; protects against discrimination on the basis of a person's natural hair; prohibits housing discrimination on the basis of source of income; protects against associational discrimination; and requires housing providers to bear the cost of reasonable accommodations. The proposed amendments would bring the County's Human Rights Law and Fair Housing Law in line with these State and Federal changes.


In addition, recent amendments to State and Federal law have clarified and strengthened enforcement procedures. For example, the New York State Human Rights Law now provides a private right of action for victims of discrimination and allows its equivalent of the Human Rights Commission's Executive Director to file complaints in any situation where an aggrieved person can file. The proposed amendments mirror these changes, and also remove several unnecessary procedures and administrative requirements, such as the requirement for a verified complaint with notarized signatures. The proposed amendments also authorize civil monetary penalties for violations of the

County's Fair Housing Law, mirroring the penalty provisions in the County's Human Rights Law.

Certain definitions and language in the County's Human Rights Law and Fair Housing Law required clarification. The proposed amendments accordingly clarify the definitions of "disability," "pregnancy-related conditions," "religion," and "familial status," and also correct several typos and discrepancies.

In light of the aforementioned, I respectfully urge that your Honorable Board adopt the attached Local Law amending Chapter 700 of the Laws of Westchester County to harmonize the County's Human Rights Law and Fair Housing Law with New York State and Federal law.

Sincerely,

A handwritten signature in black ink, appearing to read "George Latimer", written over a horizontal line.

GEORGE LATIMER  
County Executive

GL/nn  
Enclosure

TO: BOARD OF LEGISLATORS  
COUNTY OF WESTCHESTER

Your Committee recommends the adoption of “A LOCAL LAW amending Chapter 700 of the Laws of Westchester County to harmonize the County’s Human Rights Law and Fair Housing Law with New York State and Federal law.”

Your Committee is advised that the Westchester County Human Rights Law and Westchester County Fair Housing Law are intended to address and prevent discrimination, bigotry, prejudice, and intolerance in Westchester County because of a person’s actual or perceived membership in a protected class. It is unlawful to discriminate under these Laws.

Your Committee is further advised that recent amendments and additions to the State and Federal equivalents of these Laws have strengthened them and added additional protections. For example, the New York State Human Rights Law now provides discrimination protections for veterans and current military service members; extends workplace protections to interns, contractors, and vendors; applies to all employers, regardless of the number of employees; protects against discrimination on the basis of a person’s natural hair; prohibits housing discrimination on the basis of source of income; protects against associational discrimination; and requires housing providers to bear the cost of reasonable accommodations. The proposed amendments would bring the

County's Human Rights Law and Fair Housing Law in line with these State and Federal changes.

Your Committee is informed that recent amendments to State and Federal law have clarified and strengthened enforcement procedures. For example, the New York State Human Rights Law now provides a private right of action for victims of discrimination and allows its equivalent of the Human Rights Commission's Executive Director to file complaints in any situation where an aggrieved person can file. The proposed amendments mirror these changes, and also remove several unnecessary procedures and administrative requirements, such as the requirement for a verified complaint with notarized signatures. The proposed amendments also authorize civil monetary penalties for violations of the County's Fair Housing Law, mirroring the penalty provisions in the County's Human Rights Law.

Your Committee is further informed that certain definitions and language in the County's Human Rights Law require clarification. The proposed amendments accordingly clarify the definitions of "disability," "pregnancy-related conditions," "religion," and "familial status," and also correct several typos and discrepancies.

Finally, your Committee is informed that the proposed legislation does not meet the definition of an action under New York State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617. Please refer to the memorandum from

the Department of Planning dated January 12, 2023, which is on file with the Clerk of the Board of Legislators. Your Committee concurs in this conclusion.

Your Committee recommends adoption of this Local Law.

Dated: \_\_\_\_\_, 2023  
White Plains, New York

COMMITTEE ON

SDK-3-17-23

# FISCAL IMPACT STATEMENT

SUBJECT: Human Rights/Fair Housing Law

☒ NO FISCAL IMPACT PROJECTED

## OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

### SECTION A - FUND

☐ GENERAL FUND

☐ AIRPORT FUND

☐ SPECIAL DISTRICTS FUND

### SECTION B - EXPENSES AND REVENUES

Total Current Year Expense \$ -

Total Current Year Revenue \$ -

Source of Funds (check one): ☐ Current Appropriations ☐ Transfer of Existing Appropriations

☐ Additional Appropriations

☐ Other (explain)

Identify Accounts: \_\_\_\_\_

Potential Related Operating Budget Expenses:

Annual Amount \_\_\_\_\_

Describe: \_\_\_\_\_

Potential Related Operating Budget Revenues:

Annual Amount \_\_\_\_\_

Describe: \_\_\_\_\_

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: \_\_\_\_\_

Next Four Years: \_\_\_\_\_

Prepared by: Michael Dunn

Title: Budget Analyst

Department: Budget

Date: March 14, 2023

Reviewed By: 

Budget Director

Date: 3/14/23

**RESOLUTION NO. \_\_\_\_ – 2023**

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. \_\_\_\_ - 2023, entitled “A LOCAL LAW amending Chapter 700 of the Laws of Westchester County to harmonize the County’s Human Rights Law and Fair Housing Law with New York State and Federal law.” The public hearing will be held at \_\_\_\_m. on the \_\_\_\_ day of \_\_\_\_\_, 2023 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.

A LOCAL LAW amending Chapter 700 of the Laws of Westchester County to harmonize the County's Human Rights Law and Fair Housing Law with New York State and Federal law.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. Chapter 700 of the Laws of Westchester County is hereby amended to read as follows:

**Chapter 700 HUMAN RIGHTS**

**ARTICLE I. HUMAN RIGHTS LAW**

**Sec. 700.01. Legislative findings.**

In the County of Westchester, with its diverse population, there is no greater danger to the health, morals, safety, and welfare of the County than the existence of prejudice, intolerance, and antagonism among its residents because of their actual or perceived differences, including those based on race, color, religion, ethnicity, creed, age, national origin, alienage or citizenship status, familial status, gender, marital status, sexual orientation or disability. The Board of Legislators recognizes that all human beings are born free and equal in dignity and rights, endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Recognition of the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace. The County of Westchester has a diverse population within its beautiful boundaries. In recognition of this beauty and the great danger posed to the morale, health, safety and welfare of the County by the existence of prejudice, intolerance, hatred and antagonism among some of its residents, because of an actual or perceived difference, including those based on race, color, religion, ethnicity, creed, age, national origin, alienage or citizenship status, familial status, gender, marital status, sexual orientation or disability, the County Board of Legislators hereby finds and declares that prejudice, intolerance, bigotry and discrimination threaten the rights and proper privileges of the inhabitants of Westchester County and endanger the institutions of a free and democratic people. Notwithstanding provisions of federal and state law, there have been

repeated instances of intolerance and discrimination committed in Westchester County. The Board of Legislators affirms that the County of Westchester has the duty and responsibility to act to assure that every individual within the County is afforded an equal, fair and timely opportunity to enjoy a full and productive life. The Board of Legislators declares that the failure to provide an equal and fair opportunity, whether because of discrimination, prejudice, or intolerance, threatens the rights and proper privileges of the inhabitants of this County, menaces the institutions and foundations of a free democratic state and threatens the peace, order, health, safety and general welfare of the County and its inhabitants. Accordingly, the Board of Legislators finds and determines there to be a need to prohibit acts of discrimination, including discrimination in employment, discrimination in public accommodations, discrimination in housing accommodation, discrimination in commercial space and land transactions, and discrimination in the issuing of credit. The Board of Legislators finds that the adoption of this law is an appropriate exercise of the police power for the protection of the public welfare, health and peace of the people of this County. The Board of Legislators declares that there should be a Westchester County Human Rights Commission to enforce the provisions of this law and for the purpose of eliminating and preventing acts of discrimination and to foster tolerance among the inhabitants of Westchester County. The Board of Legislators finds it appropriate to empower such commission to assume the duties necessary to protect the human rights of the population of the County of Westchester, consisting of every race, color, religion, creed, age, national origin, alienage or citizenship status, familial status, gender, marital status, sexual orientation, and disability in accordance with the provisions contained in this local law. This local law will ensure that prejudice, intolerance, bigotry and discrimination will not threaten the rights and privileges of its inhabitants and that all are treated with dignity and respect as it is necessary to give effect to the equal rights for all assured by the Constitution and laws of the United States, this state, and this County. In enacting this law and establishing this commission, the Board of Legislators makes clear that its actions are not intended to promote any particular course of conduct or way of life. Rather, the purpose of the Board of Legislators is to ensure that individuals who live in our free society have the capacity to make their own choices, follow their own beliefs and conduct their own lives with existing law. Nothing in this legislation should be construed to create, alter or abolish any right to marry that may exist under any federal or New York state law.

## **Sec. 700.02. Definitions.**

1. The term [Alienage] “alienage or citizenship status” shall mean (1) the citizenship of any person; or (2) the immigration status of any person who is not a citizen or national of the United States.
2. The term [Commercial] “commercial property” shall mean[s] any property in a building, structure, or portion thereof which is used or occupied or is intended, arranged or designed to be used or occupied for the manufacture, sale, resale, processing, reprocessing, displaying, storing, handling, garaging or distribution of personal property; and any property which is used or occupied, or is intended, arranged or designed to be used or occupied as a separate business or professional unit or office in any building, structure or portion thereof.
3. The term [Creditor] “creditor”, when used in this [chapter] Chapter, shall mean[s] any person or financial institution which does business in this state and which extends credit or arranges for the extension of credit by others. The term creditor includes, but is not limited to, banks and trust companies, private bankers, foreign banking corporations and national banks, savings banks, licensed lenders, savings and loan associations, credit unions, finance companies, insurance premium finance agencies, insurers, credit card issuers, mortgage brokers, mortgage companies, mortgage insurance corporations, wholesale and retail merchants and factors, whatever the form of their organization.
- [4. Disability means (1) a physical, mental or medical impairment resulting from anatomical, physiological, genetic or neurological conditions which prevents the exercise of an unimpaired bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques; or (2) a record of such an impairment; or (3) a condition regarded by others as such an impairment, provided, however, that in all provisions of this chapter dealing with employment, the term shall be limited to disabilities which, upon the provision of reasonable accommodations, do not prevent the complainant from performing in a reasonable manner the activities involved in the job or occupation sought or held.]
4. The term “disability” shall mean:
  1. A physical, mental, psychological, or medical impairment resulting from anatomical, physiological, genetic or neurological conditions which substantially limit one or more of a person's major life activities or prevents the exercise of an unimpaired bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques; or

2. A record or history of a physical, mental, psychological, or medical impairment. The term "physical, mental, psychological, or medical impairment" means:
- (a) An impairment of any system of the body; including, but not limited to: the neurological system; the musculoskeletal system; the special sense organs and respiratory organs, including, but not limited to, speech organs; the cardiovascular system; the reproductive system; the digestive and genitor- urinary systems; the hemic and lymphatic systems; the immunological systems; the skin; and the endocrine system; or
  - (b) A mental or psychological disorder includes, but is not limited to, depression, bipolar disorder, anxiety disorders, and schizophrenia; or
  - (c) A condition regarded or perceived by others as such an impairment.
3. The term "disability" shall not include current, active alcoholism, drug addiction, the current illegal use of controlled substances, or any other form of substance abuse as defined in § 102 of the Controlled Substances Act (21 U.S.C. § 802); Except, however, it may apply to a person who is:
- (a) Recovering or has recovered, and
  - (b) Is currently free from such substance abuse.
5. The term [Discrimination] "discrimination" shall include, but shall not be limited to, segregation, separation, harassment, physical intimidation and acts of hate and physical violence because of group identity.
6. The term [Employee] employee in this [chapter] Chapter shall include: [does not include any individual employed by his or her parents, spouse or child nor does the term "employee" include any individual in the domestic service of any person nor does the term "employee" include any person employed, hired or engaged as an independent contractor or to conduct or supply any personal services included but not limited to tutoring, mentoring, private or personal instruction, personal training, home or child care services.]
- (i) domestic workers including individuals who are employed in a home or residence for the purpose of caring for a child, serving as a companion for a sick, convalescing or elderly person, housekeeping or for any other domestic service purpose. However, domestic workers shall not include individuals who work for a person related to them by blood, marriage or adoption and individuals who work on

only a casual basis. Examples would be occasional babysitting or other household services that are for a limited amount of time, are performed without regularity, or are performed only during intermittent periods; and

(ii) any employee working in Westchester County except for employees of the County of Westchester.

It shall also be an unlawful discriminatory practice for an employer to permit discrimination against non-employees in the workplace, including interns, contractors, subcontractors, vendors, consultants or other persons providing services pursuant to a contract in the workplace or who is an employee of such contractor, subcontractor, vendor, consultant or other person providing services pursuant to a contract in the workplace. The aforementioned individuals shall be protected by the anti-discrimination and anti-retaliation protections in the Chapter.

7. The term [Employer] “employer” in this [chapter] Chapter [means] shall include all employers within Westchester County except for the County itself. [any person(s) with at least four persons in their employ, provided, however, such term shall not include an employer where at least two-thirds of the employees are the children, parents, spouse or relatives within the third degree of consanguinity, or the spouses thereof, of such employer.]

8. The term [Employment] “employment agency” includes any person undertaking to procure employees or opportunities to work.

8-a. The term “familial status” shall mean one or more individuals, under the age of eighteen years, being domiciled with:

a. A parent or legal custodian of such individual or individuals; or

b. The designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or has a child or children or is in the process of securing legal custody or has legal custody of any individual under the age of eighteen years.

9. The term [Gender] “gender” shall mean[s]:

a. The physiological and psychological characteristics of being a male or female; and

- b. [gender] Gender identity, self-image, appearance, behavior, or expression, whether or not such gender identity, [self image,] self-image, appearance, behavior or expression is different from that traditionally associated with the legal sex assigned to that person at birth.
10. The term [Group] "group identity" shall mean race, color, religion, age, national origin, alienage or citizenship status, ethnicity, familial status, [creed,] military status, gender, sexual orientation, marital status, [or] disability, or status as a victim of domestic violence, sexual abuse or stalking.
11. The term [Labor] "labor organization" includes any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment.
- 11a. The term "military status" shall mean a person's current or prior participation in the military service of the United States or the military service of the state, including but not limited to, the armed forces of the United States, the army national guard, the air national guard, the New York naval militia, the New York guard, and such additional forces as may be created by the federal or state government as authorized by law.
12. The term [National] "national origin" shall include ancestry.
13. The term [Necessary] "necessary party" means any person who has such an interest in the subject matter of a proceeding under this [chapter] Chapter, or whose rights are so involved, that no complete and effective disposition can be made without his or her participation in the proceeding.
14. The term [Parties] "parties to the proceeding" shall mean [means the] complainant(s), respondent(s), necessary parties and persons permitted to intervene as parties in a proceeding with respect to a complaint filed under this [chapter] Chapter. Subsequent to a finding of probable cause, the Commission shall be a party. At an administrative hearing, the case in support of the claims advanced shall be presented before the Commission by the Commission's agent or attorney unless the Complainant is represented by counsel and the Commission agrees to defer to Complainant's counsel for the initial presentation.
15. The term [Person] "person" shall include [includes] one or more natural persons, proprietorships, partnerships (including limited liability partnerships, and limited partnerships), associations, group

associations, corporations (including limited liability corporations), [or other business entities,] legal representatives, trustees, trustees in bankruptcy, or receivers.

16. The term [Place] “place of public accommodation, resort or amusement” (referred to herein as “place of public accommodation”) shall include providers, whether licensed or unlicensed, of goods, services, facilities, accommodations, advantages and privileges of any kind, and places, whether licensed or unlicensed, where goods, services, facilities, accommodations, advantages and privileges of any kind are extended, offered, sold or otherwise made available to the public. Such term shall not include any club or organization which by its nature is distinctly private but no such club or organization shall be considered by its nature distinctly private if: (i) it has more than 100 members; and (ii) provides meal service in the regular course of its business; and (iii) in the regular course of its business, persistently receives payment for dues, fees, use of space, facilities, services, meals or beverages directly or indirectly from or on behalf of [nonmembers] non-members for the furtherance of the nonmembers' trade or business. Notwithstanding the foregoing, for the purposes of this chapter, a corporation incorporated under the Benevolent Orders Law or described in the Benevolent Orders Law but formed under any other law of this state or a religious corporation incorporated under the Education Law or the Religious Corporations Law shall be deemed to be in its nature distinctly private. No institution, club, organization or place of accommodation which sponsors or conducts any amateur athletic contest or sparring exhibition and advertises or bills such contest or exhibition as a New York state championship contest or uses the words "New York State" in its announcements shall be deemed a private exhibition within the meaning of this chapter.

- 16-a. The term “pregnancy-related condition” shall mean a medical condition related to pregnancy or childbirth that inhibits the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques, including but not limited to lactation. Pregnancy-related conditions shall be treated as temporary disabilities for the purposes of this Chapter.

- 16-b. The term “race” shall include traits historically associated with race, including but not limited to, hair texture and protective hairstyles. “Protective hairstyles” shall include, but not be limited to, such hairstyles as braids, locks, and twists.

17. The term [Real] “real estate broker” shall mean [means] any person, firm or corporation who, for another and for a fee, commission or other valuable consideration, lists for sale, sells, at auction or

otherwise, exchanges, buys or rents, or offers or attempts to negotiate a sale, at auction or otherwise, exchange, purchase or rental of an estate or interest in real estate, or collects or offers or attempts to collect rent for the use of real estate, or negotiates or offers or attempts to negotiate, a loan secured or to be secured by a mortgage or other encumbrance upon or transfer of real estate. In connection with the sale of lots pursuant to the provisions of Article Nine-A of the Real Property Law, the term "real estate broker" shall also include any person, partnership, association or corporation employed by or on behalf of the owner or owners of lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission, or otherwise, to sell such real estate, or any parts thereof, in lots or other parcels, and who shall sell or exchange, or offer or attempt or agree to negotiate the sale or exchange, of any such lot or parcel of real estate.

18. The term [Real] "real estate sales person" shall mean [means] a person employed by a licensed real estate broker to list for sale, sell or offer for sale, at auction or otherwise, to buy or offer to buy or to ~~negotiate the purchase or sale or exchange of real estate, or to negotiate a loan on real estate, or to~~ lease or rent or offer to lease, rent or place for rent any real estate, or who collects or offers or attempts to collect rent for the use of real estate for or on behalf of such real estate broker.
19. The term [Reasonable] "reasonable accommodation" shall include [means] actions taken which permit an employee, prospective employee or member (1) with a disability, or (2) who is a victim of domestic violence, sexual abuse or stalking, to perform in a reasonable manner the activities involved in the job or occupation sought or held and include, but are not limited to, provision of an accessible worksite, acquisition or modification of equipment, support services for persons with impaired hearing or vision, job restructuring and modified work schedules, or some form of protection or security measure; provided, however, that such actions do not impose an undue hardship on the business, program or enterprise of the entity from which action is requested[.].
- 19-a. The term "religion" means all aspects of religious observance and practice, as well as belief, and includes the absence of religious observance, practice and belief.
20. The term [Sexual] "sexual orientation" shall mean [means heterosexuality, homosexuality or bisexuality] an individual's actual or perceived romantic, physical or sexual attraction to other persons, or lack thereof, on the basis of gender.
21. The term [Unlawful] "unlawful discriminatory [practice] practices" [includes only those practices] specified in [section] Section 700.03 through [section] Section 700.07 of this Chapter only includes

those actions which occurred in Westchester County. The term “unlawful discriminatory practices” shall be construed to also prohibit discrimination and retaliation against an individual because of that individual’s actual or perceived relationship or association with a member or members of a protected group identity covered under the relevant provisions of this Chapter except for claims under 700.04-a of this Chapter.

22. Victim of domestic violence, sexual abuse or stalking.

1. A victim of domestic violence shall mean:

(a) Any person who has been subjected to an act or series of acts that:

- (1) Would constitute a misdemeanor, felony or other violation of law against the person as defined in state or federal law; or
- (2) Would constitute a misdemeanor, felony or other violation of law against property as defined in state or federal law.

(b) Such act or series of acts as defined in subdivision (a) must have been committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim, by a person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, or a person who is or has continually or at regular intervals lived in the same household as the victim.

(c) Such act or series of acts as defined in subdivisions (a) and (b) must also:

- (1) Result in the actual physical or emotional injury of the person whether or not such conduct has actually resulted in criminal charges, prosecution or conviction; or
- (2) Create a substantial risk of physical or emotional harm to such person whether or not such conduct has actually resulted in criminal charges, prosecution or conviction.

2. A victim of sexual abuse or stalking shall mean any person who has been:

- (a) A victim of an act or series of acts which would constitute a violation of article 130 of the penal law; or
- (b) A victim of an act of series of acts which would constitution a violation of section 120.45, 120.50, 120.55, or 120.60 of the penal law.

3. A victim of domestic violence, sexual abuse or stalking shall also include any individual that is perceived to be a person who has been, or is currently being, subjected to acts or series of acts as set forth in subdivisions 1 and 2 above.

**Sec. 700.03. Unlawful discriminatory practices in employment.**

a. It shall be an unlawful discriminatory practice:

1. For an employer or [an employee or an agent thereof] its agents (including its employees) to refuse to hire or employ or bar or discharge from employment any person because of [such person's] actual or perceived group identity [or because of such person's status as a victim of domestic violence, sexual abuse or stalking], or to discriminate against any person in compensation or in terms, conditions or privileges of employment because of [such person's] actual or perceived group identity [or because of such person's status as a victim of domestic violence, sexual abuse or stalking].
2. For an employment agency or [an employee or agent thereof] its agents (including its employees) to discriminate against a person[,] because of [such persons] actual or perceived group identity [or because of such person's status as a victim of domestic violence, sexual abuse or stalking,] in receiving, classifying, disposing or otherwise acting upon applications for its services or in referring an applicant for its services to an employer.
3. For a labor organization, or [an employee or agent thereof] its agents (including its employees), to exclude or to expel from its membership an individual or to discriminate in any way against any of its members or against any employer or any individual employed by an employer because of [such individual's] actual or perceived group identity [or because of such person's status as a victim of domestic violence, sexual abuse or stalking], including, but not limited to, discrimination in admission to or participation in apprenticeship or other occupational training or retraining programs.
4. For any employer, labor organization, or employment agency, or [an employee or agent of an employer, labor organization or employment agency] their agents (including their employees), to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses directly or indirectly, any limitation,

specification or discrimination as to group identity [or because of such person's status as a victim of domestic violence, sexual abuse or stalking], or any intent to make any such limitation, specification or discrimination, unless based upon a bona fide occupational qualification.

5. For an employer or an employee or an agent thereof to impose upon a person as a condition of obtaining or retaining employment any terms or conditions, compliance with which would require such person to violate, or forego a practice of [his or her] their religion which practice [he or she] they regularly and customarily [observes] observe, including but not limited to the observance of any particular day or days or any portion thereof as a Sabbath or holy day or the observance of any religious custom or usage, or the wearing of any attire, clothing or facial hair in accordance with the requirements of their religion. [and the] The employer shall make reasonable accommodations to the religious needs of such person. Without in any way limiting the foregoing, no person shall be required to remain at his or her place of employment during any day or days or portion thereof that, as a requirement of such person's religion, he or she regularly and customarily observes as a Sabbath or other holy day, including a reasonable time prior and subsequent thereto for travel between his or her place of employment and his or her home, provided, however, that any such absence from work shall, when requested by the employer and whenever practicable in the judgment of the employer, be made up by an equivalent amount of time at some other mutually convenient time. The provisions of this subparagraph shall not be construed to apply to any position dealing with health or safety where the person holding such position must be available for duty whenever needed. The provisions of this subparagraph shall not be construed to apply to any position or class of positions the nature and quality of the duties of which are such that the personal presence of the holder of such position is regularly essential on any particular day or days or portion thereof for the normal performance of such duties with respect to any applicant therefor or holder thereof who, as a requirement of his religion, regularly or customarily observes such day or days or portion thereof as his or her Sabbath or other holy day. The provisions of this subparagraph shall not apply where the uniform application of terms and conditions of attendance to employees is essential to prevent undue economic hardship to the employer.
6. For any employer, labor organization or employment agency, or an employee or agent of an employer, labor organization or employment agency, to discharge, expel or otherwise discriminate against any person because he or she has: (i) opposed any practices forbidden under

this [chapter] Chapter; or (ii) filed a complaint, testified or assisted in any proceeding under this [chapter] Chapter; or (iii) commenced a civil action against such employer, labor organization or employment agency, or employee or agent thereof, which action alleges [the commission of] an unlawful discriminatory practice; or (iv) participated with the [commission] Human Rights Commission or its members or counsel in any investigation; or (v) provided information to the [commission] Human Rights Commission or its members or counsel in any investigation.

7. For an employer to compel an employee who is pregnant to take a leave of absence, unless the employee is prevented by such pregnancy from performing the activities involved in the job or occupation in a reasonable manner or unless the employer made or offered to make reasonable accommodations to the employee, which accommodations were declined by the employee.
8. For an employer, licensing agency, employment agency or labor organization to refuse to provide reasonable accommodations to the known disabilities of an employee, prospective employee or member or to a victim of domestic violence, sexual abuse or stalking in connection with a job or occupation sought or held or participation in a training program. Nothing contained in this subdivision shall be construed to require provision of accommodations which can be demonstrated to impose an undue hardship on the operation of an employer's, licensing agencies, employment agency's or labor organization's business, program or enterprise. In making such a demonstration with regard to undue hardship the factors to be considered include: (i) the overall size of the business, program or enterprise with respect to the number of employees, number and type of facilities, and size of budget; (ii) the type of operation which the business, program or enterprise is engaged in, including the composition and structure of the workforce; and (iii) the nature and cost of the accommodation needed.
9. For an employer, labor organization, employment agency or licensing agency, or employee or agent to:
  - (i) Post a job, promotion, or transfer opportunity without stating the minimum and maximum salary for such position in such posting. In stating the minimum and maximum salary for a position, the range may extend from the lowest to the highest salary the employer in good faith believes at the time of the posting it would pay for the advertised job, promotion, or transfer opportunity. This subdivision does not apply to a job posting for temporary employment at a temporary help firm as such term is defined by subdivision 5 of section

916 of article 31 of the New York State Labor Law. Posting is defined as any written or printed communication whether electronic or hard copy, that the employer is recruiting and accepting applications for a specific position but does not include a "Help Wanted" sign or similar communication, affixed to the premises of the employer or place of employment, indicating only generally, without reference to any particular positions, that an employer is accepting applications or hiring.

For the purposes of this subdivision, an employer, defined in section 700.02(7) of this Chapter, shall also include any employer who posts for positions that can or will be performed, in whole or in part, in Westchester County, whether from an office, in the field, or remotely from the employee's home.

- (ii) Rely on the wage history of a prospective employee from any current or former employer of the individual in determining the wages for such individual; provided that an employer may rely on prior wage history when it is voluntarily provided by a prospective employee to support a wage higher than the wage offered by the employer;
- (iii) Orally, or in writing, request or require as a condition of being interviewed, or as a condition of continuing to be considered for an offer of employment, or as a condition of employment, that a prospective employee disclose information about the employee's own wages from any current or former employer; and
- (iv) Orally, or in writing, seek from any current or former employer the previous wages of any prospective employee; provided, however, that an employer may seek to confirm prior wage information only after an offer of employment with compensation has been made to the prospective employee and the prospective employee responds to the offer by providing prior wage information to support a wage higher than offered by the employer. Under these circumstances, the employer may only seek to confirm prior wages after obtaining written authorization by the prospective employee to do so.

The employer shall not refuse to hire or otherwise retaliate against an employee or prospective employee based upon prior wage or salary history or because the employee or prospective employee has opposed any act or practice made unlawful by this subdivision.

[This section shall be null and void on the day that Statewide legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent State or federal administrative agency issues and promulgates regulations preempting such action by the County of Westchester. The County Legislature may determine via mere resolution whether or not identical or substantially similar statewide legislation, or pertinent preempting State or federal regulations have been enacted for the purposes of triggering the provisions of this section.]

10. (a) Unless specifically required or permitted by any other law, an employer shall not:

- (1) Make a preliminary or initial inquiry or statement related to a criminal conviction or arrest record of any person in an application for employment. For purposes of this paragraph, "any inquiry" means any question communicated to an applicant in writing or otherwise. For purposes of this paragraph, "any statement" means a statement communicated in writing or otherwise to the applicant for purposes of obtaining an applicant's criminal background information regarding: (i) an arrest record; or (ii) a conviction record; or
  - (2) Declare, print or circulate or cause to be declared, printed or circulated any solicitation, advertisement or publication which expresses, directly or indirectly any limitation, or specification in employment based on a person's arrest record or criminal conviction.
- (b) After submission of an application for employment, an employer may inquire about the applicant's arrest or conviction record in accordance with New York State Executive Law section 296(16).
- (c) Before taking any adverse employment action based on such inquiry, the employer shall perform an analysis of the applicant's criminal record and other factors under Article 23-A of the New York State Correction Law as required, and the analysis may be requested by the applicant, and if requested, the employer must provide a written statement setting forth the reasons for such denial, pursuant to New York State Correction Law Article 23-A, Section 754.

- (d) An applicant shall not be required to respond to any inquiry or statement that violates subparagraph (a) of this paragraph and any refusal to respond to such inquiry or statement shall not disqualify an applicant from the prospective employment.
- (e) Nothing in this paragraph 10. shall prevent an employer from taking adverse action against any employee or denying employment to any applicant for reasons other than such employee's or applicant's arrest or criminal conviction record.
- (f) This paragraph shall not apply to any actions taken by an employer pursuant to any state, federal or county law that requires criminal background checks for employment purposes or bars employment based on criminal history.
- (g) This paragraph shall not apply to any actions taken by an employer with regard to an applicant for employment as a police officer or peace officer, as those terms are defined in subdivisions "33" and "34" of Section 1.20 of the Criminal Procedure Law, respectively, or at a law enforcement agency as that term is used in Article 23-A of the New York State Correction Law.
- (h) This paragraph shall be enforced pursuant to section 700.11 of this [chapter] Chapter and through the [commission's] Commission's rules and procedures.

b. The provisions of this section:

- 1. As applicable to employee benefit plans, shall not be construed to preclude an employer from observing the provisions of any plan covered by the Federal Employment Retirement Income Security Act of 1974 that is in compliance with federal discrimination laws where the application of the provisions of such subdivisions to such plan would be preempted by such act;
- 2. Shall not preclude the varying of insurance coverage according to an employee's age;
- 3. Shall not be construed to effect any retirement policy or system that is permitted pursuant to paragraphs (e) and (f) of subdivision three-a of Section 296 of the Executive Law;
- 4. Shall not be construed to affect the retirement policy or system of an employer where such policy or system is not a subterfuge to evade the purpose of this chapter; and
- 5. Shall not preclude any employer from making any lawful inquiry as to an employee's or prospective employee's authorization to work lawfully [the alienage or citizenship status of any

employee or prospective employee] and shall not preclude any employer from refusing to hire or employ, or barring or discharging from employment, any person not lawfully eligible for such employment.

6. Shall protect a victim of domestic violence, sexual abuse or stalking against [employment] discrimination if said individual chooses to provide the employer documentation certifying his or her status as a victim of domestic violence, sexual abuse or stalking. Certification establishing such status shall be sufficient in the form of any of the following:
  - (a) A police report indicating that the employee was a victim of domestic violence, sexual abuse or stalking;
  - (b) A [court order] Court Order protecting the employee from the perpetrator of an act of domestic violence, sexual abuse or stalking or other evidence from the court or prosecuting attorney that the employee has appeared in court; or
  - (c) Documentation from a medical professional, domestic violence advocate, health care provider, a member of the clergy or counselor that the employee was undergoing treatment for, or seeking assistance to address, physical or mental injuries or abuse resulting from domestic violence, sexual abuse or stalking. This certification is only required to assist victims, where appropriate, who choose to invoke the protections and benefits of the Westchester County Human Rights Law as well as to assist employers in their assessment of the situation and, if necessary, to enable them to provide reasonable accommodations. The employer shall retain all such information received from a victim of domestic violence, sexual abuse or stalking in the strictest confidence, except to the extent that such disclosure (1) is necessary to provide for a reasonable accommodation; or (2) otherwise required pursuant to applicable federal, state or local law.
7. Shall not apply to an employer or an employee or an agent thereof (1) that has been informed of the employee's status as a victim of domestic violence, sexual abuse or stalking; and (2) where such employer provides a reasonable accommodation to enable a victim of domestic violence, sexual abuse or stalking to perform the functions of his or her employment.

8. Shall not apply to an employer or an employee or an agent thereof where no adverse employment action has been taken against the individual as a result of the person's status as a victim of domestic violence, sexual abuse or stalking.
9. Shall not apply to an employer or an employee or an agent thereof if the victim of domestic violence, sexual abuse or stalking failed to provide the employer or an employee or an agent thereof with documentation certifying that he or she is a victim of domestic violence, sexual abuse or stalking, except that it shall apply if an employer or an employee or an agent thereof perceives an individual to be a victim of domestic violence, sexual abuse or stalking.

**Sec. 700.04. Unlawful discriminatory practices in places of public accommodation, resort or amusement.**

- a. It shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, resort or amusement, because of [the] actual or perceived group identity; [of any person or because of such person's status as a victim of domestic violence, sexual abuse or stalking, directly or indirectly,]
  - (i) to refuse, withhold from or deny [to such person] any of the accommodations, advantages, facilities or privileges thereof, including the extension of credit[,]; [or, directly or indirectly,]
  - (ii) to, directly or indirectly, declare, publish, circulate, issue, display, post or mail any written or printed communication, notice or advertisement, to the effect that any of the accommodations, advantages, facilities and privileges of any such place shall be refused, withheld from or denied [to any person] on account of actual or perceived group identity; and/or [or because of such person's status as a victim of domestic violence, sexual abuse or stalking, or]
  - (iii) to, directly or indirectly, declare, publish, circulate, issue, display, post or mail any written or printed communication, notice or advertisement, to the effect that the patronage or custom thereat of any person of or purporting to be of any particular group identity [or because of such person's status as a victim of domestic violence, sexual abuse or stalking,] is unwelcome, objectionable or not acceptable, desired or solicited.
- b. Nothing in this section shall be construed to prevent the barring of any person, because of the gender of such person, from places of public accommodations, resort or amusement based on bona fide

considerations of public policy[, nor shall this subdivision apply to the rental of rooms in a housing accommodation that restricts such rental to individuals of one gender].

- c. Notwithstanding anything in this [chapter] Chapter to the contrary, membership or participation in, or employment by, civic organizations, such as community associations, homeowners associations, crime prevention organizations, neighborhood associations, and scouting organizations, shall not be considered public accommodations within the meaning of this [section] Section.

**Sec. 700.04-a. Discriminatory harassment.**

1. It shall be an unlawful discriminatory practice for a person to, by force or threat of force, knowingly injure, intimidate or interfere with, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to such other person by the constitution or laws of the United States, the constitution or laws of this state, or by local law, or by this [chapter] Chapter, when such injury, ~~intimidation, interference, or threat is motivated, in whole or in part, by the actual or perceived group~~ identity of the other person [or because of such person's actual or perceived status as a victim of domestic violence, sexual abuse, or stalking, as defined by this chapter].
2. It shall be an unlawful discriminatory practice for any person to knowingly deface, damage, or destroy the real or personal property of any other person for the purpose of intimidating or interfering with the free exercise or enjoyment of any right or privilege secured to the other person by the constitution or laws of the United States, or by the constitution or laws of this state, or this [chapter] Chapter, where such defacement, damage, or destruction is motivated, in whole or in part, by the actual or perceived group identity of the other person [or because of such person's status as a victim of domestic violence, sexual abuse, or stalking, as defined by this chapter].

**Sec. 700.05. Unlawful discriminatory practices in the sale, lease or rental of land or commercial property.**

- a. It shall be an unlawful discriminatory practice for anyone, including but not limited to, [the] an owner, lessor, lessee, sub-lessee, assignee, real estate broker, real estate sales person or managing agent of, or other person, including but not limited to those having the right of ownership or possession of, or the right to sell, rent or lease, or the right to approve the sale, rental or lease of[, land or] commercial property or an interest therein:

1. To refuse to sell, rent, lease or otherwise deny to or withhold from any person or group of persons [land or] commercial property because of [the] actual or perceived group identity [of such person or persons or because of such person's status as a victim of domestic violence, sexual abuse or stalking];
  2. To discriminate against any person because of [his or her] actual or perceived group identity [or because of such person's status as a victim of domestic violence, sexual abuse or stalking,] in the terms, conditions or privileges of the sale, rental or lease of any such [land or] commercial property or in the furnishing of facilities or services in connection therewith; or
  3. To declare, print or circulate or cause to be declared, printed or circulated any statement, advertisement or publication, or to use any form of application for the purchase, rental or lease of such [land or] commercial property or to make any record or inquiry in connection with the prospective purchase, rental or lease of such [land or] commercial property which expresses, directly or indirectly, any limitation, specification or discrimination as to group identity [or because of a person's status as a victim of domestic violence, sexual abuse or stalking,] or any intent to make any such limitation, specification or discrimination.
- [b. The provisions of paragraph a., solely with respect to age, shall not apply to the restriction of the sale, rental or lease of land or commercial property exclusively to persons 55 years of age or older and the spouse of any such person.]
- [c.]b. It shall be an unlawful discriminatory practice for a real estate salesperson, real estate broker, real estate listing service, or any employee or agent thereof:
1. To refuse to sell, rent or lease any [land or] commercial property to any person or group of persons or to refuse to negotiate for the sale, rental or lease, of any [land or] commercial property or any interest therein to any person or group of persons because of [the] actual or perceived group identity; [of such person or persons or because of such person's status as a victim of domestic violence, sexual abuse or stalking, or]
  2. [to] To represent that any [land or] commercial property or any interest therein is not available for inspection, sale, rental or lease when in fact it is so available, or otherwise to deny or withhold any [land or] commercial property or any facilities of any [land or] commercial property or any interest therein from any person or group of persons because of [the] actual or

perceived group identity [of such person or persons or because of such person's status as a victim of domestic violence, sexual abuse or stalking]; or

[2.]3. To declare, print or circulate or cause to be declared, printed or circulated any statement, advertisement or publication, or to use any form of application for the purchase, rental or lease of any [land or] commercial property or to make any record or inquiry in connection with the prospective purchase, rental or lease of any [land or] commercial property which expresses, directly or indirectly, any limitation, specification, or discrimination as to group identity [or because of such person's status as a victim of domestic violence, sexual abuse or stalking;] or any intent to make any such limitation, specification or discrimination.

[d. The provisions of paragraph c., solely with respect to age, shall not apply to the restriction of the sale, rental or lease of land or commercial property exclusively to persons 55 years of age or older and the spouse of any such person.

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- e. It shall be an unlawful discriminatory practice for any real estate broker, real estate salesperson or employee or agent thereof or any other individual, corporation (including a limited liability corporation), partnership (including a limited partnership or a limited liability partnership) or any other organization used for the purpose of inducing a real estate transaction from which any such person or any of its stockholders or members may benefit financially, to represent that a change has occurred or will or may occur in the composition with respect to group identity or a person's status as a victim of domestic violence, sexual abuse or stalking of the owners or occupants in the block, neighborhood or area in which the real property is located, and to represent, directly or indirectly, that this change will or may result in undesirable consequences in the block, neighborhood or area in which the real property is located, including but not limited to the lowering of property values, an increase in criminal or anti-social behavior, or a decline in the quality of schools or other facilities.
- f. It shall be an unlawful discriminatory practice for any real estate board, or any board of directors of any condominium corporation or cooperative apartment corporation, because of the actual or perceived group identity of any individual or because of such person's status as a victim of domestic violence, sexual abuse or stalking, who is otherwise qualified for membership, to exclude or expel such individual from ownership of any unit or apartment or from membership on any such board, or to discriminate against such individual in the terms, conditions and privileges of ownership of any unit or apartment or of membership on any such board.

- g. It shall be an unlawful discriminatory practice for the owner, lessee, sub-lessee, or managing agent of, or other person having the right of ownership or possession of or the right to sell, rent or lease, land or commercial property to refuse to permit, at the expense of a person with a disability, reasonable modifications of existing premises occupied or to be occupied by the said person, if the modifications may be necessary to afford the said person full enjoyment of the premises, in conformity with the provisions of the New York State Uniform Fire Prevention and Building Code and any local fire or building code applying stricter standards than the New York State Code, except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.
- h. The provisions of this section, as they relate to age, shall not apply to persons under the age of 18 years.]

**Sec. 700.06. Unlawful discriminatory practices in relation to credit.**

- a. It shall be an unlawful discriminatory practice for any creditor or any officer, agent or employee thereof:
  - 1. In the case of applications for credit with respect to the purchase, acquisition, construction, rehabilitation, repair, maintenance or refinancing of any land or commercial property or any interest therein to discriminate against any such applicant because of [the] actual or perceived group identity [of such applicant or applicants or any member, stockholder, director, officer or employee of such applicant or applicants, or of the prospective occupants or tenants of such land or commercial property,] in the granting, withholding, extending or renewing, or in the fixing of the rates, terms or conditions of, any such credit; or in the appraisal of any land or commercial property conducted in connection with any such application;
  - 2. To discriminate in the appraisal of land or commercial property, conducted in connection with an application for credit, on the basis of group identity;
  - 3. To discriminate in the granting; withholding, extending or renewing, or in the fixing of the rates, terms or conditions of, any form of credit, on the basis of group identity;

4. To use any form of application for business or personal credit [or use or make any record or inquiry] which expresses, directly or indirectly, any limitation, specification, or discrimination as to group identity;

5. To use or make any record or inquiry which expresses, directly or indirectly, any limitation, specification, or discrimination as to group identity.

[5.]6. To make any inquiry of an applicant concerning his or her capacity to reproduce, or his or her use or advocacy of any form of birth control or family planning;

[6.]7. To refuse to consider sources of an applicant's income or to subject an applicant's income to discounting, in whole or in part, because of [applicant's] actual or perceived group identity;

[7.]8. To discriminate against a married person because such person neither uses nor is known by the surname of his or her spouse, except that this provision shall not be applicable to any ~~situation where the use of a surname would constitute or result in a criminal act.~~

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b. Without limiting the generality of paragraph a., it shall be considered discriminatory if, because of [an applicant's or class of applicant's] perceived or actual group identity:

1. An applicant, or class of applicants, is denied credit in circumstances where other applicants of like overall credit worthiness are granted credit; or
2. Special requirements or conditions, such as requiring co-obligors or reapplication upon marriage, are imposed upon an applicant or class of applicants in circumstances where similar requirements or conditions are not imposed upon other applicants of like overall credit worthiness.

c. Notwithstanding any provision of this [section] Section to the contrary, it shall not be considered discriminatory if credit differentiations or decisions are based upon factually supportable, objective differences in applicants' overall [credit worthiness] credit-worthiness, which may include reference to such relevant factors as current income, assets and prior credit history of such applicants, as well as reference to any other relevant factually supportable data; provided, however, that no creditor shall consider, in evaluating the credit worthiness of an applicant, aggregate statistics or assumptions relating to group identity, or to the likelihood of any group of persons bearing or rearing children, or for that reason receiving diminished or interrupted income in the future.

- d. Notwithstanding any provision of this section to the contrary, it shall not be an unlawful discriminatory practice to consider age in determining credit worthiness when age has a demonstrable and statistically sound relationship to a determination of creditworthiness.

**Sec. 700.07. Additional provisions defining discriminatory practices.**

- a. It shall be an unlawful discriminatory practice for any person to solicit, request, command, importune, compel, [or] coerce, aid or abet the doing of any of the acts forbidden under this chapter or to attempt to do so, provided that: (1) a person shall not be held liable for a violation of this [chapter] Chapter if his or her conduct consists solely of speech or expressive conduct that is not done with intent that a discriminatory act be committed by another person and that does not solicit, request, command, importune, compel or intentionally aid another person to commit a discriminatory act; and (2) nothing in this [chapter] Chapter shall be construed as prohibiting or proscribing any conduct which is protected from governmental prohibition or regulation by the constitutions of the United States or the State of New York.
- b. It shall be an unlawful discriminatory practice for any person engaged in any activity to which this [chapter] Chapter applies to harass, retaliate or discriminate against any other person because they [he or she]: [(1)] (i) have [has] opposed or objected to any practices forbidden under this [chapter] Chapter; or [(2)] (ii) have [has] filed a complaint, testified, assisted or participated in any proceeding under this [chapter] Chapter; or [(3)] (iii) have [has] commenced a civil action against such employer, labor organization or employment agency, or employee or agent thereof, [which action alleges the commission of] alleging an unlawful discriminatory practice; or [(4)] (iv) have [has] participated in or assisted the [commission] Commission, its staff, or its members or counsel in any investigation; and/or [(5)] (v) have [has] provided information to the [commission] Commission, its staff, or its members or counsel in any investigation, [which information was given as a verified statement not later found to lack veracity.]
- c. It shall be an unlawful discriminatory practice for any party to a conciliation or settlement agreement regarding any claim filed under this Chapter [made pursuant to section 700.12 of this chapter] to violate the terms of such agreement.
- d. Nothing contained in this [chapter] Chapter shall be construed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which

is operated, supervised or controlled by or in connection with a religious organization, from limiting participation in any activity (including, but not limited to employment, education, or sales or rental of [land or] commercial property) to, or granting admission to, or giving preference to, persons of the same religion or denomination or from taking such action as is calculated by such organization to promote the religious principles for which it is established or maintained.

- e. Nothing in this [chapter] Chapter shall be deemed to affect, in any way, the right of a religious or denominational educational institution to select its students exclusively or primarily from members of such religion or denomination or from giving preference in such selection to such members or to make such selection of its students as is calculated by such institution to promote the religious principles for which it is established or maintained. Nothing in this [chapter] Chapter shall impair or abridge the right of an independent religious or denominational institution, which establishes or maintains a policy of educating persons of one gender exclusively, to admit students of only one gender or to employ administrators and teachers on its faculty of the same gender.
- f. Nothing in this [chapter] Chapter shall be deemed to affect, in any way, the right of a religious or denominational educational institution licensed by the State of New York to establish curricula and lessons, to select educational materials and programs, or otherwise determine the content and substance of the education to be afforded to its students and, in particular, to develop curricula and lessons and to select educational materials and programs in order to promote the religious principles for which the institution was established or maintained. Nor shall it be an unlawful discriminatory practice for any religious or denominational educational institution licensed by the State of New York to educate its students in accordance with the religious beliefs and principles for which such institution was established or maintained.
- g. Notwithstanding any other provision of this [chapter] Chapter to the contrary, it shall not be an unlawful discriminatory practice for an employer, employment agency, labor organization or joint labor-management committee to carry out a plan, approved by the New York State Division of Human Rights, to increase the employment of members of a minority group (as may be defined pursuant to the regulations of the division), which has a state-wide unemployment rate that is disproportionately high in comparison with the state-wide unemployment rate of the general, population.

**Sec. 700.08. Human Rights Commission; membership.**

- a. [There shall be a] The Westchester County Human Rights Commission [(the "commission"), which] shall consist of 15 members. The Commission, an agency of County government, shall (i) enforce and implement the County's Human Rights Law and (ii) engage in education and outreach on the rights and obligation in the County's Human Rights Law.
- b. The [commission] Commission is established for the purposes of: (1) fostering mutual understanding[, tolerance] and respect among all persons in Westchester County; (2) eliminating, preventing, and remedying discrimination based on group identity [race, color, ethnicity, religion, national origin, alienage or citizenship, gender, age, sexual orientation, marital status or disability]; (3) cooperating with governmental and [nongovernmental] non-governmental agencies and organizations having similar functions; and (4) making such investigations and studies [in the field of human relations] as in the judgment of the [commission] Commission will aid in effectuating its purposes.
- c. Pursuant to [section] Section 110.21 of the Laws of Westchester County, the County Executive shall appoint the members of the [commission] Commission, subject to confirmation by the County Board of Legislators. The County Executive, in appointing the members of the [commission] Commission, and the County Board of Legislators, in confirming the appointments of the County Executive, endeavor to [assure] ensure that [(1)] the membership of the [commission] Commission be diverse and reflective of the population of Westchester County[, and (2) the all racial, ethnic, and religious communities in Westchester County have the opportunity to participate in the operations and deliberations of the commission by membership on the commission].
- d. Of the members first appointed to the [commission] Commission, the first five appointed shall each be appointed for a term of one year; the next five appointed shall be appointed for a term of two years; and the last five appointed shall be appointed for a term of three years. Thereafter, all appointments to the [commission] Commission shall be for a term of three years. Members, including members first appointed, may continue to serve after the expiration of their terms of office until their successors have been appointed.
- e. In the event that a vacancy is created prior to the expiration of the term of a member, including a vacancy created as the result of the death or resignation of a member, his or her successor shall be

appointed to serve for the unexpired balance of the term of the member whose office has become vacant.

- f. The [commission] Commission shall annually elect its [chair] Chair and [vice-chair] Vice-Chair from among its members.
- g. The members of the [commission] Commission shall not be compensated for their services on the [commission] Commission; however, the members of the [commission] Commission may be reimbursed for any necessary and reasonable expenses actually incurred in the performance of their duties.

**Sec. 700.09. Powers and duties of the [commission] Commission.**

The [commission] Commission shall have the following powers and duties:

- a. To hold at least [one meeting] ten meetings each calendar [month] year. Other meetings may be held at the request of the [chair] Chair of the [commission] Commission or upon written request of a majority of the [commission] Commission or as provided for in written rules and procedures adopted by the [commission] Commission;
- b. To develop and recommend such informational programs and materials as, in the judgment of the [commission] Commission, will increase goodwill among inhabitants of the County, and to conduct such informational programs, and distribute such informational materials, in appropriate locations throughout the County, provided that no such programs shall be conducted, or materials distributed, in any place or location without the prior consent of the owner or, where the owner is not in possession of the premises, the tenant or other person lawfully in possession of the premises. The [commission] Commission may not require that any educational program be conducted or any materials be distributed within a public school, private school, or a religious or denominational institution licensed by the State of New York;
- c. To enlist the cooperation of the various racial, religious, and ethnic groups, community organizations, labor organizations, fraternal and benevolent associations and other groups in Westchester County in mediation efforts, programs and campaigns devoted to eliminating [group] prejudice, [intolerance, bigotry and] discrimination, and hate;

- d. To study the problems of prejudice, discrimination, and hate [intolerance, bigotry and disorder occasioned thereby in all or any fields of human endeavor and interaction];
- e. Subject to the provisions of this [chapter] Chapter, to receive, investigate, make determinations and adjudicate [and pass upon] complaints of, and to initiate its own investigations of: (1) racial, religious and ethnic group tensions, prejudice, intolerance, bigotry and disorder occasioned thereby; and (2) unlawful discriminatory practices, as that [terms] term is defined herein [and, to make, sign and file complaints alleging violations of this chapter];
- f. Subject to the provisions of this [chapter] Chapter, to accept complaints from local municipalities, organizations, and private individuals who have standing;
- g. To report or refer unlawful discriminatory practices that fall outside its jurisdiction to the proper governmental authorities;
- h. To issue and sign subpoenas in the manner provided for in the civil practice law and rules compelling the attendance of witnesses, and/or requiring the production of any evidence material and relevant to any matter within the jurisdiction of the [commission] Commission, during the course of the Commission's investigation. If there is a dispute regarding such subpoena, the dispute shall be resolved by an administrative law judge assigned by the Commission for this purpose. [the] The legislative intent being that the subpoena power of this [commission] Commission be used with great care, respect and discretion, with the rights of all parties to fair treatment ever present. The Executive Director may issue and sign subpoenas;
- i. To hold hearings relating to any matter within the jurisdiction of the [commission] Commission;
- j. To award compensatory, [and] punitive, and other damages for violations of this [chapter] Chapter as provided for in this [chapter] Chapter;
- k. To issue informational materials regarding discrimination and hate based on group identity [publications and reports of investigations and research designed to promote good will and minimize or eliminate prejudice, intolerance, bigotry, discrimination and disorder occasioned thereby];
- l. To recommend to the County Executive and the Board of Legislators legislation to aid in carrying out the purpose of this effort;

- m. To adopt rules and regulations as may be necessary to effectuate the provisions of this [chapter] Chapter, which rules and regulations, and any modifications thereto, shall not be effective unless and until such rules and regulations, or amendments and modifications, have been subject to a 45-day comment period which shall commence upon filing with the County Clerk and with the Clerk of the Board of Legislators, and with the final adopted rules and regulations, or amendments and modifications to be filed with the County Clerk.
- n. To prepare a manual of all of its rules and regulations and to furnish copies thereof to persons desiring same;
- o. To appoint an Executive Director who shall serve at the pleasure of the [commission] Commission and to utilize the services of such other employees or assistants within the amounts appropriated therefor;
- p. To enter into written agreements with federal, state and municipal agencies and commissions for purposes of achieving inter-governmental cooperation and coordination in matters pertaining to discrimination and the handling of complaints and investigations of discrimination;
- q. To submit an annual report, [at the close of each fiscal year] by March 31<sup>st</sup> of the following year, to the County Executive and the Board of Legislators, [which report shall also be submitted to the New York State Division of Human Rights, and] which shall be made publicly available;
- r. To designate qualified persons to serve as administrative law judges to preside at hearings conducted pursuant to the provisions of this [chapter] Chapter, with the commission to designate only persons found qualified by the [commission] Commission by reason of experience and education (including, but not limited to, experience and education as an attorney), temperament, and sensitivity to preside at hearings under this [chapter] Chapter. Administrative law judges should be attorneys-at-law admitted to practice law in the State of New York.; and
- s. To provide for the training and continuing education of administrative law judges, within the amounts appropriated therefore.

**Sec. 700.10. Relations with County departments and agencies.**

So far as practicable, and subject to the approval of the County Executive, the services of all other County departments and agencies shall be made available by their respective heads to assist the

[commission] Commission with respect to matters within its jurisdiction. Upon reasonable request of the commission, the head of any department or agency shall, in so far as practicable, provide the [commission] Commission with public records in the possession of such department or agency to the commission, except that nothing herein contained shall compel the disclosure of public records which are exempt from disclosure pursuant to the provisions of the Public Officers Law.

**Sec. 700.11. Complaints of discrimination; procedure.**

- a. Except as otherwise provided in this [chapter] Chapter, any person claiming to be aggrieved by an unlawful discriminatory practice may, personally or by an attorney at law, make, sign and file with the [commission] Commission a [verified] complaint, in writing, which shall set forth the name and address of the person alleged to have committed the unlawful discriminatory practice complained of, the particulars thereof, and such other information as may be required by the [commission] Commission. The [commission] Commission shall not accept any complaint for filing unless it is accompanied by an acknowledgement signed by the Complainant which acknowledges that the Complainant does not have a pending civil action or administrative complaint with substantially similar allegations of discrimination based on the same transaction or occurrence or series of transactions or occurrences which are the subject of the complaint sought to be filed with the Commission. This shall include complaints filed with the New York State Division of Human Rights, any federal civil rights agencies, or any local commission located in Westchester County. [a waiver and relinquishment, duly subscribed by the complainant and duly acknowledged in the manner required to entitle a deed to be recorded, of any and all rights to file a complaint with the New York State Division of Human Rights, any federal civil rights agencies, such as the Department of Housing and Urban Development ("HUD") or the Equal Employment Opportunity Commission ("EEOC"), or with the commission on human rights of any city, town or village located in Westchester County, which is based upon the same transaction or occurrence or series of transactions or occurrences which are the subject of the complaint sought to be filed with the commission. The complainant may utilize the services of the County Clerk's Office in order to have his or her signature notarized on any documents required in connection with the filing of a complaint for the purposes of this section.] The [commission] Commission shall promulgate and make available appropriate forms of complaints and waivers.

- b. A [complainant] Complainant may withdraw a complaint at any time prior to the deadline for service of an [answer] Answer by the [respondent] Respondent as described in Section 700.11(g) of this Chapter. Subsequent to the deadline for service of an [answer] Answer by the [respondent] Respondent, the [complainant] Complainant may withdraw a complaint, provided, however, that, upon application by the [respondent] Respondent, the [commission] Commission may preclude the [complainant] Complainant from subsequently filing any complaint with the [commission] Commission based upon the same transactions or occurrences or series of transactions or occurrences as the complaint which was withdrawn.
- c. The Executive Director of the [commission] Commission may make, sign and file a complaint in the same manner as described in subparagraph a. above. [initiate a complaint alleging that a respondent has engaged in a pattern or series of unlawful discriminatory practices as set forth in this chapter affecting more than one person.] Such complaint shall be signed [and verified] by the Executive Director and shall set forth the name and address of the [person] person(s) alleged to have committed the unlawful discriminatory practices complained of and the particulars thereof, together with such other information as may be required by the [commission] Commission. In any complaint initiated by the Executive Director, the relief awarded by the [commission] Commission in the event of a finding that the respondent has committed the unlawful discriminatory practices complained of shall be the same relief which may be awarded to an individual complainant. [limited to the relief authorized in paragraph h. of this section.] The Executive Director may withdraw a complaint at any time prior to the service of an [answer] Answer by the respondent, provided, however, that, upon application by the respondent, the [commission] Commission may preclude the Executive Director from subsequently filing any complaint based upon the same transactions or occurrences or series of transactions or occurrences as the complaint which was withdrawn. The Executive Director shall serve notice of such withdrawal by mail upon persons aggrieved by the unlawful discriminatory practices complained of, to the extent that such persons are individually identified with specificity in the complaint. If not otherwise precluded from doing so by the [commission] Commission pursuant to paragraph b. of this section, such persons shall be permitted to file a complaint pursuant to paragraph a. of this section based upon the same transactions or occurrences or series of transactions or occurrences as the complaint which was withdrawn by the Executive Director. Such persons may file a complaint within the time period provided for in section 700.12 or within 30 days of the service of withdrawal notice by the Executive Director, whichever is greater.

- d. Within 30 days after the filing of any complaint, the [commission] Commission shall serve a copy thereof by mail upon the respondent and all persons it deems to be necessary parties. Within 60 days after a complaint is filed, the [commission] Commission shall determine whether it has jurisdiction. If the [commission] Commission determines that it has jurisdiction, it shall determine, within 180 days of the filing of the complaint, or as soon as practicable thereafter, whether there is probable cause to believe that [the person] any person(s) named in the complaint, [hereinafter] referred to as [the] a respondent, has engaged, [or] is engaging, or is actively endeavoring to engage in an unlawful discriminatory practice. If it finds with respect to any respondent that it lacks jurisdiction or that probable cause does not exist, the [commission] Commission shall issue an order or determination dismissing the complaint as to such respondent, which order or determination shall be served [by mail] upon all [necessary] parties [to] in the proceeding.
- e. If in the judgment of the [commission] Commission the circumstances so warrant, it may, at any time after the filing of the complaint, endeavor to eliminate any unlawful discriminatory practice by any method of dispute resolution prescribed by rule of the [commission] Commission including, but not limited to, mediation or other form of alternative dispute resolution process [and conciliation]. The [commission] Commission may enter into an agreement with any respondent resolving the complaint by agreement ("[conciliation] settlement agreement"). Such [conciliation] settlement agreement may include provisions requiring the respondent to refrain from [the commission of] committing unlawful discriminatory practices in the future, allowing the Commission to monitor future compliance, and any [may contain] such further provisions as may be agreed upon by the [commission] Commission and the respondent, including a provision for the entry of an order in the New York State Supreme Court, County of Westchester, or in such other County where the respondent resides or maintains an office for the transaction of business, containing the terms of the [conciliation] settlement agreement.
- Prior to entering into a [conciliation] settlement agreement, the [commission] Commission shall provide a copy thereof to the complainant [by mail]. If the complainant agrees to the terms of the agreement, or fails to object to such terms within 15 days after it was sent [mailed] to the complainant, the [commission] Commission may proceed to enter into the agreement. If the complainant desires to object to the agreement, he or she shall specify such objections in writing and file same with the [commission] Commission within 15 days after the proposed agreement was sent [mailed] to the complainant. Upon review of such objections, the [commission] Commission may make such order as it, in its sole discretion, may find to be just and proper, including but not limited

to [(a)] an order approving the [conciliation] settlement agreement[; (b)] and/or an order dismissing the complaint[; and (c) an order scheduling a hearing on the complaint].

Any statement made by [any complainant or by any respondent] a person present during any alternate dispute resolution process conducted by, or on behalf of, the [commission] Commission shall be not be admitted into evidence during any hearing or proceeding, including proceedings before the [commission] Commission and shall not be utilized in any fashion in any proceeding to either enforce or review any determination of the [commission] Commission, unless the party making the statement affirmatively authorizes, in writing, the admission of the statement. The failure or refusal of any party to participate in the alternate dispute resolution process, or the failure or refusal of any party to accept a recommendation by any mediator as to the resolution of the matter, shall not be admissible in any hearing or proceeding before the [commission] Commission or any other forum.

- f. Where the [commission] Commission has found that it has jurisdiction over the complaint and that there is probable cause to believe that [the] a respondent has engaged, [or] is engaging in, or actively endeavoring to engage in an unlawful discriminatory practice, and/or if alternative dispute resolution pursuant to paragraph e. above is either not initiated or does not resolve the complaint, the [commission] Commission shall issue and cause to be issued and served a written notice requiring the respondent to answer the charges of such complaint and appear at a public hearing upon reasonable notice at a time and place to be fixed by the commission and specified in the notice. At least ten [two] business days prior to the pre-hearing conference [hearing] the respondent shall, and any necessary party may, file a written Answer [answer] to the complaint with the [commission] Commission and serve a copy upon all other parties to the proceeding. If the respondent fails to answer the complaint, the [commission] Commission may enter the default and the hearing shall proceed on the evidence in support of the complaint. Such default may be set aside for good cause shown upon such terms and conditions as may be just.
- g. A respondent who has timely filed an [answer] Answer and pre-hearing submissions, or whose default in answering has been set aside for good cause shown may appear at such public hearing in person or otherwise, with or without counsel, [cross examine] cross-examine witnesses and the complainant and submit testimony. Attempts at conciliation, or statements made during such attempts, shall not be received in evidence. The complainant and all parties shall be allowed to present testimony in person or by counsel and [crossexamine] cross-examine witnesses subject to the

discretion of the administrative law judge. [Subpoenas shall be issued in the manner provided for in the civil practice law and rules to compel the attendance of witnesses or to require the production of any relevant evidence before the commission. The testimony taken at the hearing shall be under oath and a record made. Hearings may be conducted directly before the commission or the commission may refer the hearing to an administrative law judge to conduct the hearing and render a written report, containing recommendations as to findings and, if appropriate, relief, to the commission. To the extent practicable, administrative law judges should be attorneys-at-law admitted to practice law in the State of New York. At the conclusion of the hearing, or as soon thereafter as may be practicable, the commission shall issue its determination, stating its findings of fact.]

g-1. Subpoenas may be signed and issued by the Commission or its Executive Director in the manner provided for in the civil practice law and rules and pursuant to Section 700.09(h) of this Chapter to compel the attendance of witnesses, or to require the production of any relevant evidence before the Commission, in preparation for a hearing or at a hearing. Any dispute regarding compliance with any subpoena issued during the course of an investigation shall be decided by an administrative law judge assigned by the Commission.

g-2. Subsequent to the referral under subparagraph f. above, any party may issue a subpoena in the manner provided for in the civil practice law and rules. Any dispute regarding compliance with any such subpoena shall be decided by the assigned administrative law judge.

g-3. The testimony taken at the hearing shall be under oath and a record made. Hearings may be conducted directly before the Commission or the Commission may refer the hearing to an administrative law judge to conduct the hearing and thereafter, provide the Commission with a written Recommended Findings on Liability and Damages. As soon as may be practicable thereafter, the Commission shall adopt, modify, or reject the administrative law judge's recommendations and issue its final Order, stating its findings of liability and damages, if appropriate. The Commission may delegate this power to the Executive Director.

g-4. Presentation of Evidence: The Commission's agent or attorney shall present evidence in support of the complaint. Such agent or attorney shall not have an attorney-client relationship with the complainant.

h. In the event that the [commission] Commission shall, after a hearing, determine that a respondent has committed an unlawful discriminatory practice, it shall issue an order containing such of the

following provisions as may, in the judgment of the [commission] Commission, effectuate the purposes of this [chapter] Chapter:

1. Requiring such respondent to cease and desist from such unlawful discriminatory practice;
2. Requiring such respondent to take such affirmative action to remedy the unlawful discriminatory practice, including but not limited to such of the following as may be applicable and appropriate[:]; hiring, [reinstatement] reinstating or upgrading [of] employees, with or without back pay, undergoing training regarding their rights and obligations under this Chapter, [restoration to] restoring membership in any respondent labor organization, admission to or participation in a guidance program, apprenticeship training program, on-the-job training program or other occupational training or retraining program, [the extension of] extending full, equal and unsegregated accommodations, advantages, facilities and privileges to all persons, providing reasonable accommodation, ordering policies to be modified to comply with this Chapter, evaluating applicants for membership in a place of accommodation without discrimination based on group identity [or because of a person's status as a victim of domestic violence, sexual abuse or stalking,] and without retaliation or discrimination based on opposition to practices forbidden by this [chapter] Chapter or taking any action protected under this Chapter including but not limited to filing a complaint, testifying or assisting in any proceeding under this [chapter] Chapter;
3. Requiring such respondent to undertake remedial action, including, but not limited to, training and/or community service;
4. Awarding [of] compensatory damages, including, but not limited to[:], actual damages, back pay, front pay, mental anguish and/or emotional distress, to [the] any person aggrieved by such practice;
5. Awarding [of] punitive damages to person(s) aggrieved by an unlawful discriminatory practice, against [a] any respondent found to have committed an unlawful discriminatory practice which is found to be willful, wanton or malicious to the person aggrieved by such practice;
6. Awarding costs in the form of reimbursement for actual expenses reasonably incurred and awarding reasonable attorney's fees to the person aggrieved by such practice and/or the Commission;

7. Awarding a civil penalty in an amount not to exceed \$125,000.00, to be paid to the County of Westchester by a respondent found to have committed an unlawful discriminatory practice, or not to exceed \$250,000.00 to be paid to the County of Westchester by [a] any respondent found to have committed an unlawful discriminatory practice which is found to be willful, wanton or malicious, or where the [commission] Commission finds that an act of discriminatory harassment or violence has occurred as set forth in Section 700.04-a [has occurred]; and
  8. Requiring the respondent to report the manner of compliance.
- [i. A copy of each order issued by the commissioner shall be delivered in all cases to the County Executive, Chair of the Board of Legislators, and to the County Attorney.]
  - j. The [commission] Commission shall establish rules of practice or procedure to govern, expedite and effectuate the foregoing procedure and its own actions thereunder, provided that such rules are not inconsistent with the provisions hereof. If there is an inconsistency, the Law shall control and the Commission shall amend its rules and regulations for consistency.
  - k. The [commission] Commission, in its discretion, may award to any party or attorney in any proceeding before it costs in the form of reimbursement for actual expenses reasonably incurred and reasonable attorney's fees, resulting from frivolous conduct, as defined in [paragraph] subparagraph l. below. Where the award is against an attorney, it may be against the attorney personally or upon the partnership, firm, corporation, or limited liability partnership or corporation with which the attorney is a member, is associated or that has appeared as attorney of record. The award may be imposed upon any attorney appearing in the proceeding or upon a partnership, firm, corporation, or limited liability partnership or corporation with which the attorney is associated. An award may be made either upon application of a party or by the [commission] Commission, upon its own initiative, after a reasonable opportunity to be heard is provided to all parties. The form of the hearing shall depend upon the nature of the conduct and the circumstances of the proceeding.
  - l. For purposes of [paragraph] subparagraph k. above, conduct is frivolous if: [(1)] (i) it is completely without merit in law and cannot be supported by a reasonable argument for an extension, modification or reversal of existing law; or [(2)] (ii) it is undertaken primarily to delay or prolong the resolution of the proceeding or to harass or maliciously injure another; or [(3)] (iii) it asserts material factual statements that are false. Frivolous conduct shall include the making of a frivolous application for an award under [paragraph] subparagraph k. above.

In determining whether the conduct undertaken was frivolous, the [commission] Commission shall consider, among other issues, [(1)] (i) the circumstances under which the conduct took place, including the time available for investigating the legal or factual basis of the conduct; and [(2)] (ii) whether or not the conduct was continued when its lack of legal or factual basis was apparent, should have been apparent, or was brought to the attention of counsel or the party.

- m. Every pleading, written motion or other paper, served on another party or filed or submitted to the [commission] Commission shall be signed by an attorney or by a party if the party is not represented by an attorney, with the name of the attorney or party clearly printed or typed directly below the signature. Absent good cause shown, the [commission] Commission shall strike any unsigned paper if the omission of the signature is not corrected promptly after being called to the attention of the attorney or party. By signing a paper, an attorney or party certifies that, to the best of that person's knowledge, information or belief, formed after an inquiry reasonable under the circumstances, the presentation of the paper or the contents thereof are not frivolous as defined in [paragraph] subparagraph l. above. In the event that the paper or the contents thereof is found by the [commission] Commission to be frivolous, as defined in [paragraph] subparagraph l. above, then the [commission] Commission may award costs, pursuant to [paragraph] subparagraph k. above.
- n. The [commission] Commission may award costs and/or reasonable legal fees pursuant to [paragraph] subparagraph k. above only upon a written decision setting forth the conduct on which the award or imposition is based, the reasons why the [commission] Commission found the conduct to be frivolous, and the reasons why the [commission] Commission found the amount awarded or imposed to be appropriate. An award of costs shall be set forth in an order of the commission enforceable pursuant to [section] Section 700.15.
- [o. In the event that a complaint shall be filed with the commission in which a respondent is the County of Westchester or is an officer or employee of the County of Westchester and the complaint relates to conduct of such officer or employee committed within the scope of his or her official duties or employment with the County of Westchester, then the commission shall, in lieu of the procedures set forth previously in this section, immediately refer the complaint to the New York State Division of Human Rights for determination.]

**Sec. 700.12. Complaints of discrimination; limitations.**

Except as otherwise provided in [section 700.15] this Chapter, any complaint filed with the [commission] Commission pursuant to [section] Section 700.12 of this [chapter] Chapter must be filed within one year after the occurrence of the alleged unlawful discriminatory practice. However, complaints alleging sexual harassment in a workplace may be filed with the Commission within three (3) years of the alleged unlawful discriminatory act.

**Sec. 700.13. Temporary injunctions.**

At any time after the filing of a complaint with the [commission] Commission alleging an unlawful discriminatory practice under this [chapter] Chapter if the [commission] Commission determines that the respondent is doing or [procuring to be done any act] endeavoring to engage in any act tending to render ineffectual any order the [commission] Commission may enter in such proceeding, the [commission] Commission may, by the County Attorney, apply to the New York State Supreme Court, in Westchester County, or in such other County where the respondent resides or maintains an office for the transaction of business, for a temporary injunction and/or for a temporary restraining order. The order to show cause may contain a temporary restraining order and shall be served in the manner provided therein, on the return date of the order to show cause, and after affording all parties an opportunity to be heard, if the court deems it necessary to prevent the respondent from rendering ineffectual an order relating to the subject matter of the complaint, it may grant appropriate injunctive relief upon such terms and conditions as it deems proper.

**Sec. 700.14. Jurisdictional limitations.**

- a. Except as otherwise provided in [subdivision b. hereof] this Chapter, the [commission] Commission shall not have jurisdiction to entertain or initiate a complaint where:
  1. The complainant or party aggrieved has initiated a civil action in any court based upon the same transaction or occurrence or series of transactions or occurrences and alleging substantially similar claims of discrimination, harassment, or retaliation which are the subject of the complaint filed or sought to be filed with the [commission] Commission, unless such civil action has been voluntarily discontinued or withdrawn by the complainant. Notwithstanding the

foregoing, this provision shall not preclude or prevent the filing of an Executive Director initiated complaint with the Commission pursuant to Section 700.11(c) of this Chapter;

2. The complainant or party aggrieved has filed a complaint which has not been withdrawn without prejudice with the New York State Division of Human Rights, Equal Employment Opportunity Commission, or with the commission on human rights of any city, town or village located in Westchester County, based upon the same transaction or occurrence or series of transactions or occurrences alleging substantially similar claims of discrimination, harassment, or retaliation which are the subject of the complaint filed or sought to be filed with the [commission] Commission. Notwithstanding the foregoing, this provision shall not preclude or prevent the filing of an Executive Director initiated complaint with the Commission pursuant to Section 700.11(c) of this Chapter;
3. The complainant or party aggrieved has filed a complaint, action or proceeding with any administrative agency of the State or the County of Westchester, based upon the same transaction or occurrence or series of transactions or occurrences alleging substantially similar claims of discrimination, harassment, or retaliation which are the subject of the complaint filed or sought to be filed with the [commission] Commission. Notwithstanding the foregoing, this provision shall not preclude or prevent the filing of an Executive Director initiated complaint with the Commission pursuant to Section 700.11(c) of this Chapter;
- [4. The complainant or party aggrieved: (i) is employed by an organization, company, association, government, or other entity, which, pursuant to a written policy, maintains an affirmative action, equal employment, or similar office or department, which office or department would have jurisdiction over the subject matter of the complaint filed or sought to be filed with the commission; and (ii) the complainant or party aggrieved has not exhausted the remedies provided for in the written policy. The provisions of this subparagraph shall not apply in the event that the affirmative action, equal employment or similar office or department to which complaint was made fails to render a determination thereon within one year of the filing of the complaint with such office or department, in which event the complainant or party aggrieved must file a complaint with the commission within one year of the time that the complaint or party aggrieved became entitled to file such complaint with the commission. The provisions of this subparagraph shall not preclude the filing with the commission of a complaint which alleges

that the organization, company, association, government or other entity involved has engaged or is engaging in a pattern of unlawful discriminatory practices which have involved identical or substantially similar acts committed against two or more persons who were similarly situated, provided that the complaint is filed within one year after the occurrence of the alleged unlawful practices.]

b. Notwithstanding the provisions of paragraph a. above, the [commission] Commission shall have jurisdiction to entertain a complaint:

1. Where: (i) the complainant or party aggrieved previously filed a complaint, based upon the same transaction or occurrence or series of transaction or occurrences, with a human rights or similar commission established in or for any city, town, or village located in Westchester County; (ii) such commission determined that the respondent committed an unlawful discriminatory practice; (iii) such determination has not been annulled or stayed by any court; (iv) the relief requested by the complainant or party aggrieved is limited to enforcement of such determination by requiring the respondent to cease and desist from the unlawful discriminatory practice and by requiring the respondent to comply with such other terms and conditions of the prior determination as may be enforceable by the commission; and (v) the complaint is filed with the [commission] Commission within one year of the making of the determination sought to be enforced.
2. Where: (i) the complainant or party aggrieved previously filed a complaint, based upon the same transaction or occurrence or series of transaction or occurrences, with the affirmative action, equal employment or similar office maintained by his or her employer; (ii) such office determined that the respondent committed an unlawful discriminatory practice; (iii) such determination has not been annulled or stayed by any court; (iv) the relief requested by the complainant or party aggrieved is limited to enforcement of such determination by requiring the respondent to cease and desist from the unlawful discriminatory practice and by requiring the respondent to comply with such other terms and conditions of the prior determination as may be enforceable by the [commission] Commission; and (v) the complaint is filed with the [commission] Commission within one year of the making of the determination sought to be enforced.

- c. The [commission] Commission shall not have jurisdiction to accept any proceedings by transfer from the New York State Division of Human Rights.

**Sec. 700.14-a. Enforcement by private persons.**

- A. Any person who claims to have been aggrieved by an unlawful discriminatory practice or who believes that he, she or they will be aggrieved by an unlawful discriminatory practice that is about to occur, may commence a civil action in the appropriate court of jurisdiction not later than three (3) years after the occurrence or the termination of an alleged unlawful discriminatory practice, whoever occurs last, to obtain appropriate relief under this Chapter with respect to such unlawful discriminatory practice.
- B. The computation of such three-year period shall not include any time during which an administrative proceeding under this Chapter was pending before the Commission with respect to a complaint alleging an unlawful discriminatory practice or retaliation based on the same facts or occurrences.
- C. A complaint may be filed in court by an aggrieved person pursuant to this Chapter only if a complaint is not pending with the Commission alleging an unlawful discriminatory practice or retaliation based on the same facts or occurrences and a hearing has not been commenced by the Commission based on the same facts or occurrences.
- D. The Commission authorizes and designates the Executive Director of the Commission to receive courtesy copies of complaints in actions commenced, in whole or in part, pursuant to subparagraph (A) of this Section. Within 10 days after commencing a civil action, in whole or in part, pursuant to subparagraph (A) of this Section, the plaintiff(s) or its counsel shall provide a courtesy copy of the complaint to the Executive Director by mail or e-mail at [HumanRights@WestchesterGov.com](mailto:HumanRights@WestchesterGov.com).
- E. In a civil action under this Section, if the court finds that an unlawful discriminatory practice has occurred or is about to occur, the court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order, and/or other order enjoining an applicable defendant from engaging in such practice or ordering such affirmative action as may be appropriate. The court may also award actual damages, including damages for emotional distress, and/or any other appropriate remedy available under this Chapter. The court may also award reasonable attorney's fees and costs to the prevailing party.

**Sec. 700.15. Judicial review and enforcement.**

Any complainant, respondent or other person aggrieved by an [order] Order of the [commission] Commission which is an order after a hearing, a cease and desist order, an order awarding damages, an order dismissing a complaint, an order awarding costs, or by an order of the [commission] Commission which makes a final disposition of a complaint may obtain judicial review thereof under Article 78 of the Civil Practice Law and Rules[.], [and the commission] The Commission may obtain an order of court for its enforcement and for the enforcement of any other order of the [commission] Commission, in a proceeding as provided in this [section] Section. Such proceeding shall be brought in the New York State Supreme Court, Westchester County, or in such other County wherein any person required in the order to cease and desist from an unlawful discriminatory practice or to take other affirmative action resides or transacts business. Such proceeding shall be initiated by the filing of a notice of petition and petition in such court. Thereafter, at a time and in a manner to be specified by the court, the [commission] Commission shall file with the court a written transcript of the record of all prior proceedings. Upon the filing of a notice of petition and petition, the court shall have jurisdiction of the proceeding and of the questions determined therein.

**Sec. 700.16. Liberal Construction.**

The provisions of this Chapter shall be construed liberally for the accomplishment of the remedial purposes thereof, regardless of how federal civil rights laws, including those laws with provisions worded comparably to the provisions of this Chapter, have been so construed. Exception to and exemptions from the provisions in this Chapter shall be construed narrowly in order to maximize deterrence of discriminatory conduct. Nothing contained in this Chapter shall be deemed to repeal any of the provisions of any other law of this County relating to discrimination or retaliation; but, as to acts declared unlawful by Section 700.03 through 700.07 of this Chapter, the procedure herein provided shall, while pending, be exclusive. Nothing in this Chapter shall be construed more narrowly than the New York State Human Rights Law.

Nothing contained in this law shall be construed to create or form the basis of any liability on the part of Westchester County, or its officers, employees or agents, for any injury or damage resulting from or by

reason of any act or omission in connection with the implementation or enforcement of this law on the part of Westchester County by its officers, employees, or agents.

[Nothing in this legislation should be construed to create, alter or abolish any right to marry that may exist under any federal or New York State law.]

**Sec. 700.17. Separability.**

If any clause, sentence, paragraph or part of this [chapter] Chapter or the application thereof to any person or circumstances, shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this [chapter] Chapter.

**Sec. 700.18. Expenditure limitation.**

The expenses of operation of the [commission] Commission shall be subject to appropriation in the County budget, provided, however, that, effective as of the first County budget adopted following the enactment of this local law, and for the next County budget immediately thereafter, the amounts expended for the [commission] Commission from funds raised by the County through taxation shall, in no event, exceed the sum of \$600,000.00 in each such budget.

## **ARTICLE II. FAIR HOUSING LAW**

**Sec. 700.19. Declaration of policy.**

- A. The general purpose of this law is to promote the availability and accessibility of housing and real property to all persons; to prohibit unlawful discriminatory real estate practices in real property transactions, whether direct or indirect, which deny those persons equal rights and opportunities in acquiring, disposing of, or occupying real property; to provide enforcement mechanisms for the accomplishment of such purpose; and to this end the provisions of this law shall be liberally construed. The role of the Fair Housing Board, in conjunction with the Westchester County Human Rights Commission, shall be to enforce the provisions of this law in furtherance of this policy.
- B. This law shall not be construed to endorse specific beliefs, practices, or lifestyles.
- C. Nothing in this law is deemed to deny any person the right to institute any action or to pursue any civil or criminal remedy for the violation of such person's civil rights.

- D. Remedies under this law shall include such relief authorized by law as may be appropriate and reasonable to provide temporary or preliminary relief as well as permanent relief in order to make the aggrieved person whole and eliminate the unlawful discriminatory real estate practice.
- E. Nothing contained in this law shall be construed to create or form the basis for any liability on the part of Westchester County, or its officers, employees or agents, for any injury or damage resulting from or by reason of any act or omission in connection with the implementation or enforcement of this law on the part of Westchester County by its officers, employees, or agents.

**Sec. 700.20. Definitions.**

**A. *Alienage or citizenship status* shall mean:**

- 1. The citizenship of any person; or
- 2. The immigration status of any person who is not a citizen or national of the United States.

**B. *Commission* shall mean the Westchester County Human Rights Commission.**

**C. *Creditor* when used in this article, means any person or financial institution which does business in this state and which extends credit or arranges for the extension of credit by others. The term creditor includes, but is not limited to, banks and trust companies, private bankers, foreign banking corporations and national banks, savings banks, licensed lenders, savings and loan associations, credit unions, finance companies, insurance premium finance agencies, insurers, credit card issuers, mortgage brokers, mortgage companies, mortgage insurance corporations, wholesale and retail merchants and factors, whatever the form of their organization.**

**D. *Disability* shall mean:**

- 1. A physical, mental, psychological, or medical impairment resulting from anatomical, physiological, genetic or neurological conditions which substantially limit one or more of a person's major life activities or prevents the exercise of an unimpaired bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques; or
- 2. A record or history of a physical, mental, psychological, or medical impairment. The term "physical, mental, psychological, or medical impairment" means:
  - (a) An impairment of any system of the body; including, but not limited to: the neurological system; the musculoskeletal system; the special sense organs and respiratory organs,

including, but not limited to, speech organs; the cardiovascular system; the reproductive system; the digestive and genitor-urinary systems; the hemic and lymphatic systems; the immunological systems; the skin; and the endocrine system; or

(b) A mental or psychological disorder includes, but is not limited to, depression, bipolar disorder, anxiety disorders, and schizophrenia; or

(c) A condition regarded or perceived by others as such an impairment.

3. The term "disability" shall not include current, active alcoholism, current, active drug addiction, and/or the current illegal use of controlled substances, or any other form of substance abuse as defined in § 102 of the Controlled Substances Act (21 U.S.C. § 802); Except, however, it may apply to a person who is:

(a) Recovering or has recovered, and

(b) Is currently free from such substance abuse.

E. *Discrimination* shall include, but shall not be limited to, segregation, separation, harassment, physical intimidation, acts of hate or bias and physical violence because of group identity.

E-1. *Fair Housing Board* shall mean the Westchester County Fair Housing Board.

F. *Familial Status* shall mean one or more individuals, under the age of eighteen years, being domiciled with:

1. A parent or legal custodian of such individual or individuals; or
2. The designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant, or has a child or children, or is in the process of securing legal custody or has legal custody of any individual under the age of eighteen years.

G. *Gender* shall mean:

1. The physiological and psychological characteristics of being a male or female; and

2. Gender identity, self-image, appearance, behavior, or expression, whether or not such gender identity, self image, appearance, behavior or expression is different from that traditionally associated with the legal sex assigned to that person at birth.
- H. *Group identity* shall mean the race, color, religion, age, national origin, alienage or citizenship status, ethnicity, familial status, [creed] military status, gender, sexual orientation, marital status or disability of a person or persons, a person's source of income, or a person's status as a victim of domestic violence, sexual abuse, or stalking.
- I. *Housing accommodation* includes any building, structure, or portion thereof which is used or occupied or is intended, arranged or designed to be used or occupied, as the home, residence or sleeping place of one or more human beings, including, but not limited to, houses, apartments, cooperative apartments, condominium units, mobile homes and vacant land.
- I-1. *Military Status* shall mean a person's current or prior participation in the military service of the United States or the military services of the state, including but not limited to, the armed forces of the United States, the army national guard, the air national guard, the New York naval militia, the New York guard, and such additional forces as may be created by the federal or state government as authorized by law.
- J. *Multiple dwelling* as herein used, means a dwelling which is occupied primarily for permanent residence purposes and which is either rented, leased, let or hired out, to be occupied as the residence or home of three or more families living independently of each other. A "multiple dwelling" shall not be deemed to include a hospital, convent, monastery, asylum, or public institution, or a fireproof building used wholly for commercial purposes except for not more than one janitor's apartment and not more than one penthouse occupied by not more than two families.
- K. *National origin* shall include ancestry.
- L. *Necessary party* shall mean any person who has such an interest in the subject matter of a proceeding under this article, or whose rights are so involved, that no complete and effective disposition can be made without [his or her] their participation in the proceeding.
- M. *Owner occupied* shall mean physical possession, in part or in full, by the owner.
- N. *Parties to the proceeding* shall mean [the complainant, respondent] complainant(s), respondent(s), necessary parties and persons permitted to intervene as parties in a proceeding with respect to a

complaint filed under this [article] Chapter. Subsequent to a finding of probable cause, the Commission shall be a party. The case in support of the claims advanced to a hearing shall be presented before the Commission by the Commission's agent or attorney.

- O. *Person* shall mean one or more natural persons, proprietorships, partnerships, limited liability partnerships, associations, group associations, non-profit organizations, corporations, limited liability corporations, labor organizations, mutual companies, joint-stock companies, unincorporated organizations, fiduciaries, legal representatives, trustees, trustees in bankruptcy, or receivers.
- P. *Person in the business of selling or renting housing accommodations* shall include anyone who:
1. Within the preceding twelve months, has participated as principal in three or more transactions involving the sale or rental of any housing accommodation or any interest therein;
  2. Within the preceding twelve months, has participated as agent, other than in the sale of his own personal residence, ~~in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or~~
  3. Is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.
- Q. *Publicly-assisted housing accommodations* shall include all housing accommodations within Westchester County in:
1. Publicly owned or operated housing accommodations;
  2. Housing operated by housing companies under the supervision of the state commissioner of housing;
  3. Housing constructed after July 1, 1950, within Westchester County and which is either:
    - a. Exempt in whole or in part from taxes levied by the state or any of its political subdivisions;
    - b. Constructed on land sold below cost by the state or any of its political subdivisions or any agency thereof, pursuant to the Federal Housing Act of 1949;
    - c. Constructed in whole or in part on property acquired or assembled by the state or any of its political subdivisions or any agency thereof through the power of condemnation or otherwise for the purpose of such construction; or

- d. Acquired, constructed, repaired or maintained with funds or financial assistance furnished or contributed by the state, any political subdivision of the state, or any agency or authority of the state.
- 4. Housing which is located in a multiple dwelling, the acquisition, construction, rehabilitation, repair or maintenance of which is after July 1, 1955, financed in whole or in part by a loan, whether or not secured by a mortgage, the repayment of which is guaranteed or insured by the federal government or any agency thereof, or the state or any of its political subdivisions or any agency thereof, provided that such a housing accommodation shall be deemed to be publicly assisted only during the life of such loan and such guaranty or insurance; and
- 5. Housing which is offered for sale by a person who owns or otherwise controls the sale of ten or more housing accommodations located on land that is contiguous (exclusive of public streets), if:
  - a. The acquisition, construction, rehabilitation, repair or maintenance of such housing accommodations is, after July 1, 1955, financed in whole or in part by a loan, whether or not secured by a mortgage. The repayment of which is guaranteed or insured by the federal government or any agency thereof, or the state or any of its political subdivisions or any agency thereof, provided that such a housing accommodation shall be deemed to be publicly assisted only during the life of such loan and guaranty or insurance; or
  - b. A commitment, issued by a government agency after July 1, 1955, is outstanding that acquisition of such housing accommodations maybe financed in whole or in part, whether or not secured by a mortgage, the repayment of which is guaranteed or insured by the federal government or any agency thereof, or the state or any of its political subdivisions or any agency thereof.

Q-1. Race shall include traits historically associated with race, including but not limited to, hair texture and protective hairstyles. "Protective hairstyles" shall include, but not be limited to, such hairstyles as braids, locks, and twists.

R. *Real estate broker* shall mean any person, firm or corporation who, for another and for a fee, commission, or other valuable consideration, lists for sale, sells, at auction or otherwise, exchanges, buys, or rents, or offers or attempts to negotiate a sale, at auction or otherwise, exchange purchase or

rental of an estate or interest in real estate, or collects or offers or attempts to collect rent for the use of real estate, or negotiates or offers or attempts to negotiate, a loan secured or to be secured by a mortgage or other encumbrance upon or transfer of real estate. In connection with the sale of lots pursuant to the provisions of Article Nine-A of the Real Property Law, the term "real estate broker" shall also include any person, partnership, association or corporation employed by or on behalf of the owner or owners of lots or other parcels of real estate, at a stated salary and commission, or otherwise, to sell such real estate, or any parts thereof, in lots or other parcels, and who shall sell or exchange, or offer or attempt or agree to negotiate the sale or exchange, of any such lot or parcel of real estate.

S. *Real estate sales person* shall mean a person employed by a licensed real estate broker to list for sale, sell or offer for sale, at auction or otherwise, to buy or offer to buy or to negotiate the purchase or sale or exchange of real estate, or to negotiate a loan on real estate, or to lease or rent or offer to lease, rent or place for rent any real estate, or who collects or offers to or attempts to collect rent for the use of real estate for or on behalf of such real estate broker.

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T. *Reasonable accommodation* shall mean such accommodation in rules, policies, practices, or services, when such an accommodation may be necessary to afford equal opportunity to use and enjoy a housing accommodation, including but not limited to the use of an assistance animal as a reasonable accommodation to alleviate symptoms or effects of a disability, and including any reasonable modification to common-use portions of a housing accommodation, which [that] can be made and shall not cause an undue hardship to the owner or owner's business. The owner or covered business shall have the burden of proving an undue hardship. In making a determination of an undue hardship, the factors that may be considered include but shall not be limited to:

1. The nature and cost of the accommodation;
2. The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility; and
3. The architectural feasibility of providing such accommodation.

T-1. Religion means all aspects of religious observance and practice, as well as belief, and includes the absence of religious observance, practice, and belief.

- U. *Sexual orientation* shall mean an individual's actual or perceived romantic, physical or sexual attraction to other persons, or lack thereof, on the basis of gender [heterosexuality, homosexuality, or bisexuality].
- V. *Source of income* shall include, but not be limited to, child support, alimony, foster care subsidies, income derived from social security, or any form of federal, state, or local public assistance or housing assistance, including but not limited to, a voucher under the federal Housing Choice Voucher program (known colloquially as "Section 8"), or any other form of housing assistance payment or credit, whether or not such income or credit is paid or attributed directly to a landlord, and other forms of lawful income. The provisions of this subdivision shall not be construed to prohibit the use of criteria or qualifications of eligibility for the sale, rental, leasing, or occupancy of publicly-assisted housing accommodations where such criteria or qualifications are required to comply with federal or state law, or are necessary to obtain the benefits of a federal or state program. A publicly-assisted housing accommodation may include eligibility criteria in statements, advertisements, publications or applications, and may make inquiry or request information to the extent necessary to determine eligibility for Housing Choice Voucher or other subsidy. [mean, as it relates to unlawful discriminatory real estate practices, lawful, verifiable income derived from social security, or any form of federal, state or local public assistance or housing assistance, grant or loan program, including the federal housing subsidy known as "Section 8", any disability payment, and assistance, grant or loan program from a private housing assistance organization.]
- (1) For the purposes of this [article] Chapter, as they relate to unlawful discriminatory real estate practices on the basis of source of income for public housing, it shall not be considered discriminatory if differentiations or decisions are based solely upon factually supportable, objective differences in the level of the individual's income, which is defined as the sum total of all sources of lawful and verifiable income, including, but not limited to, the sources of income defined herein. Differentiations or decisions based on the level of income must bear a reasonable relationship to the individual's ability to meet his or her personal housing payment obligations that arise from the tenancy, ownership or occupancy of the housing accommodation.
- (2) For purposes of this [article] Chapter, as they relate to unlawful discriminatory real estate practices on the basis of source of income, it shall not constitute an unlawful discriminatory real

estate practice on the basis of source of income to make a written or oral inquiry concerning the level or source of income.

- [(3) The provisions of this article, as they relate to unlawful discriminatory real estate practices on the basis of source of income, shall be applicable to all housing accommodations, with the following exceptions: (a) cooperative apartments; (b) condominiums; (c) housing accommodations otherwise exempted by section 700.21(C) of this article; and (d) housing accommodations, other than publicly-assisted housing accommodations, for six or fewer families living independently of each other, provided that the person owns or has ownership interest in only one such housing accommodation.
- (4) It shall not constitute an unlawful discriminatory real estate practice on the basis of source of income that a housing accommodation was denied based on the use by a person of his or her reasonable business judgment in relation to transactions involving housing accommodations that the person owns or in which the person has an ownership interest. The provisions of this subdivision shall not be construed to impair, alter, limit or modify the rights, obligations and/or defenses otherwise available to a respondent against whom any unlawful discriminatory real practice has been alleged pursuant this article.]

- W. *Transaction* shall mean, for purposes of this article, the sale, rental, lease, sublease, assignment, transfer, finance, refinance, loan, or appraisal and any and all other terms and conditions of any housing accommodation.
- X. *Unlawful discriminatory real estate practice* includes [only] those practices specified in section 700.21 through section 700.23 of this [article] Chapter which occurred in Westchester County. The term “unlawful discriminatory real estate practice” shall be construed to also prohibit discrimination, harassment, and/or retaliation against an individual because of that individual’s actual or perceived relationship or association with a member or members of a protected group identity covered under the relevant provisions of this Section.
- Y. *Victim of domestic violence, sexual abuse or stalking:*
1. A victim of domestic violence shall mean:
    - a. Any person who has been subjected to an act or series of acts that:

- (i) Would constitute a misdemeanor, felony or other violation of law against the person as defined in state or federal law; or
    - (ii) Would constitute a misdemeanor, felony or other violation of law against property as defined in state or federal law.
  - b. Such act or series of acts as defined in subdivision (a) must have been committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim, by a person who is or who has been in a continuing social relationship of a romantic or intimate nature with the victim, or a person who is or has continually or at regular intervals lived in the same household as the victim.
  - c. Such act or series of acts as defined in subdivision (a) and (b) must also;
    - (i) Result in the actual or physical or emotional injury of the person whether or not such conduct has actually resulted in criminal charges, prosecution or conviction; or
    - (ii) Create a substantial risk of physical or emotional harm to such person whether or not such conduct has actually resulted in criminal charges, prosecution or conviction.
2. A victim of sexual abuse or stalking shall mean any person who has been:
- a. A victim of an act or series of acts which would constitute a violation of Article 130 of the Penal Law;
  - b. A victim of an act or series of acts which would constitute a violation of section 120.45, 120.50, 120.55, or 120.60 of the Penal Law.

A victim of domestic violence, sexual abuse or stalking shall also include any individual who is perceived to be a person who has been, or is currently being, subjected to acts or series of acts as set forth in subdivisions (1) and (2) above.

**Sec. 700.21. Unlawful discriminatory real estate practices.**

- A. It shall be an unlawful discriminatory real estate practice for anyone, including, but not limited to, an owner, lessor, lessee, sub-lessee, assignee, real estate broker, real estate salesperson or managing agent or other person, including but not limited to those having the right to enter into a transaction or negotiate for or otherwise make available to any person or group of persons such housing

accommodations or to approve the transaction of housing accommodations, including publicly assisted housing accommodations, constructed or to be constructed, or any interest therein, or any agent or employee thereof:

1. To represent that housing accommodations are not available for inspection, sale or rental when in fact they are available, because of [the] group identity [of such person or persons].
2. To refuse to sell, rent, lease, sublease, assign, transfer, negotiate for, or to refuse to approve or enter into a transaction involving or otherwise to deny to or withhold from any person or group of persons, or to refuse to continue to rent, lease, sublease or otherwise to deny to or withhold from any person or group of persons, such a housing accommodation because of [that persons] actual or perceived group identity.
3. To discriminate against any person because of [that person's] actual or perceived group identity, in the terms, conditions or privileges of a transaction involving any such housing accommodations.
4. To discriminate against any person because of [that person's] actual or perceived group identity in the furnishings of facilities or services associated with such housing accommodations or the use or enjoyment in connection therewith.
5. To make, declare, print, publish, or circulate, or cause to be made, declared, printed, published, or circulated any notice, statement, advertisement or, with respect to the transaction of any such housing accommodations which expresses or indicates, directly or indirectly, any preference, limitation, specification, or discrimination as to [a person's or group of persons'] actual or perceived group identity, or any intent to make any such preference, limitation, specification, or discrimination.
6. To use any form of application for the transaction of any such housing accommodation or an interest therein or to make any record of inquiry in connection with the prospective transaction of such a housing accommodation or an interest therein which expresses or indicates, directly or indirectly, any preference, limitation, specification, or discrimination as to [a person's or group of persons'] actual or perceived group identity, or any intent to make any such preference, limitation, specification, or discrimination.

7. For profit, to induce any person to sell, rent, lease, sublease, assign, transfer, or otherwise negotiate or enter into a transaction involving any housing accommodation by representation regarding the entry or prospective entry into the neighborhood of a person or persons of a particular group identity.
8. To refuse to rent to any person because of the presence of a minor child or minor children in the household of such person.
9. With regard to persons with disabilities, it shall also be an unlawful discriminatory real estate practice:
  - a. To discriminate in the transaction of, or to otherwise make unavailable or deny, a housing accommodation to any buyer, renter, lessor, lessee, sub-lessee, or assignee because of the disability of:
    - (i) Such buyer, renter, lessor, lessee, sub-lessee, or assignee;
    - (ii) A person residing in or intending to reside in that housing accommodation after it is sold, rented, or made available; or
    - (iii) Any person associated with such buyer, renter, lessor, lessee, sub-lessee, or assignee.
  - b. To discriminate against any person in the terms, conditions, or privileges of a transaction of a housing accommodation or in the provision of services or facilities in connection with such housing accommodation because of the disability of:
    - (i) Such person; or
    - (ii) A person residing in or intending to reside in that housing accommodation after it is sold, rented, or made available; or
    - (iii) Any person associated with such person.
  - c. For purposes of this subsection, [discrimination includes] it shall be an unlawful discriminatory real estate practice:
    - (i) [A refusal] To refuse to permit, at the financial expense of [such] a person with a disability, reasonable [accommodations and] modifications of existing premises, occupied or to be occupied by such person, if the modifications may be necessary to afford the said person full use or enjoyment of the premises, except that, in the case

of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

- (ii) [A refusal] To refuse to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy a housing accommodation including but not limited to the use of an animal as a reasonable accommodation to alleviate symptoms or effects of a disability, and including, at the expense of the owner, condominium board, or cooperative housing board, reasonable modification of public or common areas.
- (iii) In connection with the design and construction of covered multi-family housing accommodations for first occupancy after March 13, 1991 (i.e., [the date that is] 30 months after the date of enactment of the [fair] Fair Housing Amendments Act of 1988), to fail [a failure] to design and construct those housing accommodations in such a manner that:
  - (a) The public use and common use portions of the housing accommodations are readily accessible to and usable by persons with disabilities;
  - (b) All the doors designed to allow passage into and within all premises within such housing accommodations are sufficiently wide to allow passage by persons with disabilities; and
  - (c) All premises within such housing accommodations contain the following features of adaptive design: (i) an accessible route into and through the housing accommodation; (ii) light switches, electrical outlets, thermostats, and other environmental controls that are in accessible locations; (iii) there are reinforcements in bathroom walls to allow later installation of grab bars; and (iv) there are usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

10. To coerce, intimidate, threaten or interfere with any person in the exercise of, or on account of that person having aided or encouraged any other person in the exercise of, any right granted in this Chapter, including Section [section, section] 700.22 or [section] Section 700.22-a.

B. A victim of domestic violence, sexual abuse or stalking, pursuant to subdivisions 1, 2, 3, 4, 5, 6, and 7 of paragraph A. above, shall provide the owner, lessor, lessee, sub-lessee, assignee, or managing agent or such other person with documentation certifying he or she is a victim of domestic violence, sexual abuse or stalking. Certification establishing such status shall be sufficient in the form of any of the following:

1. A police report indicating that the person was a victim of domestic violence, sexual abuse or stalking;
2. A court order protecting the person from the perpetrator of an act of domestic violence, sexual abuse or stalking or other evidence from the court or prosecuting attorney that the person has appeared in court; or
3. Documentation from a medical professional, domestic violence advocate, health care provider, a member of the clergy or counselor that the person was undergoing treatment for, or seeking assistance to address, physical or mental injuries or abuse resulting from domestic violence, sexual abuse or stalking.

This certification is only required to assist victims, where appropriate, who choose to invoke the protections and benefits of this article as well as to assist landlords in their assessment of the situation. The owner, lessor, lessee, sub-lessee, assignee, or managing agent or such other person shall retain all such information received from a victim of domestic violence, sexual abuse or stalking in the strictest confidence, except to the extent that such disclosure is required pursuant to applicable federal, state or local law.

C. Exemptions.

1. The provisions of paragraph (A) (1)-(4) and (7)-(9) shall not apply:
  - a. To any single-family house sold or rented by an owner provided:
    - (i) That such private individual owner does not own more than three such single-family houses at any one time; and

- (ii) That in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period; and
- (iii) That such bona fide private individual owner does not own any interest in, nor is there owned or reserved on their behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of more than three such single-family houses at any one time; and
- (iv) That such single-family house is sold or rented:
  - (a) Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesperson, or of such facilities or services of any person in the business of selling or renting housing accommodations, as defined in section 700.20(P) of this article, or of any employee or agent of any such broker, agent, salesperson, or person, and
  - (b) Without the publication, posting, or mailing, after notice, of any advertisement or written notice in violation of § 700.21(A)(5) and (6) of this article, but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title;
- b. To the [transaction] rental of, or the negotiation of [a transaction] the rental of a housing accommodation, other than a publicly assisted housing accommodation, in a building that contains housing accommodations for not more than [four] two families living independently of each other, if the owner actually resides in one of such housing accommodations;
- c. If the victim of domestic violence, sexual abuse or stalking has failed to provide the owner, lessor, lessee, sub-lessee, assignee, or managing agent or other person having the right to conduct or approve transactions of said housing accommodations, including publicly

assisted housing accommodations, with documentation certifying that he or she is a victim of domestic violence, sexual abuse or stalking, except that it shall apply if such person perceives an individual to be a victim of domestic violence, sexual abuse or stalking.

- d. To an owner, lessor, lessee, sub-lessee, assignee, or managing agent or other person having the right to conduct or approve transactions of said housing accommodations where no adverse action has been taken against the victim of domestic violence, sexual abuse or stalking.

2. Nothing in § 700.21(A) shall prohibit:

- a. A religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society from limiting the sale, rental or occupancy of a housing accommodation which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin;
- b. A private club, not in fact open to the public, which, as an incident to its primary purpose or purposes, provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preferences to its members.

3. Nothing in this [article] Chapter:

- a. Limits the applicability of any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling;
- b. Shall prohibit any person from limiting the rental or occupancy of housing accommodations to persons who are elderly in any housing facility designed, constructed or substantially rehabilitated and operated exclusively for older persons, as defined by the federal Fair Housing Act, as amended, 42 U.S.C. § 3607(b)(1) through (4) as of the effective date of the local law codified in this article, or for persons with disabilities;
- c. Limits the applicability of any Federal, State or local laws, rules, regulations or restrictions on the residency of registered sex offenders.

- D. It shall be an unlawful discriminatory real estate practice for any real estate broker, real estate salesperson or employee or agent thereof or any individual, corporation (including a limited liability corporation), partnership (including a limited liability partnership), or any other organization used for the purpose of inducing a real estate transaction from which any such person or any of its stockholders or members may benefit financially, to represent that a change has occurred or will or may occur in the composition with respect to group identity of the owners or occupants of the block, neighborhood or area in which the real property is located, and to represent, directly or indirectly, that this change will or may result in undesirable consequences in the block, neighborhood or area in which the real property is located, including but not limited to the lowering of property values, an increase in criminal or anti-social behavior, or a decline in the quality of schools or other facilities.
- E. It shall be an unlawful discriminatory real estate practice for any real estate board, or any board of directors of any condominium corporation or cooperative apartment corporation, because of the ~~actual or perceived group identity of any individual who is otherwise qualified for membership, to~~ exclude or expel such individual from ownership of any unit or apartment or from membership on any such board, or to discriminate against such individual in the terms, conditions, and privileges of ownership of any unit or apartment or of membership on any such board.
- F. Nothing in this section shall be deemed to restrict the rental or occupancy of housing accommodations in any YWCA, YMCA, sorority, fraternity, school or college dormitories, or similar residential halls to individuals of the same gender.
- G. The provisions of this section, as they relate to age, shall not apply to persons under the age of 18 years.

**Sec. 700.21-a. Applications to purchase shares of stock in cooperative housing corporations.**

- A. The governing board of any Cooperative Housing Corporation, incorporated as such in the State of New York that exercises control over real property located within the County of Westchester, shall provide prospective purchasers with an application to purchase shares of the corporation's stock.
1. The application to purchase shares of the corporation's stock shall include a cover sheet containing the following notice, which must be printed in a minimum 12-point font:
- Article II of Chapter 700 of the Laws of [Winchester] Westchester County, known as the Westchester County Fair Housing Law, prohibits discrimination in housing accommodations on

the basis of a person or persons' actual or perceived race, color, religion, age, national origin, alienage or citizenship status, ethnicity, familial status, [creed] military status, gender, sexual orientation, marital status, disability, [sour] source of income, or status as a victim of domestic violence, sexual abuse, or stalking.

Section 700.21-a of the Westchester County Fair Housing Law governs applications to purchase shares of stock in cooperative housing corporations, and applies to this application. Under this section, the cooperative housing corporation is required to comply with the following deadlines:

1. Within 15 days of the receipt of this application, the cooperative housing corporation must either acknowledge that it has received a complete application, or shall notify you of any defect in the application.
2. If you are notified of any defect in the application, within 15 days of the receipt of the corrected application the cooperative housing corporation must either acknowledge that it has received a complete application, or shall notify you any defect in the application.
3. Within 60 days of receipt of a complete application, the cooperative housing corporation must approve or deny your application, and provide written notice thereof.
4. If your application is denied, the cooperative housing corporation is required to provide notice to the Westchester County Human Rights Commission, including your contact information.

2. The application to purchase shares of the corporation's stock must disclose:

- a. Any minimum financial qualifications that a prospective purchaser must meet to qualify to purchase the shares.
- b. If a cooperative housing corporation does not have stated mandatory minimum financial qualifications under subparagraph a., at a minimum, the corporation's preferred minimum income, total assets, and credit score, and preferred maximum debt-to-income ratio and percentage of purchase price being financed, noting that these criteria may vary in the discretion of the governing board weighing these factors when it makes a decision on an application.

- B. Within 15 days of the receipt of a purchaser's application, such a governing board shall either acknowledge to the prospective purchaser that it is in receipt of a properly completed application or

inform the prospective purchaser of any defect in an application. Where the governing board has informed a prospective purchaser of a defect in an application, upon resubmission of the application the governing board shall have 15 days to either acknowledge to the prospective purchaser that it is in receipt of a properly completed application or inform the prospective purchaser of any uncured defect in the resubmitted application.

- C. Within 60 days of its receipt of a properly completed application, such a governing board shall either reject or approve an application to purchase shares of its stock and shall provide written notice thereof. In the case of a rejection, the governing board shall provide to the [Human Rights Commission] Fair Housing Board notice of the rejection. This notice shall be in a form promulgated by the Executive Director of the [Human Rights Commission] Fair Housing Board, and published on the [Human Rights Commission] Fair Housing Board website. The form shall, at a minimum, require the following information:

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1. The full legal name and address of the Cooperative Housing Corporation;
  2. The full address and unit number of the unit that has been applied for;
  3. The full names, addresses, telephone numbers, and e-mail addresses (if available) for the denied applicant(s) and seller(s);
  4. The full names, addresses, telephone numbers and e-mail addresses (if available) for all legal counsel and real estate brokers involved in the rejected transaction;
  5. The date of receipt of the initial application;
  6. The date of receipt of the completed application;
  7. The date(s) of any interview;
  8. The date of rejection; and
  9. The reason for rejection.

The completed notice of rejection form shall be transmitted to the Human Rights Commission or Fair Housing Board within 15 days of the notice being provided to the prospective purchaser. The Human Rights Commission or Fair Housing Board shall include instructions on how it may be transmitted to the Human Rights Commission or Fair Housing Board.

D. All members of the governing board of [cooperative housing corporations] Cooperative Housing Corporations are required to undergo fair housing training, in accordance with the following:

1. Any new member of a governing board is required to have a minimum of two hours of fair housing training within 60 days of becoming a member of the board. All members of a governing board are required to have a minimum of two hours of fair housing training every two years.
2. The [Human Rights Commission] Fair Housing Board shall develop an outline of minimum standards for fair housing training. Such outline shall be made publicly available on the commission's website. A [cooperative housing corporation] Cooperative Housing Corporation is required to ensure that the fair housing training given to members of its governing board covers, at a minimum, all topics identified in that outline. The minimum standards for fair housing training shall include, but not be limited to:
  - a. A discussion of housing discrimination under local, state, and federal law;
  - b. A discussion of protected classes and characteristics under local, state, and federal law;
  - c. The obligations and responsibilities of members of governing boards to adhere to fair housing laws, including in the evaluation of applicants, the evaluation of requests for reasonable accommodations, and other common scenarios; and
  - d. The role of local, state, and federal agencies in fair housing.
3. The Executive Director of the [Human Rights Commission] Fair Housing Board shall determine the minimum qualifications required for a person providing the fair housing training required under subparagraph 2. These minimum qualifications shall be reasonably related to fair housing and the specific items contained in the training outline, and shall be published therewith. If a cooperative housing corporation receives training from a person or persons who do not meet the minimum qualifications, it shall constitute *prima facie* evidence of noncompliance with the training requirement.
4. Cooperative [housing corporations] Housing Corporations are required to maintain records of each member's training, and produce those records to the [Human Rights Commission] Fair Housing Board upon request. A failure to maintain or produce training records shall constitute *prima facie* evidence of noncompliance with the training requirement.

- E. Compliance or non-compliance with any of the requirements set forth in this section may be considered and received into evidence in any investigation or proceeding commenced pursuant to this Chapter. Furthermore, non-compliance with any of the requirements set forth in this [section] Section shall be an independent violation of this Chapter, and shall be punishable by a fine of \$1,000.00 for the first offense, \$1,500.00 for the second offense, and \$2,000.00 for the third and any subsequent offense. Any such violation shall be brought within one year of the violation, except that any violation initiated by the Executive Director shall be brought within one year of when the Human Rights Commission or Fair Housing Board first learned of the violation.

**Sec. 700.22. Unlawful discriminatory real estate practices in relation to credit.**

- A. It shall be an unlawful discriminatory real estate practice for any creditor or any other officer, agent or employee thereof:

1. ~~In the case of applications for credit with respect to the purchase, acquisition, construction, rehabilitation, repair, maintenance or refinancing of any housing accommodation, land or any interest therein or in the case of applications for the making or purchasing of loans or providing other financial assistance which are to be secured by residential real estate, to discriminate against any such applicant because of the actual or perceived group identity of such applicant or applicants or any member, stockholder, director, officer or employee of such applicant or applicants, or of the prospective occupants or tenants of such housing accommodation, or land, in the granting, withholding, extending or renewing, or in the fixing of the rates, terms or conditions of, any such credit; or in the appraisal of any housing accommodation conducted in connection with any such application.~~
2. To discriminate in the appraisal of housing accommodations, conducted in connection with an application for credit, on the basis of group identity.
3. To discriminate in the granting, withholding, extending or renewing, or in the fixing of the rates, terms or conditions of, any form of credit, on the basis of group identity.
4. To use any form of application for business or personal credit or use or make any record or inquiry, which expresses, directly or indirectly, any limitation, specification, or discrimination as to group identity.

5. To make any inquiry of an applicant concerning his or her capacity to reproduce, or his or her use or advocacy of any form of birth control or family planning.
  6. To refuse to consider sources of an applicant's income or to subject an applicant's income to discounting, in whole or in part, because of an applicant's actual or perceived group identity[;].
  7. To discriminate against a married person because such person neither uses nor is known by the surname of his or her spouse, except that this provision shall not be applicable to any situation where the use of a surname would constitute or result in a criminal act.
- B. Without limiting the generality of paragraph A, it shall be considered discriminatory if, because of an applicant's or class of [applicant's] applicants' perceived or actual group identity:
1. An applicant or class of applicants is denied credit in circumstances where other applicants of like overall credit worthiness are granted credit; or
  2. Special requirements or conditions, such as requiring co-obligors or reapplication upon marriage, are imposed upon an applicant or class of applicants in circumstances where similar requirements or conditions are not imposed upon other applicants of like overall credit worthiness.
- C. Notwithstanding any provision of this section to the contrary, it shall not be considered discriminatory if credit differentiations or decisions are based upon factually supportable, objective differences in applicants' overall credit worthiness, which may include reference to such factors as current income, assets and prior credit history of such applicants, as well as reference to any other relevant factually supportable data; provided, however, that no creditor shall consider, in evaluating the credit worthiness of an applicant, aggregate statistics or assumptions relating to group identity, or to the likelihood of any group of persons bearing or rearing children, or for that reason receiving diminished or interrupted income in the future.
- D. Notwithstanding any provision of this [section] Section to the contrary, it shall not be an unlawful discriminatory real estate practice to consider age in determining credit worthiness when age has a demonstrable and statistically sound relationship to a determination of creditworthiness.

**Sec. 700.22-a. Discrimination in the provision of brokerage services.**

- A. It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting housing accommodations, or to discriminate against any person in the terms or conditions of such access, membership or participation, because of that person's actual or perceived group identity.
- B. Prohibited actions under this section include, but are not limited to:
1. Setting different fees for access to or membership in a multiple listing service because of a person's actual or perceived group identity.
  2. Denying or limiting benefits accruing to members in a real estate brokers' organization because of a person's actual or perceived group identity.
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3. Imposing different standards or criteria for membership in a real estate sales or rental organization because of a person's actual or perceived group identity.
  4. Establishing geographic boundaries or office location or residence requirements for access to or membership or participation in any multiple listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting housing accommodations, because of a person's actual or perceived group identity.

**Sec. 700.23. Additional provisions defining discriminatory practices.**

- A. It shall be an unlawful discriminatory real estate practice for any person to solicit, request, command, aid, abet, importune, compel or coerce the doing of any of the acts forbidden under this [article] Chapter or to attempt to do so, provided that:
1. A person shall not be held liable for a violation of this [article] Chapter if his or her conduct consists solely of speech or expressive conduct that is not done with intent that a discriminatory act be committed by another person and that does not solicit, request, command, importune, compel, coerce or intentionally aid or abet another person to commit a discriminatory act; and

2. Nothing in this [article] Chapter shall be construed as prohibiting or proscribing any conduct which is protected from governmental prohibition or regulation by the constitutions of the United States or the State of New York.
- B. It shall be an unlawful discriminatory real estate practice for any person engaged in any activity to which this [article] Chapter applies to coerce, intimidate, threaten, interfere with, retaliate or discriminate against, or attempt to coerce, intimidate, threaten, interfere with, retaliate or discriminate against any other person:
1. In the exercise or enjoyment of, or on account of their having exercised or enjoyed, or on account of their having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this [article] Chapter; or
  2. Because he or she has opposed any practice forbidden under this [article] Chapter; or
  3. Because he or she has filed a complaint, testified, assisted or participated in any proceeding under this [article] Chapter; or
  4. Because he or she has participated in or assisted the Board, its staff, or its members and/or its counsel or agent in any investigation or proceeding; or
  5. Because he or she has provided information to the Board, its staff, or its members and/or its counsel or agent in any investigation which information was given as a [verified] statement not later found to lack veracity.
- C. It shall be an unlawful discriminatory real estate practice for any party to a [conciliation] settlement agreement [made pursuant to section 700.31 of this article] concerning any claim under this Chapter to violate the terms of such agreement.
- D. Nothing contained in this article shall be construed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised, or controlled by or in connection with a religious organization, from limiting participation in any activity (including, but not limited to employment, education, or sales or rental of housing accommodations) to, or granting admission to, or giving preference to, persons of the same religion or denomination or from taking such action as is calculated by such organization to promote the religious principles for which it is established or maintained. This exemption shall not apply where the religious organization owns or operates housing accommodations for a commercial

purpose, or where membership in such religion is restricted on account of race, color or national origin.

E. Discrimination or harassment is an unlawful practice when it subjects an individual to inferior terms, conditions and/or privileges of housing because of actual or perceived group identity.

The fact that such individual did not make a complaint about the harassment or discrimination shall not be determinative of whether any person shall be liable

Nothing in this Section shall imply that an aggrieved person must demonstrate the existence of an individual to whom the aggrieved person's treatment must be compared.

It shall be an affirmative defense to liability that the harassing conduct does not rise above the level of what a reasonable victim of discrimination with the same protected characteristic or characteristics would consider petty slights or trivial inconveniences.

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#### **Sec. 700.23-a. Education and Outreach.**

Educational programs shall be conducted by the County to ensure that the public is informed regarding the prohibitions against unlawful discriminatory real estate practices, as set forth in this [article] Chapter.

#### **Sec. 700.24. Creation of [a fair housing board] the Fair Housing Board.**

- A. There is hereby created a Fair Housing Board [(hereinafter referred to as "Board")]. Such Fair Housing Board shall consist of five (5) members who shall be appointed by the County Executive, subject to confirmation by the County Board of Legislators from the membership of the Commission as set forth in the Laws of Westchester County section 700.08, one of whom shall be designated as Chairperson by the County Executive. The members and Chairperson shall serve at the pleasure of the County Executive. Each Fair Housing Board member shall serve a term which parallels his or her renewable three (3) year term as a member of the Commission.
- B. Three members of the Fair Housing Board shall constitute a quorum for the purpose of conducting the business thereof. A vacancy on the Fair Housing Board shall not impair the right of the remaining members to exercise all the powers of the Fair Housing Board. Each member of the Fair Housing Board shall serve without compensation.

C. The Executive Director of the Commission shall be the Executive Director of the Fair Housing Board.

**Sec. 700.25. Formulations of policies by the board.**

[A.] \_The Board shall formulate any and all policies necessary to effectuate the purposes of this [article] Chapter and may make recommendations to agencies and officers of the county in aid of such policies and purposes.

**Sec. 700.26. Powers and duties of the [board] Fair Housing Board.**

The Fair Housing Board shall have the following functions, powers and duties:

- A. To establish and maintain its principal headquarters at the office of the Commission.
- B. To adopt, promulgate, amend and rescind suitable rules and regulations to carry out the provisions of this article and the policies and practices of the Board.
- C. To receive, investigate, and adjudicate complaints of unlawful discriminatory real estate practices, as that term is defined herein.
- D. To insure the investigation and conciliation and/or mediation of complaints of violations of this [article] Chapter.
- D-1. To issue, sign, and enforce subpoenas in the manner provided for in the civil practice law and rules in order to compel the production of documents and/or the presence of witnesses during the course of the Fair Housing Board's investigation. Any disputes regarding compliance with such subpoena shall be decided by an administrative law judge assigned by the Fair Housing Board.
- E. To require hearings, subpoena witnesses and compel their attendance, administer oaths, take the testimony of any person under oath and, in connection therewith, to require the production for examination of any books or papers relating to any matter under investigation [or in question before] by the Fair Housing Board.
- F. To insure the administration of appropriate remedies, including, but not limited to cease-and-desist orders and orders dismissing complaints, and to insure compliance with all orders.

- G. The authority to request the assistance of the Westchester County Attorney in carrying out the purposes of this [article] Chapter, which includes the ability to seek temporary injunctive relief pending the completion of an investigation.
- H. To appoint one or more hearing officers as shall be necessary to carry out its functions and duties. The hearing officer shall have the same powers possessed by the Fair Housing Board to hold and conduct hearings. The hearing officer shall function under the supervision of the Fair Housing Board and shall make recommended findings of fact, liability and damages [and recommendations] to the Fair Housing Board.
- I. To award damages as set forth in § 700.29(B) of this [article] Chapter.

**Sec. 700.27. Relations with county departments and agencies.**

So far as practicable, and subject to the approval of the County Executive, the services of all county departments and agencies shall be made available by their respective heads to assist the Fair Housing Board with respect to matters within its jurisdiction. Upon reasonable request of the Fair Housing Board, the head of any department or agency shall, in so far as practicable, provide the Fair Housing Board with public records in the possession of such department or agency to the Fair Housing Board, except that nothing herein shall compel the disclosure of public records which are exempt from disclosure pursuant to the provisions of the Public Officers Law.

**Sec. 700.28. Administrative procedure—Preliminary matters.**

**A. Complaint — Filing.**

- 1. Except as otherwise provided in this article, any person claiming to be aggrieved by an unlawful discriminatory real estate practice may, personally or by an attorney-at-law, make, sign and file with the Fair Housing Board a complaint in writing which shall set forth the name and address of the person alleged to have committed the unlawful discriminatory real estate practice complained of, the particulars thereof, and such other information as may be required by the Fair Housing Board. The Fair Housing Board shall promulgate and make available appropriate forms of complaints. Complaints shall be signed under oath or affirmation or under penalty of perjury, and may be reasonably and fairly amended in accordance with subsection B of this section.

2. Every pleading, written motion or other paper, served on another party or filed or submitted to the Fair Housing Board shall be signed by an attorney or by a party if the party is not represented by an attorney, with the name of the attorney or party clearly printed or typed directly below the signature. Absent good cause shown, the Fair Housing Board shall strike any unsigned paper if the omission of the signature is not corrected promptly after being called to the attention of the attorney or party. By signing a paper, an attorney or party certifies that, to the best of that person's knowledge, information or belief, formed after an inquiry reasonable under the circumstances, the presentation of the paper or the contents thereof are accurate.
3. The Executive Director may make, sign, and file [initiate] a complaint in the same manner as described in subparagraph (1) above [alleging that a respondent has engaged in a pattern or series of unlawful discriminatory real estate practices affecting the civil rights of more than one person]. Such complaint shall be signed [and verified] by the Executive Director and shall set forth the name and address of the person alleged to have committed the unlawful discriminatory real estate practices complained of and the particulars thereof, together with such other information as may be required by the Fair Housing Board.
4. A complaint shall not be rejected as insufficient because of failure to include all required information so long as it substantially satisfies the information requirements necessary for processing.
5. A complainant may file a complaint with the Fair Housing Board alleging an unlawful discriminatory real estate practice, provided it is not later than one year after such alleged practice has occurred or terminated.
6. A document, including complaints or answers, is filed when it is received for filing by the Fair Housing Board.
7. Upon the filing of a complaint, the Fair Housing Board shall serve notice upon the complainant acknowledging the filing and advising the complainant of the time limits and choice of forums provided under the law.
8. The Fair Housing Board shall accept complaints for filing, note the date of filing on the complaint, and assign a complaint number to the complaint.

9. The Fair Housing Board shall, within 10 days after the filing of any complaint, serve copies thereof, as well as a notice advising of procedural rights and obligations under the law, by mail upon the [respondent] respondent(s) and all persons it deems to be necessary parties.
10. The Fair Housing Board may allow for joinder and consolidation of complaints with cases involving common respondents and substantially similar issues.

**B. Complaint — Amendments.**

1. The complaining party or the Executive Director may amend a [charge] complaint:
  - a. To cure technical defects of omissions;
  - b. To clarify allegations made in the [charge] complaint;
  - c. To add allegations made in the [charge] complaint;
  - d. ~~To add or substitute as a respondent a person who was not originally named as a respondent,~~ but who is, during the course of the investigation, identified as a respondent. For jurisdictional purposes, such amendments shall relate back to the date the original [charge] complaint was first filed.
2. A complaint may be amended as of right at any time before it is referred to an Administrative Law Judge for a hearing. After a complaint has been so referred, it may be amended only by application to the Administrative Law Judge.
3. When a [charge] complaint is amended to add or substitute a respondent, the Executive Director shall serve upon the new respondent:
  - a. The amended [charge] complaint;
  - b. The notice required under section 700.28(A)(9); and
  - c. A statement of the basis for the Executive Director's belief that the new respondent is properly named as a respondent. For jurisdictional purposes, amendment of a [charge] complaint to add or substitute a respondent shall relate back to the date the original [charge] complaint was filed.

**C. Complaint — [Answer] Position Statement.**

1. [The respondent may] Respondents shall file [an answer] a Position Statement with the Fair Housing Board within ten (10) days of the service of complaint [or] and the amended complaint.
  2. When a respondent files [an answer] a Position Statement, any allegation of the complaint that is not answered shall be deemed admitted, any allegation upon which [the] a respondent alleges insufficient information shall be deemed denied.
  3. The respondent shall not be permitted to interpose either a counterclaim or a cross-claim in the answer.
  4. [The] A respondent may apply, in writing, to the Executive Director for additional time to file [an answer] a Position Statement. Such request shall be granted for good cause shown.
  5. [An answer] A Position Statement may be amended at any time before [it is referred to an Administrative Law Judge for a hearing] the issuance of a determination and order at the conclusion of an investigation. [After an answer has been referred for a hearing, it may be amended by application to the presiding Administrative Law Judge.]
- D. Complaints — [Representation] Presentation of Evidence. The [Westchester County Human Rights Commission's] Fair Housing Board's agent or attorney shall present the evidence in support of the complaint [on behalf of the complainant]. Such agent or attorney[, however,] shall not have an attorney-client relationship with the [complainant] complainant(s).
- E. Complaints — Withdrawal and Dismissals.
1. A complainant or the Executive Director may withdraw a complaint at any time prior to the deadline for service of an [answer] Answer by a respondent. [Subsequent to the service of an answer by the respondent,] Thereafter, the complainant or Executive Director may withdraw a complaint, provided, however, that, upon application by [the] a respondent; the Fair Housing Board may preclude the complainant or Executive Director from subsequently filing any complaint with the Fair Housing Board based upon the same transactions or occurrences as the complaint which was withdrawn.
  2. Nothing in this section shall diminish the Fair Housing Board's authority to bring or continue a complaint pursuant to section 700.28(A)(3) of this [article] Chapter.

3. The Fair Housing Board shall issue an order dismissing the complaint as to such respondent, which order shall be served by mail upon all necessary parties to the proceeding, if it finds with respect to any respondent that it lacks jurisdiction.
4. The Fair Housing Board shall promptly dismiss the complaint, if it determines that no probable cause exists to believe that an unlawful discriminatory real estate practice has occurred, is occurring, or is about to occur.
5. The Executive Director may, in his or her discretion, dismiss a complaint for administrative purposes at any time prior to the taking of testimony at a hearing. Administrative purposes shall include, but not be limited to:
  - a. Fair Housing Board personnel have been unable to locate the complainant after reasonable efforts to do so.
  - b. ~~[The] A complainant has on at least 2 occasions failed to:~~
    - (i) Appear at mutually agreed upon appointments with the Fair Housing Board, its staff, attorney, or agent; or
    - (ii) Appear at an assigned mediation and conflict resolution conference.
  - c. ~~[The] A complainant is unwilling to:~~
    - (i) Meet with the Fair Housing Board, its staff, attorney, or agent; or
    - (ii) Meet with an assigned mediation and conflict resolution person; or
    - (iii) Provide requested documentation or information; or
    - (iv) Attend a hearing or scheduled appearances.
  - d. The complainant has repeatedly engaged in conduct that is disruptive to the orderly functioning of the Fair Housing Board, which shall be documented by the Executive Director.
  - e. A change in relevant federal or state law or the development of facts that, if known to the Fair Housing Board during the investigation, would have resulted in a finding of no probable cause.
6. The Fair Housing Board shall make public disclosure of each such dismissal.

F. Complaints - Investigation and Determination.

1. Within 30 days after a complaint is filed, the Fair Housing Board shall determine whether it has jurisdiction.
2. Upon determination that it has jurisdiction, the Fair Housing Board shall determine, within 100 days of the filing of the complaint, unless impracticable to do so, whether there is probable cause to believe that the person named in the complaint, hereinafter referred to as the respondent, has engaged in, is engaging in; or is about to engage in an unlawful discriminatory real estate practice. If the Fair Housing Board is unable to complete the investigation within 100 days after the filing of the complaint, the Executive Director shall notify the complainant and respondent in writing of the reasons for not doing so.
3. The Executive Director shall provide written notification to both the complainant and respondent regarding the Fair Housing Board's determination of whether probable cause does or does not exist.
4. The Fair Housing Board shall make a final administrative disposition of a complaint within one (1) year of the date of receipt of a complaint, unless it is impracticable to do so. If it is unable to do so, it shall notify the parties, in writing, of the reasons for not doing so.
5. A determination that probable cause does not exist shall be subject to judicial review upon application by any party aggrieved by a final Fair Housing Board order.
6. The Fair Housing Board shall have the authority to:
  - a. Grant appropriate temporary or preliminary relief pending final disposition of a complaint if such action is necessary to carry out the purposes of the law;
  - b. Issue, sign, and seek enforcement of subpoenas in the manner provided for in the civil practice law and rules and pursuant to Section 700.26(D-1) of this Chapter at a hearing. Any dispute regarding compliance with such subpoena shall be decided by the assigned administrative law judge;
  - c. Provide an administrative proceeding in which a civil penalty may be assessed;
  - d. Grant equitable relief; and

e. Grant [actual and] compensatory damages, punitive damages, reimbursement of costs and reasonable attorney's fees, and all other available damages under this Chapter; and

f. Where a case has been removed pursuant to Section 700.29(A)(I) of this Chapter, authorize the County Attorney to initiate a civil action on behalf of the Fair Housing Board in accordance with the provisions of Section 700.29(A)(2) of this Chapter, naming the complainant or aggrieved person on whose behalf the complaint was filed and the respondent.

7. The Fair Housing Board shall establish rules of practice or procedure to govern, expedite and effectuate the foregoing procedure and its own actions thereunder, provided that such rules are not inconsistent with the provisions hereof.

G. Complaints—Conciliation or Mediation. During the period beginning with the filing of a complaint and ending with the final disposition of the matter [finding of probable cause or a dismissal by the Board], the Fair Housing Board shall, to the extent feasible, engage in any method of dispute resolution prescribed by rule of the Fair Housing Board including, but not limited to, mediation and conciliation with respect to such complaint. Any resolution of a complaint by agreement ("settlement [conciliation] agreement") arising out of conciliation or mediation efforts by the Fair Housing Board shall be an agreement between the [respondent] respondent(s), the [complainant] complainant(s), and the [Executive Director] Fair Housing Board, and shall require the approval of the Fair Housing Board. Such settlement [conciliation] agreement may include provisions requiring the [respondent] respondent(s) to [refrain] cease and desist from [the commission of] unlawful discriminatory real estate practices in the future and may contain such further provisions as may be agreed upon by the [complainant and respondent] complainant(s) and respondent(s), subject to approval by the Executive Director, including a provision for the entry of an order in the New York State Supreme Court, County of Westchester, or in such other county where the respondent resides or maintains an office for the transaction of business, containing the terms of the settlement [conciliation] agreement.

Any statement made by any [complainant or respondent] person present during any alternate dispute resolution process conducted by, or on behalf of, the Fair Housing Board shall not be admitted into evidence during any hearing or proceeding and shall not be utilized in any fashion in any proceeding to either enforce or review any determination of the Fair Housing Board, unless the party making the statement affirmatively authorizes, in writing, the admission of the statement. The failure or

refusal of any party to participate in the alternate dispute resolution process, or the failure or refusal of any party to accept a recommendation by any mediator as to the resolution of the matter, shall not be admissible in any hearing or proceeding before the Fair Housing Board. Each [conciliation] settlement agreement shall be made public unless the complainant and respondent otherwise agree and the Fair Housing Board determines that disclosure is not required to further the purposes of this [article] Chapter.

#### H. Complaints - Hearings

1. Where the Fair Housing Board has found that it has jurisdiction over the complaint and that there is probable cause to believe that [the] a respondent has engaged, is engaging, or will engage in an unlawful discriminatory real estate practice, and if alternative dispute resolution pursuant to paragraph G above is either not initiated or does not resolve the complaint, the Fair Housing Board shall issue and cause to be issued and served a written notice requiring the respondent to [answer] file an Answer to the charges of such complaint and appear at a public hearing upon reasonable notice at a time and place to be fixed by the Fair Housing Board and specified in the notice.
2. A respondent may appear at such public hearing in person or otherwise, with or without counsel, cross-examine witnesses, and the complainant, and submit testimony. [Attempts at conciliation or statements made during such attempts, shall not be received in evidence. The complainant and all parties shall be allowed to present testimony in person by counsel and cross-examine witnesses. Subpoenas shall be issued in the manner provided for in the civil practice law and rules to compel the attendance of witnesses or to require the production of any relevant evidence before the Board. The testimony taken at the hearing shall be under oath and a record made. The Board may refer the hearing to an administrative law judge to conduct the hearing and render a written report, containing recommendations as to findings and, if appropriate, relief, to the Board. To the extent practicable, administrative law judges shall be attorneys-at-law, admitted to practice law in the State of New York. At the conclusion of the hearing, or as soon thereafter as may be practicable, the Board shall issue its determination, stating its findings of fact.]
3. Attempts at conciliation or statements made during such attempts, shall not be received in evidence.

4. The complainant and all parties shall be allowed to present testimony in person by counsel and cross-examine witnesses subject to the discretion of the administrative law judge.
5. Subpoenas shall be issued in the manner provided for in the civil practice law and rules to compel the attendance of witnesses or to require the production of any relevant evidence before the Fair Housing Board. Any dispute regarding compliance with any subpoena under this Section shall be decided by the assigned administrative law judge.
6. The testimony taken at the hearing shall be under oath and a record made. The Fair Housing Board may refer the hearing to an administrative law judge to conduct the hearing and to render a written report, containing recommendations as to findings on liability and, if appropriate, relief, to the Fair Housing Board.
7. Administrative law judges shall be attorneys-at-law, admitted to practice law in the State of New York. At the conclusion of the hearing, or as soon thereafter as may be practicable, the Fair Housing Board shall issue its final determination, stating its findings of liability and, if appropriate, damages, and issuing such orders and awards as described in Section 700.29(B) of this Chapter.

**Sec. 700.29. Administrative procedure—Removal, orders and awards and review.**

**A. Removal**

1. Subsequent to a notice of referral and notice of hearing, a complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed may elect to have the claims on which probable cause was found decided in a civil action in lieu of an administrative hearing. Unless good cause is shown to the Executive Director of the Fair Housing Board, this election must be made not later than twenty (20) days after service of the notice of referral and notice of hearing. The person making such election shall give notice of doing so to all necessary parties and the Fair Housing Board. If an election is made under this subsection, the court may appoint an attorney for the aggrieved person or authorize the continuation of the civil action without the payment of costs if it finds such person unable to bear those costs.
2. If an election is made under this subsection, the Fair Housing Board shall authorize the County Attorney to commence and maintain a civil action on behalf of the Fair Housing Board, naming the [complainant] complainant(s) or aggrieved [person] person(s) on whose behalf the complaint

was filed and the [respondent] respondent(s). Such action shall be brought, upon written notice to the Clerk of the Board of Legislators, within 30 days after the election is made and authorization given, in an appropriate venue as determined by the County Attorney. In such action, the County Attorney shall represent only the Fair Housing Board, and there shall be no attorney-client relationship between the County Attorney and the [complainant] complainant(s) or aggrieved [person] person(s).

3. Any aggrieved person may intervene as of right in the civil action.
4. In a civil action under this [section] Section, if the court finds that an unlawful discriminatory real estate practice has occurred, is occurring or is about to occur, the court may grant any appropriate relief as available under this Chapter, including but not limited to, actual damages, injunctive, equitable relief or punitive damages. The court may also assess a civil penalty as set forth in subsection (B) of this section. If monetary relief is sought for the benefit of a person who could have intervened under subsection 2 of this section, but who did not intervene in the civil action, the court shall not award such relief if that person has not complied with discovery orders entered by the court.
5. In any proceeding under this section, the court may award attorney fees and costs to the prevailing party. Attorney fees and costs may be assessed against a person who intervenes by filing a notice of independent appearance in the civil action only to the extent that the intervening participation was frivolous or vexatious, or was for the purpose of harassment.

#### B. Orders and Awards

1. In the event that the Fair Housing Board shall, after a hearing, determine that a respondent has committed, is committing or is about to commit an unlawful discriminatory real estate practice, it shall issue an order containing such of the following provisions as may, in the judgment of the Fair Housing Board, effectuate the purposes of this [article] Chapter:
  - a. Requiring such respondent to cease and desist from such unlawful discriminatory real estate practice;
  - b. Requiring such respondent to take such affirmative action to remedy the unlawful discriminatory real estate practice, including but not limited to such of the following as may be applicable and appropriate: the extension of full, equal and unsegregated

accommodations, advantages, facilities and privileges to all persons, complete trainings provided by the Fair Housing Board or its agent regarding rights and obligations under this Chapter, post signage provide by the Fair Housing Board regarding rights under this Chapter, evaluating applicants for a housing accommodation without discrimination based on group identity and without retaliation or discrimination based on opposition to practices forbidden by this [article] Chapter or filing a complaint, testifying or assisting in any proceeding under this [article] Chapter;

- c. Awarding of compensatory damages to the person aggrieved by such practice;
- d. Awarding of punitive damages against a respondent found to have committed an unlawful discriminatory real estate practice which is found to be willful, wanton or malicious [in an amount not to exceed \$10,000.00,] to the person aggrieved by such practice;
- e. Awarding costs to be paid by the respondent in the form of reimbursement for actual expenses reasonably incurred and awarding reasonable attorney's fees to the person aggrieved by such unlawful discriminatory real estate practice; and
- f. [Except in cases of unlawful discriminatory real estate practices on the basis of source of income under Section 700.20(V) of this article, assessing] Awarding a civil penalty, in an amount not to exceed [\$50,000.00] \$125,000.00, to be paid to the County of Westchester by a respondent found to have committed an unlawful discriminatory real estate practice, or not to exceed [\$100,000.00] \$250,000.00, to be paid to the County of Westchester by a respondent found to have committed an unlawful discriminatory real estate practice which is found to be willful, wanton or malicious;  
[f-1. For unlawful discriminatory real estate practices on the basis of source of income under Section 700.20(V) of this article, assessing a civil penalty, in an amount not to exceed \$50,000.00, to be paid to the County of Westchester by a respondent found to have committed an unlawful discriminatory real estate practice which is found to be willful, wanton or malicious;]
- g. Requiring the respondent to report the manner of compliance and authorizing the Fair Housing Board to monitor respondent(s) for compliance.

[2. A copy of such order issued by the Fair Housing Board shall be delivered in all cases to the County Executive, Chair of the Board of Legislators, and to the County Attorney.]

[3.]2. In any complaint initiated by the Executive Director, the relief awarded by the Fair Housing Board in the event of a finding that [the] a respondent has committed the unlawful discriminatory real estate practices complained of shall be the same as the relief that would be awarded to a complainant had the complainant initiated the complaint.

[4.]3. The Fair Housing Board may award [and pay] costs in the form of reimbursement for actual expenses reasonably incurred and reasonable attorney's fees to a prevailing respondent, unless the Fair Housing Board determines that the prosecution of the respondent was substantially justified or that special circumstances would make such award unjust.

#### C. Review

1. Final determinations by the Fair Housing Board shall be subject to review by the Commission upon application by any party aggrieved by a final order. Such application shall be made within thirty (30) days of the determination.
2. Any party aggrieved by a final determination of the Commission may make an application within four (4) months for judicial review.
3. Judicial review of the Commission shall be in a court with authority to:
  - a. Grant to the petitioner, or to any other party, such temporary relief, restraining order or other order as the court determines is just and proper;
  - b. Affirm, modify, or set aside, in whole or in part, the order, or remand the order for further proceedings; and
  - c. Enforce the order to the extent that the order is affirmed or modified.

#### **Sec. 700.30. Complaints of discrimination; limitations.**

Except as otherwise provided in [section] Section 700.33, any complaint filed with the Fair Housing Board pursuant to [section] Section 700.28 of this [article] Chapter must be filed within one year after the occurrence of the alleged unlawful discriminatory real estate practice.

#### **Sec. 700.31. Temporary injunctions.**

At any time after the filing of a complaint with the Fair Housing Board alleging an unlawful discriminatory real estate practice under this [article] Chapter, if the Fair Housing Board determines that [the] a respondent is doing or procuring to be done any act tending to render ineffectual any order the Fair Housing Board may enter in such proceeding and that prompt judicial action is necessary to carry out the purposes of this [article] Chapter, the Fair Housing Board may authorize a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint under this section. Upon receipt of such authorization, the County Attorney may apply to the New York State Supreme Court, in Westchester County, or in such other county where the respondent resides or maintains an office for the transaction of business, for a temporary injunction and for a temporary restraining order. The order to show cause may contain a temporary restraining order and shall be served in the manner provided therein. On the return date of the order to show cause, and after affording all parties an opportunity to be heard, if the court deems it necessary to prevent the respondent from rendering ineffectual an order relating to the subject matter of the complaint, it may grant appropriate injunctive relief upon such terms and conditions as it deems proper.

#### **Sec. 700.32. Jurisdictional limitations.**

A. Notwithstanding the provisions of paragraph B. below, the Fair Housing Board shall have jurisdiction to entertain a complaint anywhere in the County of Westchester:

1. Where:

- a. A [The] complainant or party aggrieved previously filed a complaint, based upon the same transaction or occurrence or series of transactions or occurrences, with a human rights or similar commission established in or for any city, town or village located in Westchester County;
- b. Such commission determined that the respondent committed an unlawful discriminatory real estate practice;
- c. Such determination has not been annulled or stayed by any court;
- d. The relief requested by the complainant or party aggrieved is limited to enforcement of such determination by requiring the respondent to cease and desist from the unlawful

discriminatory real estate practice and by requiring the respondent to comply with such other terms and conditions of the prior determination as may be enforceable by the Fair Housing Board; and

- e. The complaint is filed with the Fair Housing Board within one year of the making of the determination sought to be enforced.

B. Except as otherwise provided in paragraph A. hereof, the Fair Housing Board shall not have jurisdiction to entertain or initiate a complaint where:

1. The beginning of a trial of a civil action has commenced based upon the same transaction or occurrence or series of transactions or occurrences with substantially similar allegations of discrimination, harassment, and/or retaliation which are the subject of the complaint filed or sought to be filed with the Fair Housing Board, unless such civil action has been voluntarily discontinued or withdrawn by the complainant;
2. The complainant or party aggrieved has filed a complaint with the New York State Division of Human Rights, or with the commission of human rights of any city, town or village located in Westchester County, based upon the same transaction or occurrences with substantially similar allegations of discrimination harassment, and/or retaliation which are the subject of the complaint filed or sought to be filed with the Fair Housing Board, unless such complaint has been voluntarily discontinued or withdrawn by the complainant;
3. The complainant or party aggrieved has filed a complaint, action or proceeding with any administrative agency of the State of New York or the County of Westchester, based upon the same transaction or occurrence or series of transactions or occurrences with substantially similar allegations of discrimination, harassment, and/or retaliation which are the subject of the complaint filed or sought to be filed with the Fair Housing Board, unless such complaint has been voluntarily discontinued or withdrawn by the complainant;
4. The provisions of this paragraph shall not preclude the filing of a complaint with the Fair Housing Board which alleges the person, organization, company, association, government, or other entity involved has engaged or is engaging in a pattern of unlawful discriminatory real estate practices which have involved identical or substantially similar acts committed against

two or more persons who were similarly situated, provided that the complaint is filed with one year after the occurrence of the last alleged unlawful practice.

- C. The Fair Housing Board shall not have jurisdiction to accept any proceedings by transfer from the New York State Division of Human Rights.

**Sec. 700.33. Enforcement by private persons.**

- A. Any person who claims to have been injured by an unlawful discriminatory real estate practice or who believes that he or she will be injured by an unlawful discriminatory real estate practice that is about to occur, may commence a civil action in the appropriate court of jurisdiction not later than [one (1) year] three (3) years after the occurrence or the termination of an alleged unlawful discriminatory real estate practice, whichever occurs last, to obtain appropriate relief with respect to such unlawful discriminatory real estate practice.

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B. The Commission authorizes and designates the Executive Director of the Fair Housing Board to receive courtesy copies of complaints in actions commenced, in whole or in part, pursuant to subparagraph (A) of this Section. Within ten (10) days after commencing a civil action, in whole or in part, pursuant to subparagraph (A) of this Section, the plaintiff(s) or its counsel is directed to provide a courtesy copy of the complaint to the Executive Director by mail or electronic mail at [HumanRights@WestchesterGov.com](mailto:HumanRights@WestchesterGov.com).

- [B.]C. The computation of such [one-year] three-year period shall not include any time during which an administrative proceeding under this [law] Chapter was pending with respect to a complaint or charge under this [law] Chapter alleging an unlawful discriminatory real estate practice based on the same facts or occurrences.

- [C.]D. A complaint may be filed under this section whether or not an administrative charge has been filed under section 700.28, and without regard to the status of the [charge] complaint, but if the U.S. Department of Housing and Urban Development has obtained a [prefunding] pre-finding or post-finding settlement or conciliation agreement with the consent of the complainant or charging party, no action may be filed under this [section] Section with respect to the alleged unlawful discriminatory real estate practice which forms the basis for such complaint except for the purpose of enforcing the terms of such agreement.

[D.]E. No civil action may be commenced under this [section] Section with respect to an alleged unlawful discriminatory real estate practice that forms the basis of a complaint if the Fair Housing Board has commenced a hearing on the record.

[E.]F. In a civil action under this [section] Section, if the court finds that an unlawful discriminatory real estate practice has occurred or is about to occur, the court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in such practice or ordering such affirmative action as may be appropriate. The court may also award actual damages, including damages for humiliation and mental suffering, and any other appropriate remedy set forth in the Federal Fair Housing Amendments Act (P.L. 100-430) and available under this Chapter. The court may also allow reasonable attorney's fees and costs to the prevailing party.

[F.]G. Relief granted under this section shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer, or tenant, without actual notice of the filing of a charge, complaint, or civil action under this [law] Chapter.

#### **Sec. 700.34. Judicial review and enforcement.**

Any complainant, respondent, or other person aggrieved by an order of the Fair Housing Board which is an order after a hearing, a cease and desist order, an order awarding damages, an order dismissing a complaint, an order awarding costs in the case of frivolous conduct or by an order of the Fair Housing Board which makes a final disposition of a complaint or any other order of the Fair Housing Board may obtain an order of the court for its enforcement, in a proceeding as provided in this section. Such proceeding shall be brought in the New York State Supreme Court, Westchester County, or in such other county wherein any person required in the order to cease and desist from any unlawful discriminatory real estate practice or to take other affirmative action resides or transacts business. Such proceeding shall be initiated by the filing of a notice of petition and petition in such court. Thereafter, at a time and in a manner to be specified by the court, the Fair Housing Board shall file with the court a written transcript of the record of all prior proceedings. Upon the filing of a notice of petition and petition, the court shall have jurisdiction of the proceeding and of the questions determined therein.

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**Sec. 700.35. Separability.**

If any clause, sentence, paragraph or part of this article or the application thereof to any person or circumstance shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this [article] Chapter.

The provisions of this Chapter shall be construed liberally for the accomplishment of the remedial purposes thereof, regardless of how federal civil rights laws, including those laws with provisions worded comparably to the provisions of this Chapter, have been so construed. Exceptions to and exemptions from the provisions of this Chapter shall be construed narrowly in order to maximize deterrence of discriminatory conduct. Nothing contained in this Chapter shall be deemed to repeal any of the provisions of any other law of the County relating to discrimination, harassment, or retaliation; but as to the acts declared unlawful by Sections 700.21 through 700.23 of this Chapter, the procedure herein provided shall, while pending, be exclusive. Nothing in this Chapter shall be construed more narrowly than the New York State Human Rights Law.

§2. This Local Law shall take effect immediately.