

AN ACT

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To amend the Human Rights Act of 1977 to clarify the role of the Attorney General in a civil action involving housing discrimination, to clarify the act's applicability to real estate organizations and property managers, to authorize the Attorney General to enforce the act and set forth procedures governing that authority and remedies, and to make technical corrections.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Attorney General Civil Rights Enforcement Clarification Amendment Act of 2022".

Sec. 2. The Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*), is amended as follows:

(a) Section 102 (D.C. Official Code § 2-1401.02) is amended as follows:

(1) Paragraph (16) is amended to read as follows:

"(16) "Make public" means disclosure to the public or to the news media of any personal or business data, documents, information, records, or reports obtained during the course of a complaint filed under the provisions of this act. The term "make public" not include:

"(A) The publication of EEO-1, EEO-2, or EEO-3 reports as required by the Equal Employment Opportunity Commission;

"(B) The provision of any data, documents, information, records, or reports in the course of any administrative or judicial proceeding under this act or any judicial proceeding under Title VII of the Civil Rights Act of 1964, approved July 2, 1964 (78 Stat. 253; 42 U.S.C. § 2000e *et seq.*), or Title VIII or IX of the Civil Rights Act of 1968, approved April 11, 1968 (82 Stat. 81; 42 U.S.C § 3601 *et seq.*), involving such data, documents, information, records, or reports; or

"(C) The access to such data, documents, information, records, or reports by personnel of the Office, members of the Commission, or personnel of the Attorney General pursuant to section 316a or for the Attorney General's defense and enforcement of the Office's investigations or the Commission's decisions and orders, or parties to a proceeding before the

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Office, or their representatives, after the closure of the case and passage of the reconsideration period; or

“(D) The publication of aggregated data from individual reports, such that personally identifiable information is indeterminable.”.

(2) Paragraph (21) is amended by striking the phrase “real estate broker or salesman” and inserting the phrase “real estate broker, real estate salesperson, property manager,” in its place.

(3) Paragraph (26) is amended to read as follows:

“(26) “Real estate broker” or “real estate salesperson” or “property manager” means a person who is licensed under Chapter 28 of Title 47 of the District of Columbia Official Code as a real estate broker, a real estate salesperson, or a property manager. The term “real estate broker” includes a real estate organization.”.

(b) Section 223 (D.C. Official Code § 2-1402.23) is amended as follows:

(1) The section heading is amended by striking the phrase “by broker or salesperson” and inserting the phrase “by real estate broker, real estate salesperson, or property manager” in its place.

(2) The existing text is designated as subsection (c).

(3) New subsections (a) and (b) are added to read as follows:

“(a) It shall be a violation of this section for any real estate broker, real estate salesperson, or property manager to commit any act of discrimination prohibited by this act.

“(b) A finding by a court or the Commission that a holder of, or applicant for, any permit, license, franchise, benefit, exemption, or advantage issued by or on behalf of a District government agency, board, or commission has violated this section shall, in any proceeding conducted by that agency, board, or commission that considers whether the holder or applicant is acting in the public interest, constitutes prima facie evidence that the holder or applicant has endangered the public interest.”.

(c) Section 252 (D.C. Official Code § 2-1402.52) is amended as follows:

(1) Subsection (a) is amended by striking the phrase “6 months” and inserting the phrase “one year” in its place.

(2) Paragraph (c) is amended to read as follows:

“(c)(1) All persons subject to this act shall furnish to the Office, at the time and in the manner prescribed by the Office, such data, documents, information, records, and reports relating to information under their control as the Office may require.

“(2) Neither data, documents, information, reports, and records submitted to the Office under the provisions of this section nor the identities of persons and properties contained in reports submitted to the Office under the provisions of this section shall be made public.”.

(d) Section 305(g) (D.C. Official Code § 2-1403.05(g)) is amended by striking the phrase “the Corporation Counsel” and inserting the phrase “the Attorney General” in its place.

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(e) Section 307 (D.C. Official Code § 2-1403.07) is amended by striking the phrase “the Corporation Counsel” both times it appears and inserting the phrase “the Attorney General” in its place.

(f) Section 315 (D.C. Office Code § 2-1403.15) is amended as follows:

(1) Subsection (a) is amended by striking the phrase “the Corporation Counsel” and inserting the phrase “the Attorney General” in its place.

(2) Subsection (b) is amended to read as follows:

“(b)(1) When the Commission certifies a matter to the Attorney General for enforcement, the Attorney General shall, in the Attorney General’s sole discretion, assess the matter to determine whether the order may be enforced.

“(2) If the order is enforceable, the Attorney General shall institute, in the name of the District, civil proceedings, including the seeking of such restraining orders and temporary or permanent injunctions as are necessary to obtain complete compliance with the Commission’s orders.

(2) If civil proceedings instituted pursuant to paragraph (2) of this subsection do not result in securing such compliance, the Attorney General may institute criminal action.”.

(g) A new section 316a is added to read as follows:

“Sec. 316a. Civil actions by the Attorney General.

“(a) In addition to any other remedies provided in this act, if the Attorney General has reason to believe that a person is violating the provisions of this act, the Attorney General may bring a civil action in the name of the District.

“(b) A civil action brought pursuant to this section:

“(1) May be brought at any time; and

“(2) Shall be independent of any other actions, remedies, or procedures that may be available to an aggrieved party pursuant to this or any other law. An aggrieved party’s final adjudication or settlement shall not preclude the Attorney General from seeking any remedy on behalf of the District to which the District may be entitled.

“(c) In a civil action brought pursuant to this section:

“(1) If a person is found to have violated this act, the Attorney General may obtain the following civil penalties:

“(A) If the person has not previously been adjudged to have committed any prior unlawful discriminatory practice or has committed at least one prior unlawful discriminatory practice other than in the periods provided in subparagraph (B) and (C) of this paragraph, in an amount not to exceed \$10,000 per violation;

“(B) If the person has, during the 5-year period ending on the date of the filing of the cause of action, been adjudged to have committed one other unlawful discriminatory practice, in an amount not to exceed \$25,000 per violation; and

“(C) If the person has, during the 7-year period ending on the date of the filing of the cause of action, been adjudged to have committed 2 or more unlawful discriminatory practices, in an amount not to exceed \$50,000 per violation; and

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“(2) The Attorney General shall not be required to prove damages and any injunction issued shall be without bond.

“(d)(1) Each separate and distinct action or practice that violates this act shall be deemed a violation under this section. An action or practice shall constitute multiple violations if it violates more than one provision of the act or violates the rights of more than one person.

“(2) Each day that a discriminatory advertisement is posted in violation of this act shall be a violation.

“(e) The court may grant any additional relief in the civil action that it deems appropriate, including the restitution of money or property and the relief provided in sections 307 and 313(a).

“(f) Any penalties recovered pursuant to this section shall be deposited in the Litigation Support Fund, as established by section 106b of the Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010, effective October 22, 2015 (D.C. Law 21-36; D.C. Official Code § 1-301.86b).

“(g)(1) To determine whether to seek relief under this section, the Attorney General may:

“(A) Subpoena witnesses;

“(B) Administer oaths;

“(C) Examine an individual under oath;

“(D) Require sworn answers in writing to written interrogatories; or

“(E) Compel production of records, books, papers, contracts, and other

documents, verified by a sworn certificate of completion.

“(2) Service of any document issued pursuant to this section shall be made by mail, e-mail, or any other method reasonably calculated to provide actual notice; provided, that the Superior Court of the District of Columbia may exercise jurisdiction over the recipient of the demand document consistent with the Due Process Clause of the Constitution of the United States.

“(3) Information or evidence obtained pursuant to this section shall not be admissible in a later criminal proceeding against the person who provides the information or evidence, except with respect to sworn statements that are the basis for a subsequent perjury prosecution.

“(4) Subpoenas or requests for interrogatories issued pursuant to this section shall contain:

“(A) The name of the person from whom testimony is sought or the documents or materials requested;

“(B) The person at the Office of the Attorney General to whom the documents shall be provided;

“(C) A detailed list of the specific documents, books, papers, or objects being requested, if any;

“(D) The date, time, and place that the recipient is to appear to give testimony or produce the materials specified under subparagraph (C) of this paragraph, or both;

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“(E) A short, plain statement of the recipient's rights and the procedure for enforcing and contesting the subpoena; and

“(F) The signature of the Attorney General, Chief Deputy Attorney General, Deputy Attorney General, or Assistant Deputy Attorney General approving the subpoena request.

“(5) Unless otherwise permitted by the Attorney General, only attorneys for the Office of the Attorney General and their staff, other persons they engage in the examination, the witness under examination, the witness's attorney, interpreters when needed, and, for the purpose of taking the evidence, a stenographer or operator of a recording device, may be present during the taking of testimony.

“(6) In the case of refusal to obey a subpoena issued under this section, the Attorney General may petition the Superior Court of the District of Columbia for an order requiring compliance. Any failure to obey the order of the court may be treated by the court as contempt.

“(7) Any person to whom a subpoena has been issued under this section may exercise the privileges enjoyed by all witnesses. A person to whom a subpoena has been issued may move to quash or modify the subpoena in the Superior Court of the District of Columbia on:

“(A) The grounds that the Attorney General failed to follow or satisfy the procedures set forth in this section for the issuance of a subpoena; or

“(B) Any grounds that exist under statute or common law for quashing or modifying a subpoena.

“(8) In any action in the Superior Court of the District of Columbia pertaining to a subpoena issued under this section, the Attorney General shall be entitled to recover the costs of the action and reasonable attorneys' fees.

“(9) Subpoenas or interrogatories under this section shall not be directed to a District government official or entity.

“(h) This section shall not be construed to create any additional rights or defenses for any party.

“(i)(1) Prior to instituting any action pursuant to this section, the Attorney General shall give notice to the Office that it intends to file such action. Notice shall be provided at least 48 hours prior to filing the action.

“(2) The Office shall keep information regarding the potential action confidential until the filing is made public.

“(3) The notice required by this subsection shall not constitute a jurisdictional requirement and the failure to provide the notice required by this subsection shall not create a defense in the action.

“(j)(1) Within 180 days after the effective date of the Attorney General Civil Rights Enforcement Clarification Amendment Act of 2022, passed on second reading on December 20, 2022 (Enrolled version of Bill 24-446), the Attorney General and the Office may enter into, and may from time to time update, a memorandum of understanding (“MOU”) that addresses

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subjects such as the agencies' sharing of information and documents, notifications, and the procedures underlying the Attorney General's defense and enforcement of the Office's and the Commission's decisions and orders.

“(2) No provision of this act, or rules issued pursuant to this act, shall be construed to limit the information sharing between the Attorney General and the Office that the MOU may authorize; except, that such information sharing shall remain limited by any confidentiality requirements in any other law.”.

**Sec. 3. Repealer.**

The Attorney General Civil Rights Enforcement Second Temporary Amendment Act of 2022, enacted November 22, 2022 (D.C. Act 24-664; 69 DCR 14758), is repealed.

**Sec. 4. Fiscal impact statement.**

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

**Sec. 5. Effective date.**

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia