



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

Introduced 2/4/2004, by Carol Ronen

SYNOPSIS AS INTRODUCED:

775 ILCS 5/Art. 1 heading	
775 ILCS 5/1-101.1 new	
775 ILCS 5/1-102	from Ch. 68, par. 1-102
775 ILCS 5/1-103	from Ch. 68, par. 1-103
775 ILCS 5/2-104	from Ch. 68, par. 2-104
775 ILCS 5/3-103	from Ch. 68, par. 3-103
775 ILCS 5/3-106	from Ch. 68, par. 3-106

Amends the Human Rights Act. Provides that nothing in the Act shall be construed as requiring any employer, employment agency, or labor organization to give preferential treatment or special rights or implement affirmative action policies or programs based on sexual orientation. Provides that discrimination against a person because of his or her sexual orientation constitutes unlawful discrimination under the Act. Provides that it is a civil rights violation to engage in blockbusting in real estate because of the present or prospective entry of persons with a particular sexual orientation into the vicinity. Provides that the owner of an owner-occupied residential building with 5 or fewer units is not prohibited from making decisions regarding whether to rent to a person based upon that person's sexual orientation. Defines "sexual orientation". Provides that an employer, employment agency, or labor organization is not prohibited from enforcing a reasonable dress code.

LRB093 18485 LCB 44199 b

1 AN ACT concerning human rights.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Human Rights Act is amended by
5 changing Sections 1-102, 1-103, 2-104, 3-103, and 3-106 and the
6 heading of Article 1 and adding Section 1-101.1 as follows:

7 (775 ILCS 5/Art. 1 heading)

8 ARTICLE 1.

9 GENERAL PROVISIONS ~~TITLE, POLICY AND DEFINITIONS~~

10 (775 ILCS 5/1-101.1 new)

11 Sec. 1-101.1. Construction. Nothing in this Act shall be
12 construed as requiring any employer, employment agency, or
13 labor organization to give preferential treatment or special
14 rights based on sexual orientation or to implement affirmative
15 action policies or programs based on sexual orientation.

16 (775 ILCS 5/1-102) (from Ch. 68, par. 1-102)

17 Sec. 1-102. Declaration of Policy. It is the public policy
18 of this State:

19 (A) Freedom from Unlawful Discrimination. To secure for all
20 individuals within Illinois the freedom from discrimination
21 against any individual because of his or her race, color,
22 religion, sex, national origin, ancestry, age, marital status,
23 physical or mental handicap, military status, sexual
24 orientation, or unfavorable discharge from military service in
25 connection with employment, real estate transactions, access
26 to financial credit, and the availability of public
27 accommodations.

28 (B) Freedom from Sexual Harassment-Employment and Higher
29 Education. To prevent sexual harassment in employment and
30 sexual harassment in higher education.

1 (C) Freedom from Discrimination Based on Citizenship
2 Status-Employment. To prevent discrimination based on
3 citizenship status in employment.

4 (D) Freedom from Discrimination Based on Familial
5 Status-Real Estate Transactions. To prevent discrimination
6 based on familial status in real estate transactions.

7 (E) Public Health, Welfare and Safety. To promote the
8 public health, welfare and safety by protecting the interest of
9 all people in Illinois in maintaining personal dignity, in
10 realizing their full productive capacities, and in furthering
11 their interests, rights and privileges as citizens of this
12 State.

13 (F) Implementation of Constitutional Guarantees. To secure
14 and guarantee the rights established by Sections 17, 18 and 19
15 of Article I of the Illinois Constitution of 1970.

16 (G) Equal Opportunity, Affirmative Action. To establish
17 Equal Opportunity and Affirmative Action as the policies of
18 this State in all of its decisions, programs and activities,
19 and to assure that all State departments, boards, commissions
20 and instrumentalities rigorously take affirmative action to
21 provide equality of opportunity and eliminate the effects of
22 past discrimination in the internal affairs of State government
23 and in their relations with the public.

24 (H) Unfounded Charges. To protect citizens of this State
25 against unfounded charges of unlawful discrimination, sexual
26 harassment in employment and sexual harassment in higher
27 education, and discrimination based on citizenship status in
28 employment.

29 (Source: P.A. 87-579; 88-178.)

30 (775 ILCS 5/1-103) (from Ch. 68, par. 1-103)

31 Sec. 1-103. General Definitions. When used in this Act,
32 unless the context requires otherwise, the term:

33 (A) Age. "Age" means the chronological age of a person who
34 is at least 40 years old, except with regard to any practice
35 described in Section 2-102, insofar as that practice concerns

1 training or apprenticeship programs. In the case of training or
2 apprenticeship programs, for the purposes of Section 2-102,
3 "age" means the chronological age of a person who is 18 but not
4 yet 40 years old.

5 (B) Aggrieved Party. "Aggrieved party" means a person who
6 is alleged or proved to have been injured by a civil rights
7 violation or believes he or she will be injured by a civil
8 rights violation under Article 3 that is about to occur.

9 (C) Charge. "Charge" means an allegation filed with the
10 Department by an aggrieved party or initiated by the Department
11 under its authority.

12 (D) Civil Rights Violation. "Civil rights violation"
13 includes and shall be limited to only those specific acts set
14 forth in Sections 2-102, 2-103, 2-105, 3-102, 3-103, 3-104,
15 3-104.1, 3-105, 4-102, 4-103, 5-102, 5A-102 and 6-101 of this
16 Act.

17 (E) Commission. "Commission" means the Human Rights
18 Commission created by this Act.

19 (F) Complaint. "Complaint" means the formal pleading filed
20 by the Department with the Commission following an
21 investigation and finding of substantial evidence of a civil
22 rights violation.

23 (G) Complainant. "Complainant" means a person including
24 the Department who files a charge of civil rights violation
25 with the Department or the Commission.

26 (H) Department. "Department" means the Department of Human
27 Rights created by this Act.

28 (I) Handicap. "Handicap" means a determinable physical or
29 mental characteristic of a person, including, but not limited
30 to, a determinable physical characteristic which necessitates
31 the person's use of a guide, hearing or support dog, the
32 history of such characteristic, or the perception of such
33 characteristic by the person complained against, which may
34 result from disease, injury, congenital condition of birth or
35 functional disorder and which characteristic:

36 (1) For purposes of Article 2 is unrelated to the

1 person's ability to perform the duties of a particular job
2 or position and, pursuant to Section 2-104 of this Act, a
3 person's illegal use of drugs or alcohol is not a handicap;

4 (2) For purposes of Article 3, is unrelated to the
5 person's ability to acquire, rent or maintain a housing
6 accommodation;

7 (3) For purposes of Article 4, is unrelated to a
8 person's ability to repay;

9 (4) For purposes of Article 5, is unrelated to a
10 person's ability to utilize and benefit from a place of
11 public accommodation.

12 (J) Marital Status. "Marital status" means the legal status
13 of being married, single, separated, divorced or widowed.

14 (J-1) Military Status. "Military status" means a person's
15 status on active duty in the armed forces of the United States.

16 (K) National Origin. "National origin" means the place in
17 which a person or one of his or her ancestors was born.

18 (L) Person. "Person" includes one or more individuals,
19 partnerships, associations or organizations, labor
20 organizations, labor unions, joint apprenticeship committees,
21 or union labor associations, corporations, the State of
22 Illinois and its instrumentalities, political subdivisions,
23 units of local government, legal representatives, trustees in
24 bankruptcy or receivers.

25 (M) Public Contract. "Public contract" includes every
26 contract to which the State, any of its political subdivisions
27 or any municipal corporation is a party.

28 (N) Religion. "Religion" includes all aspects of religious
29 observance and practice, as well as belief, except that with
30 respect to employers, for the purposes of Article 2, "religion"
31 has the meaning ascribed to it in paragraph (F) of Section
32 2-101.

33 (O) Sex. "Sex" means the status of being male or female.

34 (O-1) Sexual orientation. "Sexual orientation" means
35 actual or perceived heterosexuality, homosexuality,
36 bisexuality, or gender-related identity, whether or not

1 traditionally associated with the person's designated sex at
2 birth. "Sexual orientation" does not include a physical or
3 sexual attraction to a minor by an adult.

4 (P) Unfavorable Military Discharge. "Unfavorable military
5 discharge" includes discharges from the Armed Forces of the
6 United States, their Reserve components or any National Guard
7 or Naval Militia which are classified as RE-3 or the equivalent
8 thereof, but does not include those characterized as RE-4 or
9 "Dishonorable".

10 (Q) Unlawful Discrimination. "Unlawful discrimination"
11 means discrimination against a person because of his or her
12 race, color, religion, national origin, ancestry, age, sex,
13 marital status, handicap, military status, sexual orientation,
14 or unfavorable discharge from military service as those terms
15 are defined in this Section.

16 (Source: P.A. 88-178; 88-180; 88-670, eff. 12-2-94.)

17 (775 ILCS 5/2-104) (from Ch. 68, par. 2-104)

18 Sec. 2-104. Exemptions.

19 (A) Nothing contained in this Act shall prohibit an
20 employer, employment agency or labor organization from:

21 (1) Bona Fide Qualification. Hiring or selecting
22 between persons for bona fide occupational qualifications
23 or any reason except those civil-rights violations
24 specifically identified in this Article.

25 (2) Veterans. Giving preferential treatment to
26 veterans and their relatives as required by the laws or
27 regulations of the United States or this State or a unit of
28 local government.

29 (3) Unfavorable Discharge From Military Service. Using
30 unfavorable discharge from military service as a valid
31 employment criterion when authorized by federal law or
32 regulation or when a position of employment involves the
33 exercise of fiduciary responsibilities as defined by rules
34 and regulations which the Department shall adopt.

35 (4) Ability Tests. Giving or acting upon the results of

1 any professionally developed ability test provided that
2 such test, its administration, or action upon the results,
3 is not used as a subterfuge for or does not have the effect
4 of unlawful discrimination.

5 (5) Merit and Retirement Systems.

6 (a) Applying different standards of compensation,
7 or different terms, conditions or privileges of
8 employment pursuant to a merit or retirement system
9 provided that such system or its administration is not
10 used as a subterfuge for or does not have the effect of
11 unlawful discrimination.

12 (b) Effecting compulsory retirement of any
13 employee who has attained 65 years of age and who, for
14 the 2-year period immediately preceding retirement, is
15 employed in a bona fide executive or a high
16 policymaking position, if such employee is entitled to
17 an immediate nonforfeitable annual retirement benefit
18 from a pension, profit-sharing, savings, or deferred
19 compensation plan, or any combination of such plans of
20 the employer of such employee, which equals, in the
21 aggregate, at least \$44,000. If any such retirement
22 benefit is in a form other than a straight life annuity
23 (with no ancillary benefits) or if the employees
24 contribute to any such plan or make rollover
25 contributions, the retirement benefit shall be
26 adjusted in accordance with regulations prescribed by
27 the Department, so that the benefit is the equivalent
28 of a straight life annuity (with no ancillary benefits)
29 under a plan to which employees do not contribute and
30 under which no rollover contributions are made.

31 (c) Until January 1, 1994, effecting compulsory
32 retirement of any employee who has attained 70 years of
33 age, and who is serving under a contract of unlimited
34 tenure (or similar arrangement providing for unlimited
35 tenure) at an institution of higher education as
36 defined by Section 1201(a) of the Higher Education Act

1 of 1965.

2 (6) Training and Apprenticeship programs. Establishing
3 an educational requirement as a prerequisite to selection
4 for a training or apprenticeship program, provided such
5 requirement does not operate to discriminate on the basis
6 of any prohibited classification except age.

7 (7) Police and Firefighter/Paramedic Retirement.
8 Imposing a mandatory retirement age for
9 firefighters/paramedics or law enforcement officers and
10 discharging or retiring such individuals pursuant to the
11 mandatory retirement age if such action is taken pursuant
12 to a bona fide retirement plan provided that the law
13 enforcement officer or firefighter/paramedic has attained:

14 (a) the age of retirement in effect under
15 applicable State or local law on March 3, 1983; or

16 (b) if the applicable State or local law was
17 enacted after the date of enactment of the federal Age
18 Discrimination in Employment Act Amendments of 1996
19 (P.L. 104-208), the age of retirement in effect on the
20 date of such discharge under such law.

21 This paragraph (7) shall not apply with respect to any
22 cause of action arising under the Illinois Human Rights Act
23 as in effect prior to the effective date of this amendatory
24 Act of 1997.

25 (8) Police and Firefighter/Paramedic Appointment.
26 Failing or refusing to hire any individual because of such
27 individual's age if such action is taken with respect to
28 the employment of an individual as a firefighter/paramedic
29 or as a law enforcement officer and the individual has
30 attained:

31 (a) the age of hiring or appointment in effect
32 under applicable State or local law on March 3, 1983;
33 or

34 (b) the age of hiring in effect on the date of such
35 failure or refusal to hire under applicable State or
36 local law enacted after the date of enactment of the

1 federal Age Discrimination in Employment Act
2 Amendments of 1996 (P.L. 104-208).

3 As used in paragraph (7) or (8):

4 "Firefighter/paramedic" means an employee, the duties
5 of whose position are primarily to perform work directly
6 connected with the control and extinguishment of fires or
7 the maintenance and use of firefighting apparatus and
8 equipment, or to provide emergency medical services,
9 including an employee engaged in this activity who is
10 transferred to a supervisory or administrative position.

11 "Law enforcement officer" means an employee, the
12 duties of whose position are primarily the investigation,
13 apprehension, or detention of individuals suspected or
14 convicted of criminal offenses, including an employee
15 engaged in this activity who is transferred to a
16 supervisory or administrative position.

17 (9) Citizenship Status. Making legitimate distinctions
18 based on citizenship status if specifically authorized or
19 required by State or federal law.

20 (10) Dress code enforcement. Requiring an employee to
21 adhere to reasonable workplace appearance, grooming, and
22 dress standards not precluded by other provisions of State
23 or federal law, provided the employer shall allow an
24 employee to appear or dress consistently with the
25 employee's gender-related identity.

26 (B) With respect to any employee who is subject to a
27 collective bargaining agreement:

28 (a) which is in effect on June 30, 1986,

29 (b) which terminates after January 1, 1987,

30 (c) any provision of which was entered into by a labor
31 organization as defined by Section 6(d)(4) of the Fair
32 Labor Standards Act of 1938 (29 U.S.C. 206(d)(4)), and

33 (d) which contains any provision that would be
34 superseded by this amendatory Act of 1987 (Public Act
35 85-748),

36 such amendatory Act of 1987 shall not apply until the

1 termination of such collective bargaining agreement or January
2 1, 1990, whichever occurs first.

3 (C) (1) For purposes of this Act, the term "handicap" shall
4 not include any employee or applicant who is currently engaging
5 in the illegal use of drugs, when an employer acts on the basis
6 of such use.

7 (2) Paragraph (1) shall not apply where an employee or
8 applicant for employment:

9 (a) has successfully completed a supervised drug
10 rehabilitation program and is no longer engaging in the
11 illegal use of drugs, or has otherwise been rehabilitated
12 successfully and is no longer engaging in such use;

13 (b) is participating in a supervised rehabilitation
14 program and is no longer engaging in such use; or

15 (c) is erroneously regarded as engaging in such use,
16 but is not engaging in such use.

17 It shall not be a violation of this Act for an employer to
18 adopt or administer reasonable policies or procedures,
19 including but not limited to drug testing, designed to ensure
20 that an individual described in subparagraph (a) or (b) is no
21 longer engaging in the illegal use of drugs.

22 (3) An employer:

23 (a) may prohibit the illegal use of drugs and the use
24 of alcohol at the workplace by all employees;

25 (b) may require that employees shall not be under the
26 influence of alcohol or be engaging in the illegal use of
27 drugs at the workplace;

28 (c) may require that employees behave in conformance
29 with the requirements established under the federal
30 Drug-Free Workplace Act of 1988 (11 U.S.C. 701 et seq.) and
31 the Drug Free Workplace Act;

32 (d) may hold an employee who engages in the illegal use
33 of drugs or who is an alcoholic to the same qualification
34 standards for employment or job performance and behavior
35 that such employer holds other employees, even if any
36 unsatisfactory performance or behavior is related to the

1 drug use or alcoholism of such employee; and

2 (e) may, with respect to federal regulations regarding
3 alcohol and the illegal use of drugs, require that:

4 (i) employees comply with the standards
5 established in such regulations of the United States
6 Department of Defense, if the employees of the employer
7 are employed in an industry subject to such
8 regulations, including complying with regulations (if
9 any) that apply to employment in sensitive positions in
10 such an industry, in the case of employees of the
11 employer who are employed in such positions (as defined
12 in the regulations of the Department of Defense);

13 (ii) employees comply with the standards
14 established in such regulations of the Nuclear
15 Regulatory Commission, if the employees of the
16 employer are employed in an industry subject to such
17 regulations, including complying with regulations (if
18 any) that apply to employment in sensitive positions in
19 such an industry, in the case of employees of the
20 employer who are employed in such positions (as defined
21 in the regulations of the Nuclear Regulatory
22 Commission); and

23 (iii) employees comply with the standards
24 established in such regulations of the United States
25 Department of Transportation, if the employees of the
26 employer are employed in a transportation industry
27 subject to such regulations, including complying with
28 such regulations (if any) that apply to employment in
29 sensitive positions in such an industry, in the case of
30 employees of the employer who are employed in such
31 positions (as defined in the regulations of the United
32 States Department of Transportation).

33 (4) For purposes of this Act, a test to determine the
34 illegal use of drugs shall not be considered a medical
35 examination. Nothing in this Act shall be construed to
36 encourage, prohibit, or authorize the conducting of drug

1 testing for the illegal use of drugs by job applicants or
2 employees or making employment decisions based on such test
3 results.

4 (5) Nothing in this Act shall be construed to encourage,
5 prohibit, restrict, or authorize the otherwise lawful exercise
6 by an employer subject to the jurisdiction of the United States
7 Department of Transportation of authority to:

8 (a) test employees of such employer in, and applicants
9 for, positions involving safety-sensitive duties for the
10 illegal use of drugs and for on-duty impairment by alcohol;
11 and

12 (b) remove such persons who test positive for illegal
13 use of drugs and on-duty impairment by alcohol pursuant to
14 subparagraph (a) from safety-sensitive duties in
15 implementing paragraph (3).

16 (Source: P.A. 90-481, eff. 8-17-97.)

17 (775 ILCS 5/3-103) (from Ch. 68, par. 3-103)

18 Sec. 3-103. Blockbusting.† It is a civil rights violation
19 for any person to:

20 (A) Solicitation. Solicit for sale, lease, listing or
21 purchase any residential real estate within this State, on the
22 grounds of loss of value due to the present or prospective
23 entry into the vicinity of the property involved of any person
24 or persons of any particular race, color, religion, national
25 origin, ancestry, age, sex, sexual orientation, marital
26 status, familial status or handicap.

27 (B) Statements. Distribute or cause to be distributed,
28 written material or statements designed to induce any owner of
29 residential real estate in this State to sell or lease his or
30 her property because of any present or prospective changes in
31 the race, color, religion, national origin, ancestry, age, sex,
32 sexual orientation, marital status, familial status or
33 handicap of residents in the vicinity of the property involved.

34 (C) Creating Alarm. Intentionally create alarm, among
35 residents of any community, by transmitting communications in

1 any manner, including a telephone call whether or not
2 conversation thereby ensues, with a design to induce any owner
3 of residential real estate in this state to sell or lease his
4 or her property because of any present or prospective entry
5 into the vicinity of the property involved of any person or
6 persons of any particular race, color, religion, national
7 origin, ancestry, age, sex, sexual orientation, marital
8 status, familial status or handicap.

9 (Source: P.A. 86-910.)

10 (775 ILCS 5/3-106) (from Ch. 68, par. 3-106)

11 Sec. 3-106. Exemptions.) Nothing contained in Section
12 3-102 shall prohibit:

13 (A) Private Sales of Single Family Homes. Any sale of a
14 single family home by its owner so long as the following
15 criteria are met:

16 (1) The owner does not own or have a beneficial
17 interest in more than three single family homes at the time
18 of the sale;

19 (2) The owner or a member of his or her family was the
20 last current resident of the home;

21 (3) The home is sold without the use in any manner of
22 the sales or rental facilities or services of any real
23 estate broker or salesman, or of any employee or agent of
24 any real estate broker or salesman;

25 (4) The home is sold without the publication, posting
26 or mailing, after notice, of any advertisement or written
27 notice in violation of paragraph (F) of Section 3-102.

28 (B) Apartments. Rental of a housing accommodation in a
29 building which contains housing accommodations for not more
30 than five families living independently of each other, if the
31 lessor or a member of his or her family resides in one of the
32 housing accommodations;

33 (C) Private Rooms. Rental of a room or rooms in a private
34 home by an owner if he or she or a member of his or her family
35 resides therein or, while absent for a period of not more than

1 twelve months, if he or she or a member of his or her family
2 intends to return to reside therein;

3 (D) Reasonable local, State, or Federal restrictions
4 regarding the maximum number of occupants permitted to occupy a
5 dwelling.

6 (E) Religious Organizations. A religious organization,
7 association, or society, or any nonprofit institution or
8 organization operated, supervised or controlled by or in
9 conjunction with a religious organization, association, or
10 society, from limiting the sale, rental or occupancy of a
11 dwelling which it owns or operates for other than a commercial
12 purpose to persons of the same religion, or from giving
13 preference to such persons, unless membership in such religion
14 is restricted on account of race, color, or national origin.

15 (F) Sex. Restricting the rental of rooms in a housing
16 accommodation to persons of one sex.

17 (G) Persons Convicted of Drug-Related Offenses. Conduct
18 against a person because such person has been convicted by any
19 court of competent jurisdiction of the illegal manufacture or
20 distribution of a controlled substance as defined in Section
21 102 of the federal Controlled Substances Act (21 U.S.C. 802).

22 (H) Persons engaged in the business of furnishing
23 appraisals of real property from taking into consideration
24 factors other than those based on unlawful discrimination or
25 familial status in furnishing appraisals.

26 (H-1) The owner of an owner-occupied residential building
27 with 5 or fewer units (including the unit in which the owner
28 resides) from making decisions regarding whether to rent to a
29 person based upon that person's sexual orientation.

30 (I) Housing for Older Persons. No provision in this Article
31 regarding familial status shall apply with respect to housing
32 for older persons.

33 (1) As used in this Section, "housing for older
34 persons" means housing:

35 (a) provided under any State or Federal program
36 that the Department determines is specifically

1 designed and operated to assist elderly persons (as
2 defined in the State or Federal program); or

3 (b) intended for, and solely occupied by, persons
4 62 years of age or older; or

5 (c) intended and operated for occupancy by persons
6 55 years of age or older and:

7 (i) at least 80% of the occupied units are
8 occupied by at least one person who is 55 years of
9 age or older;

10 (ii) the housing facility or community
11 publishes and adheres to policies and procedures
12 that demonstrate the intent required under this
13 subdivision (c); and

14 (iii) the housing facility or community
15 complies with rules adopted by the Department for
16 verification of occupancy, which shall:

17 (aa) provide for verification by reliable
18 surveys and affidavits; and

19 (bb) include examples of the types of
20 policies and procedures relevant to a
21 determination of compliance with the
22 requirement of clause (ii).

23 These surveys and affidavits shall be admissible in
24 administrative and judicial proceedings for the purposes of
25 such verification.

26 (2) Housing shall not fail to meet the requirements for
27 housing for older persons by reason of:

28 (a) persons residing in such housing as of the
29 effective date of this amendatory Act of 1989 who do
30 not meet the age requirements of subsections (1)(b) or
31 (c); provided, that new occupants of such housing meet
32 the age requirements of subsections (1)(b) or (c) of
33 this subsection; or

34 (b) unoccupied units; provided, that such units
35 are reserved for occupancy by persons who meet the age
36 requirements of subsections (1)(b) or (c) of this

1 subsection.

2 (3) (a) A person shall not be held personally liable
3 for monetary damages for a violation of this Article if
4 the person reasonably relied, in good faith, on the
5 application of the exemption under this subsection (I)
6 relating to housing for older persons.

7 (b) For the purposes of this item (3), a person may
8 show good faith reliance on the application of the
9 exemption only by showing that:

10 (i) the person has no actual knowledge that the
11 facility or community is not, or will not be,
12 eligible for the exemption; and

13 (ii) the facility or community has stated
14 formally, in writing, that the facility or
15 community complies with the requirements for the
16 exemption.

17 (Source: P.A. 89-520, eff. 7-18-96.)