

As Introduced

131st General Assembly

Regular Session

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S. B. No. 268

Senator Seitz

Cosponsors: Senators Coley, Peterson, Eklund, Hite, Uecker

A BILL

To amend sections 2305.07, 2305.09, 4112.01, 1
4112.02, 4112.04, 4112.05, 4112.051, 4112.08, 2
and 4112.99; to amend, for the purpose of 3
adopting new section numbers as indicated in 4
parentheses, sections 4112.051 (4112.055) and 5
4112.052 (4112.056); to enact new sections 6
4112.051, 4112.052, and 4112.14 and sections 7
2305.071, 4112.053, and 4112.054; and to repeal 8
section 4112.14 of the Revised Code to modify 9
Ohio civil rights laws related to employment and 10
the statute of limitations for other specified 11
claims against an employer. 12

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2305.07, 2305.09, 4112.01, 13
4112.02, 4112.04, 4112.05, 4112.051, 4112.08, and 4112.99 be 14
amended; sections 4112.051 (4112.055) and 4112.052 (4112.056) be 15
amended for the purpose of adopting new section numbers as shown 16
in parentheses; and new sections 4112.051, 4112.052, and 4112.14 17
and sections 2305.071, 4112.053, and 4112.054 of the Revised 18
Code be enacted to read as follows: 19

Sec. 2305.07. Except as provided in sections 126.301~~and,~~ 20
1302.98, and 2305.071 of the Revised Code, an action upon a 21
contract not in writing, express or implied, or upon a liability 22
created by statute other than a forfeiture or penalty, shall be 23
brought within six years after the cause thereof accrued. 24

Sec. 2305.071. (A) As used in this section, "employer" has 25
the same meaning as in section 4112.01 of the Revised Code. 26

(B) An action against an employer alleging a claim of 27
promissory estoppel, breach of an implied contract, or 28
intentional infliction of emotional distress shall be brought 29
within one year after the cause accrued. 30

(C) Nothing in this section prohibits or limits an 31
employee's use of evidence of promissory estoppel, breach of an 32
implied contract, or intentional infliction of emotional 33
distress on the part of the employer as an affirmative defense 34
against an action brought by an employer against the employee. 35

Sec. 2305.09. Except as provided for in division (C) of 36
this section, an action for any of the following causes shall be 37
brought within four years after the cause thereof accrued: 38

(A) For trespassing upon real property; 39

(B) For the recovery of personal property, or for taking 40
or detaining it; 41

(C) For relief on the ground of fraud, except when the 42
cause of action is a violation of section 2913.49 of the Revised 43
Code, in which case the action shall be brought within five 44
years after the cause thereof accrued; 45

(D) For an injury to the rights of the plaintiff not 46
arising on contract nor enumerated in sections 1304.35, 47

2305.071, 2305.10 to 2305.12, and 2305.14 of the Revised Code; 48

(E) For relief on the grounds of a physical or regulatory 49
taking of real property. 50

If the action is for trespassing under ground or injury to 51
mines, or for the wrongful taking of personal property, the 52
causes thereof shall not accrue until the wrongdoer is 53
discovered; nor, if it is for fraud, until the fraud is 54
discovered. 55

An action for professional negligence against a registered 56
surveyor shall be commenced within four years after the 57
completion of the engagement on which the cause of action is 58
based. 59

Sec. 4112.01. (A) As used in this chapter: 60

(1) "Person" includes one or more individuals, 61
partnerships, associations, organizations, corporations, legal 62
representatives, trustees, trustees in bankruptcy, receivers, 63
and other organized groups of persons. "Person" also includes, 64
but is not limited to, any owner, lessor, assignor, builder, 65
manager, broker, salesperson, appraiser, agent, employee, 66
lending institution, and the state and all political 67
subdivisions, authorities, agencies, boards, and commissions of 68
the state. 69

(2) "Employer" ~~includes~~ means the state, any political 70
subdivision of the state, ~~any or a person~~ employing four or more 71
persons within the state, ~~and any person acting directly or~~ 72
~~indirectly in the interest of an employer for each working day~~ 73
in each of twenty or more calendar weeks in the current or 74
preceding calendar year. 75

(3) "Employee" means an individual employed by any 76

employer but does not include any individual employed in the 77
domestic service of any person. 78

(4) "Labor organization" includes any organization that 79
exists, in whole or in part, for the purpose of collective 80
bargaining or of dealing with employers concerning grievances, 81
terms or conditions of employment, or other mutual aid or 82
protection in relation to employment. 83

(5) "Employment agency" includes any person regularly 84
undertaking, with or without compensation, to procure 85
opportunities to work or to procure, recruit, refer, or place 86
employees. 87

(6) "Commission" means the Ohio civil rights commission 88
created by section 4112.03 of the Revised Code. 89

(7) "Discriminate" includes segregate or separate. 90

(8) "Unlawful discriminatory practice" means any act 91
prohibited by section 4112.02, 4112.021, or 4112.022 of the 92
Revised Code. 93

(9) "Place of public accommodation" means any inn, 94
restaurant, eating house, barbershop, public conveyance by air, 95
land, or water, theater, store, other place for the sale of 96
merchandise, or any other place of public accommodation or 97
amusement of which the accommodations, advantages, facilities, 98
or privileges are available to the public. 99

(10) "Housing accommodations" includes any building or 100
structure, or portion of a building or structure, that is used 101
or occupied or is intended, arranged, or designed to be used or 102
occupied as the home residence, dwelling, dwelling unit, or 103
sleeping place of one or more individuals, groups, or families 104
whether or not living independently of each other; and any 105

vacant land offered for sale or lease. "Housing accommodations" 106
also includes any housing accommodations held or offered for 107
sale or rent by a real estate broker, salesperson, or agent, by 108
any other person pursuant to authorization of the owner, by the 109
owner, or by the owner's legal representative. 110

(11) "Restrictive covenant" means any specification 111
limiting the transfer, rental, lease, or other use of any 112
housing accommodations because of race, color, religion, sex, 113
military status, familial status, national origin, disability, 114
or ancestry, or any limitation based upon affiliation with or 115
approval by any person, directly or indirectly, employing race, 116
color, religion, sex, military status, familial status, national 117
origin, disability, or ancestry as a condition of affiliation or 118
approval. 119

(12) "Burial lot" means any lot for the burial of deceased 120
persons within any public burial ground or cemetery, including, 121
but not limited to, cemeteries owned and operated by municipal 122
corporations, townships, or companies or associations 123
incorporated for cemetery purposes. 124

(13) "Disability" means a physical or mental impairment 125
that substantially limits one or more major life activities, 126
including the functions of caring for one's self, performing 127
manual tasks, walking, seeing, hearing, speaking, breathing, 128
learning, and working; a record of a physical or mental 129
impairment; or being regarded as having a physical or mental 130
impairment. 131

(14) Except as otherwise provided in section 4112.021 of 132
the Revised Code, "age" means at least an individual aged forty 133
years-old or older. 134

(15) "Familial status" means either of the following:	135
(a) One or more individuals who are under eighteen years of age and who are domiciled with a parent or guardian having legal custody of the individual or domiciled, with the written permission of the parent or guardian having legal custody, with a designee of the parent or guardian;	136 137 138 139 140
(b) Any person who is pregnant or in the process of securing legal custody of any individual who is under eighteen years of age.	141 142 143
(16) (a) Except as provided in division (A) (16) (b) of this section, "physical or mental impairment" includes any of the following:	144 145 146
(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine;	147 148 149 150 151 152
(ii) Any mental or psychological disorder, including, but not limited to, mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;	153 154 155
(iii) Diseases and conditions, including, but not limited to, orthopedic, visual, speech, and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, human immunodeficiency virus infection, mental retardation, emotional illness, drug addiction, and alcoholism.	156 157 158 159 160 161
(b) "Physical or mental impairment" does not include any of the following:	162 163

(i) Homosexuality and bisexuality;	164
(ii) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;	165 166 167 168
(iii) Compulsive gambling, kleptomania, or pyromania;	169
(iv) Psychoactive substance use disorders resulting from the current illegal use of a controlled substance or the current use of alcoholic beverages.	170 171 172
(17) "Dwelling unit" means a single unit of residence for a family of one or more persons.	173 174
(18) "Common use areas" means rooms, spaces, or elements inside or outside a building that are made available for the use of residents of the building or their guests, and includes, but is not limited to, hallways, lounges, lobbies, laundry rooms, refuse rooms, mail rooms, recreational areas, and passageways among and between buildings.	175 176 177 178 179 180
(19) "Public use areas" means interior or exterior rooms or spaces of a privately or publicly owned building that are made available to the general public.	181 182 183
(20) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.	184 185
(21) "Disabled tenant" means a tenant or prospective tenant who is a person with a disability.	186 187
(22) "Military status" means a person's status in "service in the uniformed services" as defined in section 5923.05 of the Revised Code.	188 189 190

(23) "Aggrieved person" includes both of the following:	191
(a) Any person who claims to have been injured by any unlawful discriminatory practice described in division (H) of section 4112.02 of the Revised Code;	192 193 194
(b) Any person who believes that the person will be injured by, any unlawful discriminatory practice described in division (H) of section 4112.02 of the Revised Code that is about to occur.	195 196 197 198
<u>(24) "Unlawful discriminatory practice relating to employment" means both of the following:</u>	199 200
<u>(a) An unlawful discriminatory practice that is prohibited by division (A), (B), (C), (D), (E), or (F) of section 4112.02 of the Revised Code;</u>	201 202 203
<u>(b) An unlawful discriminatory practice that is prohibited by division (I) or (J) of section 4112.02 of the Revised Code that is related to an unlawful discriminatory practice prohibited by division (A), (B), (C), (D), (E), or (F) of that section.</u>	204 205 206 207 208
(B) For the purposes of divisions (A) to (F) of section 4112.02 of the Revised Code, the terms "because of sex" and "on the basis of sex" include, but are not limited to, because of or on the basis of pregnancy, any illness arising out of and occurring during the course of a pregnancy, childbirth, or related medical conditions. Women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in division (B) of section 4111.17 of the Revised Code	209 210 211 212 213 214 215 216 217 218 219

shall be interpreted to permit otherwise. This division shall 220
not be construed to require an employer to pay for health 221
insurance benefits for abortion, except where the life of the 222
mother would be endangered if the fetus were carried to term or 223
except where medical complications have arisen from the 224
abortion, provided that nothing in this division precludes an 225
employer from providing abortion benefits or otherwise affects 226
bargaining agreements in regard to abortion. 227

Sec. 4112.02. It shall be an unlawful discriminatory 228
practice: 229

(A) For any employer, because of the race, color, 230
religion, sex, military status, national origin, disability, 231
age, or ancestry of any person, to discharge without just cause, 232
to refuse to hire, or otherwise to discriminate against that 233
person with respect to hire, tenure, terms, conditions, or 234
privileges of employment, or any matter directly or indirectly 235
related to employment. 236

(B) For an employment agency or personnel placement 237
service, because of race, color, religion, sex, military status, 238
national origin, disability, age, or ancestry, to do any of the 239
following: 240

(1) Refuse or fail to accept, register, classify properly, 241
or refer for employment, or otherwise discriminate against any 242
person; 243

(2) Comply with a request from an employer for referral of 244
applicants for employment if the request directly or indirectly 245
indicates that the employer fails to comply with the provisions 246
of sections 4112.01 to 4112.07 of the Revised Code. 247

(C) For any labor organization to do any of the following: 248

(1) Limit or classify its membership on the basis of race,	249
color, religion, sex, military status, national origin,	250
disability, age, or ancestry;	251
(2) Discriminate against, limit the employment	252
opportunities of, or otherwise adversely affect the employment	253
status, wages, hours, or employment conditions of any person as	254
an employee because of race, color, religion, sex, military	255
status, national origin, disability, age, or ancestry.	256
(D) For any employer, labor organization, or joint labor-	257
management committee controlling apprentice training programs to	258
discriminate against any person because of race, color,	259
religion, sex, military status, national origin, disability, or	260
ancestry in admission to, or employment in, any program	261
established to provide apprentice training.	262
(E) Except where based on a bona fide occupational	263
qualification certified in advance by the commission, for any	264
employer, employment agency, personnel placement service, or	265
labor organization, prior to employment or admission to	266
membership, to do any of the following:	267
(1) Elicit or attempt to elicit any information concerning	268
the race, color, religion, sex, military status, national	269
origin, disability, age, or ancestry of an applicant for	270
employment or membership;	271
(2) Make or keep a record of the race, color, religion,	272
sex, military status, national origin, disability, age, or	273
ancestry of any applicant for employment or membership;	274
(3) Use any form of application for employment, or	275
personnel or membership blank, seeking to elicit information	276
regarding race, color, religion, sex, military status, national	277

origin, disability, age, or ancestry; but an employer holding a 278
contract containing a nondiscrimination clause with the 279
government of the United States, or any department or agency of 280
that government, may require an employee or applicant for 281
employment to furnish documentary proof of United States 282
citizenship and may retain that proof in the employer's 283
personnel records and may use photographic or fingerprint 284
identification for security purposes; 285

(4) Print or publish or cause to be printed or published 286
any notice or advertisement relating to employment or membership 287
indicating any preference, limitation, specification, or 288
discrimination, based upon race, color, religion, sex, military 289
status, national origin, disability, age, or ancestry; 290

(5) Announce or follow a policy of denying or limiting, 291
through a quota system or otherwise, employment or membership 292
opportunities of any group because of the race, color, religion, 293
sex, military status, national origin, disability, age, or 294
ancestry of that group; 295

(6) Utilize in the recruitment or hiring of persons any 296
employment agency, personnel placement service, training school 297
or center, labor organization, or any other employee-referring 298
source known to discriminate against persons because of their 299
race, color, religion, sex, military status, national origin, 300
disability, age, or ancestry. 301

(F) For any person seeking employment to publish or cause 302
to be published any advertisement that specifies or in any 303
manner indicates that person's race, color, religion, sex, 304
military status, national origin, disability, age, or ancestry, 305
or expresses a limitation or preference as to the race, color, 306
religion, sex, military status, national origin, disability, 307

age, or ancestry of any prospective employer. 308

(G) For any proprietor or any employee, keeper, or manager 309
of a place of public accommodation to deny to any person, except 310
for reasons applicable alike to all persons regardless of race, 311
color, religion, sex, military status, national origin, 312
disability, age, or ancestry, the full enjoyment of the 313
accommodations, advantages, facilities, or privileges of the 314
place of public accommodation. 315

(H) For any person to do any of the following: 316

(1) Refuse to sell, transfer, assign, rent, lease, 317
sublease, or finance housing accommodations, refuse to negotiate 318
for the sale or rental of housing accommodations, or otherwise 319
deny or make unavailable housing accommodations because of race, 320
color, religion, sex, military status, familial status, 321
ancestry, disability, or national origin; 322

(2) Represent to any person that housing accommodations 323
are not available for inspection, sale, or rental, when in fact 324
they are available, because of race, color, religion, sex, 325
military status, familial status, ancestry, disability, or 326
national origin; 327

(3) Discriminate against any person in the making or 328
purchasing of loans or the provision of other financial 329
assistance for the acquisition, construction, rehabilitation, 330
repair, or maintenance of housing accommodations, or any person 331
in the making or purchasing of loans or the provision of other 332
financial assistance that is secured by residential real estate, 333
because of race, color, religion, sex, military status, familial 334
status, ancestry, disability, or national origin or because of 335
the racial composition of the neighborhood in which the housing 336

accommodations are located, provided that the person, whether an individual, corporation, or association of any type, lends money as one of the principal aspects or incident to the person's principal business and not only as a part of the purchase price of an owner-occupied residence the person is selling nor merely casually or occasionally to a relative or friend;

(4) Discriminate against any person in the terms or conditions of selling, transferring, assigning, renting, leasing, or subleasing any housing accommodations or in furnishing facilities, services, or privileges in connection with the ownership, occupancy, or use of any housing accommodations, including the sale of fire, extended coverage, or homeowners insurance, because of race, color, religion, sex, military status, familial status, ancestry, disability, or national origin or because of the racial composition of the neighborhood in which the housing accommodations are located;

(5) Discriminate against any person in the terms or conditions of any loan of money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair, or maintenance of housing accommodations because of race, color, religion, sex, military status, familial status, ancestry, disability, or national origin or because of the racial composition of the neighborhood in which the housing accommodations are located;

(6) Refuse to consider without prejudice the combined income of both husband and wife for the purpose of extending mortgage credit to a married couple or either member of a married couple;

(7) Print, publish, or circulate any statement or advertisement, or make or cause to be made any statement or

advertisement, relating to the sale, transfer, assignment, 367
rental, lease, sublease, or acquisition of any housing 368
accommodations, or relating to the loan of money, whether or not 369
secured by mortgage or otherwise, for the acquisition, 370
construction, rehabilitation, repair, or maintenance of housing 371
accommodations, that indicates any preference, limitation, 372
specification, or discrimination based upon race, color, 373
religion, sex, military status, familial status, ancestry, 374
disability, or national origin, or an intention to make any such 375
preference, limitation, specification, or discrimination; 376

(8) Except as otherwise provided in division (H) (8) or 377
(17) of this section, make any inquiry, elicit any information, 378
make or keep any record, or use any form of application 379
containing questions or entries concerning race, color, 380
religion, sex, military status, familial status, ancestry, 381
disability, or national origin in connection with the sale or 382
lease of any housing accommodations or the loan of any money, 383
whether or not secured by mortgage or otherwise, for the 384
acquisition, construction, rehabilitation, repair, or 385
maintenance of housing accommodations. Any person may make 386
inquiries, and make and keep records, concerning race, color, 387
religion, sex, military status, familial status, ancestry, 388
disability, or national origin for the purpose of monitoring 389
compliance with this chapter. 390

(9) Include in any transfer, rental, or lease of housing 391
accommodations any restrictive covenant, or honor or exercise, 392
or attempt to honor or exercise, any restrictive covenant; 393

(10) Induce or solicit, or attempt to induce or solicit, a 394
housing accommodations listing, sale, or transaction by 395
representing that a change has occurred or may occur with 396

respect to the racial, religious, sexual, military status, 397
familial status, or ethnic composition of the block, 398
neighborhood, or other area in which the housing accommodations 399
are located, or induce or solicit, or attempt to induce or 400
solicit, a housing accommodations listing, sale, or transaction 401
by representing that the presence or anticipated presence of 402
persons of any race, color, religion, sex, military status, 403
familial status, ancestry, disability, or national origin, in 404
the block, neighborhood, or other area will or may have results 405
including, but not limited to, the following: 406

(a) The lowering of property values; 407

(b) A change in the racial, religious, sexual, military 408
status, familial status, or ethnic composition of the block, 409
neighborhood, or other area; 410

(c) An increase in criminal or antisocial behavior in the 411
block, neighborhood, or other area; 412

(d) A decline in the quality of the schools serving the 413
block, neighborhood, or other area. 414

(11) Deny any person access to or membership or 415
participation in any multiple-listing service, real estate 416
brokers' organization, or other service, organization, or 417
facility relating to the business of selling or renting housing 418
accommodations, or discriminate against any person in the terms 419
or conditions of that access, membership, or participation, on 420
account of race, color, religion, sex, military status, familial 421
status, national origin, disability, or ancestry; 422

(12) Coerce, intimidate, threaten, or interfere with any 423
person in the exercise or enjoyment of, or on account of that 424
person's having exercised or enjoyed or having aided or 425

encouraged any other person in the exercise or enjoyment of, any	426
right granted or protected by division (H) of this section;	427
(13) Discourage or attempt to discourage the purchase by a	428
prospective purchaser of housing accommodations, by representing	429
that any block, neighborhood, or other area has undergone or	430
might undergo a change with respect to its religious, racial,	431
sexual, military status, familial status, or ethnic composition;	432
(14) Refuse to sell, transfer, assign, rent, lease,	433
sublease, or finance, or otherwise deny or withhold, a burial	434
lot from any person because of the race, color, sex, military	435
status, familial status, age, ancestry, disability, or national	436
origin of any prospective owner or user of the lot;	437
(15) Discriminate in the sale or rental of, or otherwise	438
make unavailable or deny, housing accommodations to any buyer or	439
renter because of a disability of any of the following:	440
(a) The buyer or renter;	441
(b) A person residing in or intending to reside in the	442
housing accommodations after they are sold, rented, or made	443
available;	444
(c) Any individual associated with the person described in	445
division (H) (15) (b) of this section.	446
(16) Discriminate in the terms, conditions, or privileges	447
of the sale or rental of housing accommodations to any person or	448
in the provision of services or facilities to any person in	449
connection with the housing accommodations because of a	450
disability of any of the following:	451
(a) That person;	452
(b) A person residing in or intending to reside in the	453

housing accommodations after they are sold, rented, or made available;	454 455
(c) Any individual associated with the person described in division (H) (16) (b) of this section.	456 457
(17) Except as otherwise provided in division (H) (17) of this section, make an inquiry to determine whether an applicant for the sale or rental of housing accommodations, a person residing in or intending to reside in the housing accommodations after they are sold, rented, or made available, or any individual associated with that person has a disability, or make an inquiry to determine the nature or severity of a disability of the applicant or such a person or individual. The following inquiries may be made of all applicants for the sale or rental of housing accommodations, regardless of whether they have disabilities:	458 459 460 461 462 463 464 465 466 467 468
(a) An inquiry into an applicant's ability to meet the requirements of ownership or tenancy;	469 470
(b) An inquiry to determine whether an applicant is qualified for housing accommodations available only to persons with disabilities or persons with a particular type of disability;	471 472 473 474
(c) An inquiry to determine whether an applicant is qualified for a priority available to persons with disabilities or persons with a particular type of disability;	475 476 477
(d) An inquiry to determine whether an applicant currently uses a controlled substance in violation of section 2925.11 of the Revised Code or a substantively comparable municipal ordinance;	478 479 480 481
(e) An inquiry to determine whether an applicant at any	482

time has been convicted of or pleaded guilty to any offense, an 483
element of which is the illegal sale, offer to sell, 484
cultivation, manufacture, other production, shipment, 485
transportation, delivery, or other distribution of a controlled 486
substance. 487

(18) (a) Refuse to permit, at the expense of a person with 488
a disability, reasonable modifications of existing housing 489
accommodations that are occupied or to be occupied by the person 490
with a disability, if the modifications may be necessary to 491
afford the person with a disability full enjoyment of the 492
housing accommodations. This division does not preclude a 493
landlord of housing accommodations that are rented or to be 494
rented to a disabled tenant from conditioning permission for a 495
proposed modification upon the disabled tenant's doing one or 496
more of the following: 497

(i) Providing a reasonable description of the proposed 498
modification and reasonable assurances that the proposed 499
modification will be made in a workerlike manner and that any 500
required building permits will be obtained prior to the 501
commencement of the proposed modification; 502

(ii) Agreeing to restore at the end of the tenancy the 503
interior of the housing accommodations to the condition they 504
were in prior to the proposed modification, but subject to 505
reasonable wear and tear during the period of occupancy, if it 506
is reasonable for the landlord to condition permission for the 507
proposed modification upon the agreement; 508

(iii) Paying into an interest-bearing escrow account that 509
is in the landlord's name, over a reasonable period of time, a 510
reasonable amount of money not to exceed the projected costs at 511
the end of the tenancy of the restoration of the interior of the 512

housing accommodations to the condition they were in prior to 513
the proposed modification, but subject to reasonable wear and 514
tear during the period of occupancy, if the landlord finds the 515
account reasonably necessary to ensure the availability of funds 516
for the restoration work. The interest earned in connection with 517
an escrow account described in this division shall accrue to the 518
benefit of the disabled tenant who makes payments into the 519
account. 520

(b) A landlord shall not condition permission for a 521
proposed modification upon a disabled tenant's payment of a 522
security deposit that exceeds the customarily required security 523
deposit of all tenants of the particular housing accommodations. 524

(19) Refuse to make reasonable accommodations in rules, 525
policies, practices, or services when necessary to afford a 526
person with a disability equal opportunity to use and enjoy a 527
dwelling unit, including associated public and common use areas; 528

(20) Fail to comply with the standards and rules adopted 529
under division (A) of section 3781.111 of the Revised Code; 530

(21) Discriminate against any person in the selling, 531
brokering, or appraising of real property because of race, 532
color, religion, sex, military status, familial status, 533
ancestry, disability, or national origin; 534

(22) Fail to design and construct covered multifamily 535
dwellings for first occupancy on or after June 30, 1992, in 536
accordance with the following conditions: 537

(a) The dwellings shall have at least one building 538
entrance on an accessible route, unless it is impractical to do 539
so because of the terrain or unusual characteristics of the 540
site. 541

(b) With respect to dwellings that have a building 542
entrance on an accessible route, all of the following apply: 543

(i) The public use areas and common use areas of the 544
dwellings shall be readily accessible to and usable by persons 545
with a disability. 546

(ii) All the doors designed to allow passage into and 547
within all premises shall be sufficiently wide to allow passage 548
by persons with a disability who are in wheelchairs. 549

(iii) All premises within covered multifamily dwelling 550
units shall contain an accessible route into and through the 551
dwelling; all light switches, electrical outlets, thermostats, 552
and other environmental controls within such units shall be in 553
accessible locations; the bathroom walls within such units shall 554
contain reinforcements to allow later installation of grab bars; 555
and the kitchens and bathrooms within such units shall be 556
designed and constructed in a manner that enables an individual 557
in a wheelchair to maneuver about such rooms. 558

For purposes of division (H) (22) of this section, "covered 559
multifamily dwellings" means buildings consisting of four or 560
more units if such buildings have one or more elevators and 561
ground floor units in other buildings consisting of four or more 562
units. 563

(I) For any person to discriminate in any manner against 564
any other person because that person has opposed any unlawful 565
discriminatory practice defined in this section or because that 566
person has made a charge, testified, assisted, or participated 567
in any manner in any investigation, proceeding, or hearing under 568
sections 4112.01 to 4112.07 of the Revised Code. 569

(J) For any person to aid, abet, incite, compel, or coerce 570

the doing of any act declared by this section to be an unlawful 571
discriminatory practice, to obstruct or prevent any person from 572
complying with this chapter or any order issued under it, or to 573
attempt directly or indirectly to commit any act declared by 574
this section to be an unlawful discriminatory practice. 575

(K) (1) Nothing in division (H) of this section shall bar 576
any religious or denominational institution or organization, or 577
any nonprofit charitable or educational organization that is 578
operated, supervised, or controlled by or in connection with a 579
religious organization, from limiting the sale, rental, or 580
occupancy of housing accommodations that it owns or operates for 581
other than a commercial purpose to persons of the same religion, 582
or from giving preference in the sale, rental, or occupancy of 583
such housing accommodations to persons of the same religion, 584
unless membership in the religion is restricted on account of 585
race, color, or national origin. 586

(2) Nothing in division (H) of this section shall bar any 587
bona fide private or fraternal organization that, incidental to 588
its primary purpose, owns or operates lodgings for other than a 589
commercial purpose, from limiting the rental or occupancy of the 590
lodgings to its members or from giving preference to its 591
members. 592

(3) Nothing in division (H) of this section limits the 593
applicability of any reasonable local, state, or federal 594
restrictions regarding the maximum number of occupants permitted 595
to occupy housing accommodations. Nothing in that division 596
prohibits the owners or managers of housing accommodations from 597
implementing reasonable occupancy standards based on the number 598
and size of sleeping areas or bedrooms and the overall size of a 599
dwelling unit, provided that the standards are not implemented 600

to circumvent the purposes of this chapter and are formulated, 601
implemented, and interpreted in a manner consistent with this 602
chapter and any applicable local, state, or federal restrictions 603
regarding the maximum number of occupants permitted to occupy 604
housing accommodations. 605

(4) Nothing in division (H) of this section requires that 606
housing accommodations be made available to an individual whose 607
tenancy would constitute a direct threat to the health or safety 608
of other individuals or whose tenancy would result in 609
substantial physical damage to the property of others. 610

(5) Nothing in division (H) of this section pertaining to 611
discrimination on the basis of familial status shall be 612
construed to apply to any of the following: 613

(a) Housing accommodations provided under any state or 614
federal program that have been determined under the "Fair 615
Housing Amendments Act of 1988," 102 Stat. 1623, 42 U.S.C.A. 616
3607, as amended, to be specifically designed and operated to 617
assist elderly persons; 618

(b) Housing accommodations intended for and solely 619
occupied by persons who are sixty-two years of age or older; 620

(c) Housing accommodations intended and operated for 621
occupancy by at least one person who is fifty-five years of age 622
or older per unit, as determined under the "Fair Housing 623
Amendments Act of 1988," 102 Stat. 1623, 42 U.S.C.A. 3607, as 624
amended. 625

(L) Nothing in divisions (A) to (E) of this section shall 626
be construed to require a person with a disability to be 627
employed or trained under circumstances that would significantly 628
increase the occupational hazards affecting either the person 629

with a disability, other employees, the general public, or the facilities in which the work is to be performed, or to require the employment or training of a person with a disability in a job that requires the person with a disability routinely to undertake any task, the performance of which is substantially and inherently impaired by the person's disability.

(M) Nothing in divisions (H) (1) to (18) of this section shall be construed to require any person selling or renting property to modify the property in any way or to exercise a higher degree of care for a person with a disability, to relieve any person with a disability of any obligation generally imposed on all persons regardless of disability in a written lease, rental agreement, or contract of purchase or sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including financial obligations, of the lease, agreement, or contract.

~~(N) An aggrieved individual may enforce the individual's rights relative to discrimination on the basis of age as provided for in this section by instituting a civil action, within one hundred eighty days after the alleged unlawful discriminatory practice occurred, in any court with jurisdiction for any legal or equitable relief that will effectuate the individual's rights.~~

~~A person who files a civil action under this division is barred, with respect to the practices complained of, from instituting a civil action under section 4112.14 of the Revised Code and from filing a charge with the commission under section 4112.05 of the Revised Code.~~

~~(O) With regard to age, it shall not be an unlawful discriminatory practice and it shall not constitute a violation~~

~~of division (A) of section 4112.14 of the Revised Code~~ for any 660
employer, employment agency, joint labor-management committee 661
controlling apprenticeship training programs, or labor 662
organization to do any of the following: 663

(1) Establish bona fide employment qualifications 664
reasonably related to the particular business or occupation that 665
may include standards for skill, aptitude, physical capability, 666
intelligence, education, maturation, and experience; 667

(2) Observe the terms of a bona fide seniority system or 668
any bona fide employee benefit plan, including, but not limited 669
to, a retirement, pension, or insurance plan, that is not a 670
subterfuge to evade the purposes of this section. However, no 671
such employee benefit plan shall excuse the failure to hire any 672
individual, and no such seniority system or employee benefit 673
plan shall require or permit the involuntary retirement of any 674
individual, because of the individual's age except as provided 675
for in the "Age Discrimination in Employment Act Amendment of 676
1978," 92 Stat. 189, 29 U.S.C.A. 623, as amended by the "Age 677
Discrimination in Employment Act Amendments of 1986," 100 Stat. 678
3342, 29 U.S.C.A. 623, as amended. 679

(3) Retire an employee who has attained sixty-five years 680
of age who, for the two-year period immediately before 681
retirement, is employed in a bona fide executive or a high 682
policymaking position, if the employee is entitled to an 683
immediate nonforfeitable annual retirement benefit from a 684
pension, profit-sharing, savings, or deferred compensation plan, 685
or any combination of those plans, of the employer of the 686
employee, which equals, in the aggregate, at least forty-four 687
thousand dollars, in accordance with the conditions of the "Age 688
Discrimination in Employment Act Amendment of 1978," 92 Stat. 689

189, 29 U.S.C.A. 631, as amended by the "Age Discrimination in 690
Employment Act Amendments of 1986," 100 Stat. 3342, 29 U.S.C.A. 691
631, as amended; 692

(4) Observe the terms of any bona fide apprenticeship 693
program if the program is registered with the Ohio 694
apprenticeship council pursuant to sections 4139.01 to 4139.06 695
of the Revised Code and is approved by the federal committee on 696
apprenticeship of the United States department of labor. 697

~~(P)-(O)~~ Nothing in this chapter prohibiting age 698
discrimination and nothing in division (A) of section 4112.14 of 699
the Revised Code shall be construed to prohibit the following: 700

(1) The designation of uniform age the attainment of which 701
is necessary for public employees to receive pension or other 702
retirement benefits pursuant to Chapter 145., 742., 3307., 703
3309., or 5505. of the Revised Code; 704

(2) The mandatory retirement of uniformed patrol officers 705
of the state highway patrol as provided in section 5505.16 of 706
the Revised Code; 707

(3) The maximum age requirements for appointment as a 708
patrol officer in the state highway patrol established by 709
section 5503.01 of the Revised Code; 710

(4) The maximum age requirements established for original 711
appointment to a police department or fire department in 712
sections 124.41 and 124.42 of the Revised Code; 713

(5) Any maximum age not in conflict with federal law that 714
may be established by a municipal charter, municipal ordinance, 715
or resolution of a board of township trustees for original 716
appointment as a police officer or firefighter; 717

(6) Any mandatory retirement provision not in conflict 718
with federal law of a municipal charter, municipal ordinance, or 719
resolution of a board of township trustees pertaining to police 720
officers and firefighters; 721

(7) Until January 1, 1994, the mandatory retirement of any 722
employee who has attained seventy years of age and who is 723
serving under a contract of unlimited tenure, or similar 724
arrangement providing for unlimited tenure, at an institution of 725
higher education as defined in the "Education Amendments of 726
1980," 94 Stat. 1503, 20 U.S.C.A. 1141(a). 727

~~(Q)~~(P)(1) (a) Except as provided in division ~~(Q)~~(P)(1) (b) 728
of this section, for purposes of divisions (A) to (E) of this 729
section, a disability does not include any physiological 730
disorder or condition, mental or psychological disorder, or 731
disease or condition caused by an illegal use of any controlled 732
substance by an employee, applicant, or other person, if an 733
employer, employment agency, personnel placement service, labor 734
organization, or joint labor-management committee acts on the 735
basis of that illegal use. 736

(b) Division ~~(Q)~~(P)(1) (a) of this section does not apply 737
to an employee, applicant, or other person who satisfies any of 738
the following: 739

(i) The employee, applicant, or other person has 740
successfully completed a supervised drug rehabilitation program 741
and no longer is engaging in the illegal use of any controlled 742
substance, or the employee, applicant, or other person otherwise 743
successfully has been rehabilitated and no longer is engaging in 744
that illegal use. 745

(ii) The employee, applicant, or other person is 746

participating in a supervised drug rehabilitation program and no 747
longer is engaging in the illegal use of any controlled 748
substance. 749

(iii) The employee, applicant, or other person is 750
erroneously regarded as engaging in the illegal use of any 751
controlled substance, but the employee, applicant, or other 752
person is not engaging in that illegal use. 753

(2) Divisions (A) to (E) of this section do not prohibit 754
an employer, employment agency, personnel placement service, 755
labor organization, or joint labor-management committee from 756
doing any of the following: 757

(a) Adopting or administering reasonable policies or 758
procedures, including, but not limited to, testing for the 759
illegal use of any controlled substance, that are designed to 760
ensure that an individual described in division ~~(Q)~~(P) (1) (b) (i) 761
or (ii) of this section no longer is engaging in the illegal use 762
of any controlled substance; 763

(b) Prohibiting the illegal use of controlled substances 764
and the use of alcohol at the workplace by all employees; 765

(c) Requiring that employees not be under the influence of 766
alcohol or not be engaged in the illegal use of any controlled 767
substance at the workplace; 768

(d) Requiring that employees behave in conformance with 769
the requirements established under "The Drug-Free Workplace Act 770
of 1988," 102 Stat. 4304, 41 U.S.C.A. 701, as amended; 771

(e) Holding an employee who engages in the illegal use of 772
any controlled substance or who is an alcoholic to the same 773
qualification standards for employment or job performance, and 774
the same behavior, to which the employer, employment agency, 775

personnel placement service, labor organization, or joint labor- 776
management committee holds other employees, even if any 777
unsatisfactory performance or behavior is related to an 778
employee's illegal use of a controlled substance or alcoholism; 779

(f) Exercising other authority recognized in the 780
"Americans with Disabilities Act of 1990," 104 Stat. 327, 42 781
U.S.C.A. 12101, as amended, including, but not limited to, 782
requiring employees to comply with any applicable federal 783
standards. 784

(3) For purposes of this chapter, a test to determine the 785
illegal use of any controlled substance does not include a 786
medical examination. 787

(4) Division ~~(Q)~~ (P) of this section does not encourage, 788
prohibit, or authorize, and shall not be construed as 789
encouraging, prohibiting, or authorizing, the conduct of testing 790
for the illegal use of any controlled substance by employees, 791
applicants, or other persons, or the making of employment 792
decisions based on the results of that type of testing. 793

~~(R)~~ (Q) This section does not apply to a religious 794
corporation, association, educational institution, or society 795
with respect to the employment of an individual of a particular 796
religion to perform work connected with the carrying on by that 797
religious corporation, association, educational institution, or 798
society of its activities. 799

The unlawful discriminatory practices defined in this 800
section do not make it unlawful for a person or an appointing 801
authority administering an examination under section 124.23 of 802
the Revised Code to obtain information about an applicant's 803
military status for the purpose of determining if the applicant 804

is eligible for the additional credit that is available under 805
that section. 806

Sec. 4112.04. (A) The commission shall do all of the 807
following: 808

(1) Establish and maintain a principal office in the city 809
of Columbus and any other offices within the state that it 810
considers necessary; 811

(2) Appoint an executive director who shall serve at the 812
pleasure of the commission and be its principal administrative 813
officer. The executive director shall be paid a salary fixed 814
pursuant to Chapter 124. of the Revised Code. 815

(3) Appoint hearing examiners and other employees and 816
agents who it considers necessary and prescribe their duties 817
subject to Chapter 124. of the Revised Code; 818

(4) Adopt, promulgate, amend, and rescind rules to 819
effectuate the provisions of this chapter and the policies and 820
practice of the commission in connection with this chapter; 821

(5) Formulate policies to effectuate the purposes of this 822
chapter and make recommendations to agencies and officers of the 823
state or political subdivisions to effectuate the policies; 824

(6) Receive, investigate, and pass upon written charges 825
made under oath of unlawful discriminatory practices; 826

(7) Make periodic surveys of the existence and effect of 827
discrimination because of race, color, religion, sex, military 828
status, familial status, national origin, disability, age, or 829
ancestry on the enjoyment of civil rights by persons within the 830
state; 831

(8) Report, from time to time, but not less than once a 832

year, to the general assembly and the governor, describing in 833
detail the investigations, proceedings, and hearings it has 834
conducted and their outcome, the decisions it has rendered, and 835
the other work performed by it, which report shall include a 836
copy of any surveys prepared pursuant to division (A) (7) of this 837
section and shall include the recommendations of the commission 838
as to legislative or other remedial action; 839

(9) Prepare a comprehensive educational program, in 840
cooperation with the department of education, for the students 841
of the public schools of this state and for all other residents 842
of this state that is designed to eliminate prejudice on the 843
basis of race, color, religion, sex, military status, familial 844
status, national origin, disability, age, or ancestry in this 845
state, to further good will among those groups, and to emphasize 846
the origin of prejudice against those groups, its harmful 847
effects, and its incompatibility with American principles of 848
equality and fair play; 849

(10) Receive progress reports from agencies, 850
instrumentalities, institutions, boards, commissions, and other 851
entities of this state or any of its political subdivisions and 852
their agencies, instrumentalities, institutions, boards, 853
commissions, and other entities regarding affirmative action 854
programs for the employment of persons against whom 855
discrimination is prohibited by this chapter, or regarding any 856
affirmative housing accommodations programs developed to 857
eliminate or reduce an imbalance of race, color, religion, sex, 858
military status, familial status, national origin, disability, 859
or ancestry. All agencies, instrumentalities, institutions, 860
boards, commissions, and other entities of this state or its 861
political subdivisions, and all political subdivisions, that 862
have undertaken affirmative action programs pursuant to a 863

conciliation agreement with the commission, an executive order 864
of the governor, any federal statute or rule, or an executive 865
order of the president of the United States shall file progress 866
reports with the commission annually on or before the first day 867
of November. The commission shall analyze and evaluate the 868
progress reports and report its findings annually to the general 869
assembly on or before the thirtieth day of January of the year 870
immediately following the receipt of the reports. 871

(11) Notify a person who files a charge pursuant to 872
section 4112.051 of the Revised Code of both of the following: 873

(a) That, under section 4112.053 of the Revised Code, the 874
person is prohibited from bringing a civil action under section 875
4112.052 or 4112.99 of the Revised Code if the person filed a 876
charge under section 4112.051 of the Revised Code that is 877
pending and is based, in whole or in part, on the same 878
allegations and practices; 879

(b) That the statute of limitations for bringing a civil 880
action under section 4112.052 or 4112.99 of the Revised Code 881
that is based, in whole or in part, on the same allegations and 882
practices as a charge filed under section 4112.051 of the 883
Revised Code is tolled pursuant to section 4112.053 of the 884
Revised Code. 885

(B) The commission may do any of the following: 886

(1) Meet and function at any place within the state; 887

(2) Initiate and undertake on its own motion 888
investigations of problems of employment or housing 889
accommodations discrimination; 890

(3) Hold hearings, subpoena witnesses, compel their 891
attendance, administer oaths, take the testimony of any person 892

under oath, require the production for examination of any books 893
and papers relating to any matter under investigation or in 894
question before the commission, and make rules as to the 895
issuance of subpoenas by individual commissioners. 896

(a) In conducting a hearing or investigation, the 897
commission shall have access at all reasonable times to 898
premises, records, documents, individuals, and other evidence or 899
possible sources of evidence and may examine, record, and copy 900
the premises, records, documents, and other evidence or possible 901
sources of evidence and take and record the testimony or 902
statements of the individuals as reasonably necessary for the 903
furtherance of the hearing or investigation. In investigations, 904
the commission shall comply with the fourth amendment to the 905
United States Constitution relating to unreasonable searches and 906
seizures. The commission or a member of the commission may issue 907
subpoenas to compel access to or the production of premises, 908
records, documents, and other evidence or possible sources of 909
evidence or the appearance of individuals, and may issue 910
interrogatories to a respondent, to the same extent and subject 911
to the same limitations as would apply if the subpoenas or 912
interrogatories were issued or served in aid of a civil action 913
in a court of common pleas. 914

(b) Upon written application by a party to a hearing under 915
division (B) of section 4112.05 or division (F) of section 916
4112.051 of the Revised Code, the commission shall issue 917
subpoenas in its name to the same extent and subject to the same 918
limitations as subpoenas issued by the commission. Subpoenas 919
issued at the request of a party shall show on their face the 920
name and address of the party and shall state that they were 921
issued at the party's request. 922

(c) Witnesses summoned by subpoena of the commission are 923
entitled to the witness and mileage fees provided for under 924
section 119.094 of the Revised Code. 925

(d) Within five days after service of a subpoena upon any 926
person, the person may petition the commission to revoke or 927
modify the subpoena. The commission shall grant the petition if 928
it finds that the subpoena requires an appearance or attendance 929
at an unreasonable time or place, that it requires production of 930
evidence that does not relate to any matter before the 931
commission, that it does not describe with sufficient 932
particularity the evidence to be produced, that compliance would 933
be unduly onerous, or for other good reason. 934

(e) In case of contumacy or refusal to obey a subpoena, 935
the commission or person at whose request it was issued may 936
petition for its enforcement in the court of common pleas in the 937
county in which the person to whom the subpoena was addressed 938
resides, was served, or transacts business. 939

(4) Create local or statewide advisory agencies and 940
conciliation councils to aid in effectuating the purposes of 941
this chapter. The commission may itself, or it may empower these 942
agencies and councils to, do either or both of the following: 943

(a) Study the problems of discrimination in all or 944
specific fields of human relationships when based on race, 945
color, religion, sex, military status, familial status, national 946
origin, disability, age, or ancestry; 947

(b) Foster through community effort, or otherwise, good 948
will among the groups and elements of the population of the 949
state. 950

The agencies and councils may make recommendations to the 951

commission for the development of policies and procedures in 952
general. They shall be composed of representative citizens who 953
shall serve without pay, except that reimbursement for actual 954
and necessary traveling expenses shall be made to citizens who 955
serve on a statewide agency or council. 956

(5) Issue any publications and the results of 957
investigations and research that in its judgment will tend to 958
promote good will and minimize or eliminate discrimination 959
because of race, color, religion, sex, military status, familial 960
status, national origin, disability, age, or ancestry. 961

Sec. 4112.05. (A) ~~The~~ With the exception of unlawful 962
discriminatory practices relating to employment, the commission, 963
as provided in this section, shall prevent any person from 964
engaging in unlawful discriminatory practices, provided that, 965
before instituting the formal hearing authorized by division (B) 966
of this section, it shall attempt, by informal methods of 967
conference, conciliation, and persuasion, to induce compliance 968
with this chapter. 969

(B) (1) Any person may file a charge with the commission 970
alleging that another person has engaged or is engaging in an 971
unlawful discriminatory practice. In the case of a charge 972
alleging an unlawful discriminatory practice described in 973
division ~~(A), (B), (C), (D), (E), (F), (G),~~ (I), or (J) of 974
section 4112.02 or in section 4112.021 or 4112.022 of the 975
Revised Code, the charge shall be in writing and under oath and 976
shall be filed with the commission within six months after the 977
alleged unlawful discriminatory practice was committed. In the 978
case of a charge alleging an unlawful discriminatory practice 979
described in division (H) of section 4112.02 of the Revised 980
Code, the charge shall be in writing and under oath and shall be 981

filed with the commission within one year after the alleged 982
unlawful discriminatory practice was committed. 983

(2) Upon receiving a charge, the commission may initiate a 984
preliminary investigation to determine whether it is probable 985
that an unlawful discriminatory practice has been or is being 986
engaged in. The commission also may conduct, upon its own 987
initiative and independent of the filing of any charges, a 988
preliminary investigation relating to any of the unlawful 989
discriminatory practices described in division ~~(A), (B), (C),~~ 990
~~(D), (E), (F),~~ (I), or (J) of section 4112.02 or in section 991
4112.021 or 4112.022 of the Revised Code. Prior to a 992
~~notification of a complainant under division (B) (4) of this~~ 993
~~section or prior to the commencement of informal methods of~~ 994
~~conference, conciliation, and persuasion under that division,~~ 995
the members of the commission and the officers and employees of 996
the commission shall not make public in any manner and shall 997
retain as confidential all information that was obtained as a 998
result of or that otherwise pertains to a preliminary 999
investigation other than one described in division (B) (3) of 1000
this section. 1001

(3) (a) Unless it is impracticable to do so and subject to 1002
its authority under division (B) (3) (d) of this section, the 1003
commission shall complete a preliminary investigation of a 1004
charge filed pursuant to division (B) (1) of this section that 1005
alleges an unlawful discriminatory practice described in 1006
division (H) of section 4112.02 of the Revised Code, and shall 1007
take one of the following actions, within one hundred days after 1008
the filing of the charge: 1009

(i) Notify the complainant and the respondent that it is 1010
not probable that an unlawful discriminatory practice described 1011

in division (H) of section 4112.02 of the Revised Code has been 1012
or is being engaged in and that the commission will not issue a 1013
complaint in the matter; 1014

(ii) Initiate a complaint and schedule it for informal 1015
methods of conference, conciliation, and persuasion; 1016

(iii) Initiate a complaint and refer it to the attorney 1017
general with a recommendation to seek a temporary or permanent 1018
injunction or a temporary restraining order. If this action is 1019
taken, the attorney general shall apply, as expeditiously as 1020
possible after receipt of the complaint, to the court of common 1021
pleas of the county in which the unlawful discriminatory 1022
practice allegedly occurred for the appropriate injunction or 1023
order, and the court shall hear and determine the application as 1024
expeditiously as possible. 1025

(b) If it is not practicable to comply with the 1026
requirements of division (B) (3) (a) of this section within the 1027
one-hundred-day period described in that division, the 1028
commission shall notify the complainant and the respondent in 1029
writing of the reasons for the noncompliance. 1030

(c) Prior to the issuance of a complaint under division 1031
(B) (3) (a) (ii) or (iii) of this section or prior to a 1032
notification of the complainant and the respondent under 1033
division (B) (3) (a) (i) of this section, the members of the 1034
commission and the officers and employees of the commission 1035
shall not make public in any manner and shall retain as 1036
confidential all information that was obtained as a result of or 1037
that otherwise pertains to a preliminary investigation of a 1038
charge filed pursuant to division (B) (1) of this section that 1039
alleges an unlawful discriminatory practice described in 1040
division (H) of section ~~4112.05~~4112.02 of the Revised Code. 1041

(d) Notwithstanding the types of action described in 1042
divisions (B) (3) (a) (ii) and (iii) of this section, prior to the 1043
issuance of a complaint or the referral of a complaint to the 1044
attorney general and prior to endeavoring to eliminate an 1045
unlawful discriminatory practice described in division (H) of 1046
section 4112.02 of the Revised Code by informal methods of 1047
conference, conciliation, and persuasion, the commission may 1048
seek a temporary or permanent injunction or a temporary 1049
restraining order in the court of common pleas of the county in 1050
which the unlawful discriminatory practice allegedly occurred. 1051

(4) If the commission determines after a preliminary 1052
investigation other than one concerning an alleged unlawful 1053
discriminatory practice relating to employment or one described 1054
in division (B) (3) of this section that it is not probable that 1055
an unlawful discriminatory practice has been or is being engaged 1056
in, it shall notify any complainant under division (B) (1) of 1057
this section that it has so determined and that it will not 1058
issue a complaint in the matter. If the commission determines 1059
after a preliminary investigation other than the one concerning 1060
an alleged unlawful discriminatory practice relating to 1061
employment or one described in division (B) (3) of this section 1062
that it is probable that an unlawful discriminatory practice has 1063
been or is being engaged in, it shall endeavor to eliminate the 1064
practice by informal methods of conference, conciliation, and 1065
persuasion. 1066

(5) Nothing said or done during informal methods of 1067
conference, conciliation, and persuasion under this section 1068
shall be disclosed by any member of the commission or its staff 1069
or be used as evidence in any subsequent hearing or other 1070
proceeding. If, after a preliminary investigation and the use of 1071
informal methods of conference, conciliation, and persuasion 1072

under this section, the commission is satisfied that any 1073
unlawful discriminatory practice will be eliminated, it may 1074
treat the charge involved as being conciliated and enter that 1075
disposition on the records of the commission. If the commission 1076
fails to effect the elimination of an unlawful discriminatory 1077
practice by informal methods of conference, conciliation, and 1078
persuasion under this section and to obtain voluntary compliance 1079
with this chapter, the commission shall issue and cause to be 1080
served upon any person, including the respondent against whom a 1081
complainant has filed a charge pursuant to division (B)(1) of 1082
this section, a complaint stating the charges involved and 1083
containing a notice of an opportunity for a hearing before the 1084
commission, a member of the commission, or a hearing examiner at 1085
a place that is stated in the notice and that is located within 1086
the county in which the alleged unlawful discriminatory practice 1087
has occurred or is occurring or in which the respondent resides 1088
or transacts business. The hearing shall be held not less than 1089
thirty days after the service of the complaint upon the 1090
complainant, the aggrieved persons other than the complainant on 1091
whose behalf the complaint is issued, and the respondent, unless 1092
the complainant, an aggrieved person, or the respondent elects 1093
to proceed under division (A)(2) of section ~~4112.051~~4112.055 of 1094
the Revised Code when that division is applicable. If a 1095
complaint pertains to an alleged unlawful discriminatory 1096
practice described in division (H) of section 4112.02 of the 1097
Revised Code, the complaint shall notify the complainant, an 1098
aggrieved person, and the respondent of the right of the 1099
complainant, an aggrieved person, or the respondent to elect to 1100
proceed with the administrative hearing process under this 1101
section or to proceed under division (A)(2) of section ~~4112.051~~- 1102
4112.055 of the Revised Code. 1103

(6) The attorney general shall represent the commission at 1104
any hearing held pursuant to division (B) (5) of this section and 1105
shall present the evidence in support of the complaint. 1106

(7) Any complaint issued pursuant to division (B) (5) of 1107
this section after the filing of a charge under division (B) (1) 1108
of this section shall be so issued within one year after the 1109
complainant filed the charge with respect to an alleged unlawful 1110
discriminatory practice. 1111

(C) Any complaint issued pursuant to division (B) of this 1112
section may be amended by the commission, a member of the 1113
commission, or the hearing examiner conducting a hearing under 1114
division (B) of this section, at any time prior to or during the 1115
hearing. The respondent has the right to file an answer or an 1116
amended answer to the original and amended complaints and to 1117
appear at the hearing in person, by attorney, or otherwise to 1118
examine and cross-examine witnesses. 1119

(D) The complainant shall be a party to a hearing under 1120
division (B) of this section, and any person who is an 1121
indispensable party to a complete determination or settlement of 1122
a question involved in the hearing shall be joined. Any 1123
aggrieved person who has or claims an interest in the subject of 1124
the hearing and in obtaining or preventing relief against the 1125
unlawful discriminatory practices complained of shall be 1126
permitted to appear only for the presentation of oral or written 1127
arguments, to present evidence, perform direct and cross- 1128
examination, and be represented by counsel. The commission shall 1129
adopt rules, in accordance with Chapter 119. of the Revised Code 1130
governing the authority granted under this division. 1131

(E) In any hearing under division (B) of this section, the 1132
commission, a member of the commission, or the hearing examiner 1133

shall not be bound by the Rules of Evidence but, in ascertaining 1134
the practices followed by the respondent, shall take into 1135
account all reliable, probative, and substantial statistical or 1136
other evidence produced at the hearing that may tend to prove 1137
the existence of a predetermined pattern of employment or 1138
membership, provided that nothing contained in this section 1139
shall be construed to authorize or require any person to observe 1140
the proportion that persons of any race, color, religion, sex, 1141
military status, familial status, national origin, disability, 1142
age, or ancestry bear to the total population or in accordance 1143
with any criterion other than the individual qualifications of 1144
the applicant. 1145

(F) The testimony taken at a hearing under division (B) of 1146
this section shall be under oath and shall be reduced to writing 1147
and filed with the commission. Thereafter, in its discretion, 1148
the commission, upon the service of a notice upon the 1149
complainant and the respondent that indicates an opportunity to 1150
be present, may take further testimony or hear argument. 1151

(G) (1) If, upon all reliable, probative, and substantial 1152
evidence presented at a hearing under division (B) of this 1153
section, the commission determines that the respondent has 1154
engaged in, or is engaging in, any unlawful discriminatory 1155
practice, whether against the complainant or others, the 1156
commission shall state its findings of fact and conclusions of 1157
law and shall issue and, subject to the provisions of Chapter 1158
119. of the Revised Code, cause to be served on the respondent 1159
an order requiring the respondent to cease and desist from the 1160
unlawful discriminatory practice, requiring the respondent to 1161
take any further affirmative or other action that will 1162
effectuate the purposes of this chapter, including, but not 1163
limited to, hiring, reinstatement, or upgrading of employees 1164

with or without back pay, or admission or restoration to union 1165
membership, and requiring the respondent to report to the 1166
commission the manner of compliance. If the commission directs 1167
payment of back pay, it shall make allowance for interim 1168
earnings. If it finds a violation of division (H) of section 1169
4112.02 of the Revised Code, the commission additionally shall 1170
require the respondent to pay actual damages and reasonable 1171
attorney's fees, and may award to the complainant punitive 1172
damages as follows: 1173

(a) If division (G) (1) (b) or (c) of this section does not 1174
apply, punitive damages in an amount not to exceed ten thousand 1175
dollars; 1176

(b) If division (G) (1) (c) of this section does not apply 1177
and if the respondent has been determined by a final order of 1178
the commission or by a final judgment of a court to have 1179
committed one violation of division (H) of section 4112.02 of 1180
the Revised Code during the five-year period immediately 1181
preceding the date on which a complaint was issued pursuant to 1182
division (B) of this section, punitive damages in an amount not 1183
to exceed twenty-five thousand dollars; 1184

(c) If the respondent has been determined by a final order 1185
of the commission or by a final judgment of a court to have 1186
committed two or more violations of division (H) of section 1187
4112.02 of the Revised Code during the seven-year period 1188
immediately preceding the date on which a complaint was issued 1189
pursuant to division (B) of this section, punitive damages in an 1190
amount not to exceed fifty thousand dollars. 1191

(2) Upon the submission of reports of compliance, the 1192
commission may issue a declaratory order stating that the 1193
respondent has ceased to engage in particular unlawful 1194

discriminatory practices. 1195

(H) If the commission finds that no probable cause exists 1196
for crediting charges of unlawful discriminatory practices or 1197
if, upon all the evidence presented at a hearing under division 1198
(B) of this section on a charge, the commission finds that a 1199
respondent has not engaged in any unlawful discriminatory 1200
practice against the complainant or others, it shall state its 1201
findings of fact and shall issue and cause to be served on the 1202
complainant an order dismissing the complaint as to the 1203
respondent. A copy of the order shall be delivered in all cases 1204
to the attorney general and any other public officers whom the 1205
commission considers proper. 1206

(I) Until the time period for appeal set forth in division 1207
(H) of section 4112.06 of the Revised Code expires, the 1208
commission, subject to the provisions of Chapter 119. of the 1209
Revised Code, at any time, upon reasonable notice, and in the 1210
manner it considers proper, may modify or set aside, in whole or 1211
in part, any finding or order made by it under this section. 1212

Sec. 4112.051. (A) As used in this section: 1213

(1) "Complainant" means a person who files a charge under 1214
this section. 1215

(2) "Respondent" means an employer that is the subject of 1216
a charge filed under this section. 1217

(B) Except as otherwise provided in division (A) of 1218
section 4112.053 of the Revised Code, any person who believes 1219
that a person has been the subject of an unlawful discriminatory 1220
practice relating to employment may file a charge with the 1221
commission alleging that an employer, employment agency, 1222
personnel placement service, or labor organization has engaged 1223

or is engaging in such a practice. Such a charge shall be in 1224
writing, under oath, and shall be filed with the commission 1225
within three hundred sixty-five days after the alleged unlawful 1226
discriminatory practice was committed. The commission may also 1227
conduct, upon its own initiative and independent of the filing 1228
of any charge, a preliminary investigation relating to any 1229
alleged unlawful discriminatory practice relating to employment. 1230

(C) Upon receiving a charge under this section, the 1231
commission may initiate a preliminary investigation to determine 1232
whether it is probable that an alleged unlawful discriminatory 1233
practice relating to employment has occurred or is occurring. 1234

(D) If, after a preliminary investigation, the commission 1235
determines that it is not probable that an unlawful 1236
discriminatory practice relating to employment has occurred or 1237
is occurring, then the commission shall notify the complainant 1238
of its determination and that it will not issue a complaint in 1239
the matter. Members of the commission, as well as its officers 1240
and employees, shall retain as confidential all information that 1241
was obtained as a result of or that relates to such a 1242
preliminary investigation. The commission may share such 1243
information with the commission's legal counsel. The 1244
confidentiality requirement shall not apply after the commission 1245
determines from a preliminary investigation that there is 1246
probable cause that an unlawful discriminatory practice relating 1247
to employment has or is occurring. 1248

(E) (1) If, after a preliminary investigation, the 1249
commission determines that it is probable that an unlawful 1250
discriminatory practice relating to employment has occurred or 1251
is occurring, the commission may invite the complainant and 1252
respondent to engage in mediation. 1253

(2) (a) If the parties agree to mediation, the commission shall attempt to mediate and resolve the dispute. 1254
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(b) If the parties are able to resolve the dispute through mediation, the commission shall treat the charge as being resolved and enter that disposition on the records of the commission. 1256
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(3) (a) If the parties do not agree to mediation, then the commission shall endeavor to eliminate the alleged unlawful discriminatory practice relating to employment by informal methods of conference, conciliation, and persuasion. 1260
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(b) If, after the use of the informal methods of conference, conciliation, and persuasion, the commission is satisfied that the unlawful discriminatory practice in question will be eliminated, the commission may treat the charge as being conciliated and enter that disposition on the records of the commission. 1264
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(4) None of the proceedings in either mediation or the informal methods of conference, conciliation, or persuasion shall be disclosed by any member of the commission or its staff or be used as evidence in any subsequent hearing or other proceeding. 1270
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(F) If the commission fails to effect the elimination of the alleged unlawful discriminatory practice relating to employment and is unable to obtain voluntary compliance with this chapter through those methods outlined in division (E) of this section, the commission shall issue a complaint to the respondent, the complainant, and any indispensable party. 1275
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(1) The complaint shall state the charges involved and shall contain a notice of a hearing before the commission, a 1281
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member of the commission, or a hearing examiner, as well as the 1283
hearing's location. Any such hearing shall be held in the county 1284
in which the alleged unlawful discriminatory practice occurred 1285
or is occurring or in which the respondent transacts business, 1286
and shall be held not less than thirty days after service of the 1287
complaint. 1288

(2) The attorney general shall represent the commission at 1289
any such hearing and shall present the evidence in support of 1290
the complaint. 1291

(3) Any such complaint may be amended by the commission, a 1292
member of the commission, or the commission's legal counsel at 1293
any time prior to the hearing if the respondent is given 1294
sufficient and reasonable notice. The respondent shall have the 1295
right to file an answer or an amended answer to the original, 1296
and any amended, complaints. 1297

(4) The respondent shall have the right to appear at the 1298
hearing in person, by attorney, or otherwise to examine and 1299
cross-examine witnesses. 1300

(5) The complainant shall be a party to a hearing under 1301
this section. Any person who is an indispensable party to a 1302
complete determination or settlement of the complaint central to 1303
the hearing shall be joined. 1304

(6) For any hearing initiated under this section, the 1305
commission, a member of the commission, or a hearing officer, is 1306
not bound by the rules of evidence, but shall take into account 1307
all reliable, probative, and substantial statistical or other 1308
evidence produced at the hearing that may prove the existence of 1309
a predetermined pattern of employment or membership. 1310

(7) (a) The testimony provided during a hearing under this 1311

section shall be under oath and shall be transcribed in writing 1312
and filed with the commission. 1313

(b) The commission, at its discretion, may hear further 1314
testimony or argument after the initial hearing if notice, that 1315
indicates an opportunity to be present, is provided to the 1316
complainant and the respondent. 1317

(G) If, after a hearing carried out under division (F) of 1318
this section, the commission determines that the respondent has 1319
engaged in, or is engaging in, any unlawful discriminatory 1320
practice relating to employment, whether against the complainant 1321
or others adversely affected by the allegations in the 1322
complaint, the commission shall state its findings of fact and 1323
conclusions of law and shall issue and cause to be served to the 1324
respondent, subject to the provisions of Chapter 119. of the 1325
Revised Code, an order to cease and desist from the unlawful 1326
discriminatory practice. 1327

(1) The order shall require the respondent to take 1328
affirmative or other action necessary to effectuate the purposes 1329
of this chapter, including hiring, reinstating, or promoting the 1330
complainant or others adversely affected by the unlawful 1331
discriminatory practice and shall require the respondent to 1332
report to the commission the manner of compliance. 1333

(2) (a) The order may require back pay or admission or 1334
restoration to union membership. 1335

(b) If the order requires back pay, the commission shall 1336
take into account earnings collected during the resolution of 1337
the complaint. 1338

(3) Upon receipt of the report of compliance required 1339
under this division, the commission may issue a declaratory 1340

order stating that the respondent has ceased to engage in the 1341
unlawful discriminatory practices that were the subject of the 1342
complaint. 1343

(H) If, after a hearing carried out under division (F) of 1344
this section, the commission finds that a respondent has not 1345
engaged in any unlawful discriminatory practice relating to 1346
employment against the complainant or others, it shall issue an 1347
order stating its findings of fact and dismissing the complaint 1348
to the complainant, respondent, and any other affected party. A 1349
copy of the order shall also be delivered to the attorney 1350
general and any other public officer the commission considers 1351
appropriate. 1352

(I) The commission, according to Chapter 119. of the 1353
Revised Code, upon reasonable notice to the respondent and 1354
claimant and in the manner it considers proper, may modify or 1355
set aside, in whole or in part, any finding or order made under 1356
this section until the time period for appeal set forth in 1357
section 4112.06 of the Revised Code has passed. 1358

(J) The commission shall adopt rules, in accordance with 1359
Chapter 119. of the Revised Code, to carry out this section. 1360

(K) Nothing in this section authorizes or requires any 1361
person to observe in hiring the proportion that persons of any 1362
race, color, religion, sex, military status, familial status, 1363
national origin, disability, age, or ancestry bear to the total 1364
population or in accordance with any other criteria than the 1365
qualifications of applicants. 1366

Sec. 4112.052. (A) Except as otherwise provided in 1367
division (B) of section 4112.053 and division (B) (2) of section 1368
4112.99 of the Revised Code, a person alleging an unlawful 1369

discriminatory practice relating to employment in violation of 1370
section 4112.02 of the Revised Code may bring a civil action in 1371
a court of competent jurisdiction. 1372

(B) Except as otherwise provided in division (C) of 1373
section 4112.053 of the Revised Code, a civil action brought 1374
under this section shall be filed within three hundred sixty- 1375
five days after the alleged unlawful discriminatory practice was 1376
committed. 1377

(C) A cause of action, and any other remedies available 1378
under this chapter, for an unlawful discriminatory practice 1379
relating to employment based on age shall not be allowed in 1380
situations in which a discharged employee has available the 1381
opportunity to arbitrate the discharge or a discharge has been 1382
arbitrated and has been found to be for just cause. 1383

(D) A civil action based on 42 U.S.C. 1981a, 42 U.S.C. 1384
1983, and 42 U.S.C. 1985 shall be brought within two years after 1385
the cause of action accrues. The period of limitations set forth 1386
in this division does not apply to causes of action based on 42 1387
U.S.C. 1981 as amended by the "Civil Rights Act of 1991," Pub. 1388
L. No. 102-166. 1389

Sec. 4112.053. (A) A person is prohibited from filing a 1390
charge under section 4112.051 of the Revised Code if the person 1391
brought a civil action pursuant to section 4112.052 or 4112.99 1392
of the Revised Code that is pending and that is based, in whole 1393
or in part, on the same allegations and practices. 1394

(B) A person is prohibited from bringing a civil action 1395
under section 4112.052 or 4112.99 of the Revised Code if the 1396
person filed a charge under section 4112.051 of the Revised Code 1397
that is pending and that is based, in whole or in part, on the 1398

same allegations and practices. 1399

(C) (1) The statute of limitations for bringing a civil 1400
action under section 4112.052 or 4112.99 of the Revised Code 1401
that alleges, in whole or in part, the same allegations and 1402
practices as a charge filed under section 4112.051 of the 1403
Revised Code is tolled for the period that begins on the date 1404
that the charge is filed and ends on the date of any of the 1405
following events: 1406

(a) The commission notifies the complainant that it will 1407
not issue a complaint in accordance with division (D) of section 1408
4112.051 of the Revised Code. 1409

(b) The commission enters a disposition that the matter 1410
has been resolved in accordance with division (E) (2) (b) or (E) 1411
(3) (b) of section 4112.051 of the Revised Code. 1412

(c) The commission issues a declaratory order in 1413
accordance with division (G) (3) of section 4112.051 of the 1414
Revised Code. 1415

(d) The commission issues an order dismissing the 1416
complaint in accordance with division (H) of section 4112.051 of 1417
the Revised Code. 1418

(2) Division (C) (1) of this section does not apply if the 1419
person previously voluntarily dismissed a civil action brought 1420
under this chapter based, in whole or in part, on the same 1421
allegations and practices as the charge. 1422

Sec. 4112.054. (A) As used in this section, "adverse, 1423
tangible employment action" means an action resulting in 1424
material economic detriment such as failure to hire or promote, 1425
firing, or demotion. 1426

(B) An employer may raise an affirmative defense to liability resulting from an unlawful discriminatory practice relating to employment in a charge filed pursuant to section 4112.051 of the Revised Code or a civil action filed pursuant to section 4112.052 or 4112.99 of the Revised Code, if the employer proves both of the following by a preponderance of the evidence: 1427
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(1) The employer exercised reasonable care to prevent or promptly correct the unlawful discriminatory practice or harassing behavior. The employer may satisfy this element of the affirmative defense with proof that the employer has promulgated an applicable, reasonable anti-discrimination or anti-harassment policy that includes a complaint procedure, provided that the employer does all of the following: 1433
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(a) Publishes and distributes the policy to its employees and managers; 1440
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(b) Informs employees about the prohibited conduct and complaint procedure; 1442
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(c) Publishes and enforces a reasonable policy prohibiting retaliation for reporting, participating in investigations, or opposing harassment or discrimination; 1444
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(d) Acts upon internal complaints concerning discrimination, harassment, or hostile work environments in a prompt and reasonable manner; 1447
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(e) Enables an employee alleging discrimination, harassment, or a hostile work environment to pursue a complaint through individuals that are not the individual or individuals that are alleged to have committed such violations. 1450
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(2) The employee alleging the unlawful discriminatory practice relating to employment unreasonably failed to take 1454
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advantage of any preventive or corrective opportunities provided 1456
by the employer or to avoid harm otherwise. The employer may 1457
satisfy this element of the affirmative defense with proof that 1458
the employee failed to do either of the following: 1459

(a) Take advantage of or abide by preventive or corrective 1460
opportunities provided by the employer; 1461

(b) Utilize a complaint procedure provided by the 1462
employer. 1463

(C) The requirement of division (B) (2) of this section is 1464
considered to not have been met if an employee alleging 1465
discrimination related to employment can demonstrate that use of 1466
the preventive or corrective opportunities provided would have 1467
been futile. 1468

(D) The affirmative defense set forth in this section is 1469
not available to an employer where the alleged unlawful 1470
discriminatory practice resulted in an adverse, tangible 1471
employment action against the employee. 1472

Sec. ~~4112.051~~ 4112.055. (A) (1) ~~Aggrieved~~ Except as 1473
provided in division (B) of section 4112.99 of the Revised Code, 1474
aggrieved persons may enforce the rights granted by division (H) 1475
of section 4112.02 of the Revised Code by filing a civil action 1476
in the court of common pleas of the county in which the alleged 1477
unlawful discriminatory practice occurred within one year after 1478
it allegedly occurred. Upon application by an aggrieved person, 1479
upon a proper showing, and under circumstances that it considers 1480
just, a court of common pleas may appoint an attorney for the 1481
aggrieved person and authorize the commencement of a civil 1482
action under this division without the payment of costs. 1483

Each party to a civil action under this division has the 1484

right to a jury trial of the action. To assert the right, a 1485
party shall demand a jury trial in the manner prescribed in the 1486
Rules of Civil Procedure. If a party demands a jury trial in 1487
that manner, the civil action shall be tried to a jury. 1488

(2) (a) If a complaint is issued by the commission under 1489
division (B) (5) of section 4112.05 of the Revised Code for one 1490
or more alleged unlawful discriminatory practices described in 1491
division (H) of section 4112.02 of the Revised Code, the 1492
complainant, any aggrieved person on whose behalf the complaint 1493
is issued, or the respondent may elect, following receipt of the 1494
relevant notice described in division (B) (5) of section 4112.05 1495
of the Revised Code, to proceed with the administrative hearing 1496
process under that section or to have the alleged unlawful 1497
discriminatory practices covered by the complaint addressed in a 1498
civil action commenced in accordance with divisions (A) (1) and 1499
(2) (b) of this section. An election to have the alleged unlawful 1500
discriminatory practices so addressed shall be made in a writing 1501
that is sent by certified mail, return receipt requested, to the 1502
commission, to the civil rights section of the office of the 1503
attorney general, and to the other parties to the pending 1504
administrative process within thirty days after the electing 1505
complainant, aggrieved person, or respondent received the 1506
relevant notice described in division (B) (5) of section 4112.05 1507
of the Revised Code. 1508

(b) Upon receipt of a timely mailed election to have the 1509
alleged unlawful discriminatory practices addressed in a civil 1510
action, the commission shall authorize the office of the 1511
attorney general to commence and maintain the civil action in 1512
the court of common pleas of the county in which the alleged 1513
unlawful discriminatory practices occurred. Notwithstanding the 1514
period of limitations specified in division (A) (1) of this 1515

section, the office of the attorney general shall commence the 1516
civil action within thirty days after the receipt of the 1517
commission's authorization to commence the civil action. 1518

(c) Upon commencement of the civil action in accordance 1519
with division (A) (2) (b) of this section, the commission shall 1520
prepare an order dismissing the complaint in the pending 1521
administrative matter and serve a copy of the order upon the 1522
complainant, each aggrieved person on whose behalf the complaint 1523
was issued, and the respondent. 1524

(d) If an election to have the alleged unlawful 1525
discriminatory practices addressed in a civil action is not 1526
filed in accordance with division (A) (2) (a) of this section, the 1527
commission shall continue with the administrative hearing 1528
process described in section 4112.05 of the Revised Code. 1529

(e) With respect to the issues to be determined in a civil 1530
action commenced in accordance with division (A) (2) (b) of this 1531
section, any aggrieved person may intervene as a matter of right 1532
in that civil action. 1533

(B) If the court or the jury in a civil action under this 1534
section finds that a violation of division (H) of section 1535
4112.02 of the Revised Code is about to occur, the court may 1536
order any affirmative action it considers appropriate, including 1537
a permanent or temporary injunction or temporary restraining 1538
order. 1539

(C) Any sale, encumbrance, or rental consummated prior to 1540
the issuance of any court order under the authority of this 1541
section and involving a bona fide purchaser, encumbrancer, or 1542
tenant without actual notice of the existence of a charge under 1543
division (H) of section 4112.02 of the Revised Code or a civil 1544

action under this section is not affected by the court order. 1545

(D) If the court or the jury in a civil action under this 1546
section finds that a violation of division (H) of section 1547
4112.02 of the Revised Code has occurred, the court shall award 1548
to the plaintiff or to the complainant or aggrieved person on 1549
whose behalf the office of the attorney general commenced or 1550
maintained the civil action, whichever is applicable, actual 1551
damages, reasonable attorney's fees, court costs incurred in the 1552
prosecution of the action, expert witness fees, and other 1553
litigation expenses, and may grant other relief that it 1554
considers appropriate, including a permanent or temporary 1555
injunction, a temporary restraining order, or other order and 1556
punitive damages. 1557

(E) Any civil action brought under this section shall be 1558
heard and determined as expeditiously as possible. 1559

(F) The court in a civil action under this section shall 1560
notify the commission of any finding pertaining to 1561
discriminatory housing practices within fifteen days after the 1562
entry of the finding. 1563

Sec. ~~4112.052~~ 4112.056. Whenever the Ohio civil rights 1564
commission has reasonable cause to believe that any person or 1565
persons are engaged in a pattern or practice of resistance to a 1566
person or persons' full enjoyment of the rights granted by 1567
division (H) of section 4112.02 of the Revised Code, or that any 1568
group of persons has been denied any of the rights granted by 1569
that division and the denial raises an issue of public 1570
importance, the commission may refer the matter to the attorney 1571
general for commencement of a civil action in a court of common 1572
pleas. The attorney general may seek any preventive relief 1573
considered necessary to ensure the full enjoyment of the rights 1574

granted by that division, including a permanent or temporary 1575
injunction or temporary restraining order. 1576

Sec. 4112.08. (A) This chapter shall be construed 1577
liberally for the accomplishment of its purposes, and any law 1578
inconsistent with any provision of this chapter shall not apply. 1579
Nothing contained in this chapter shall be considered to repeal 1580
any of the provisions of any law of this state relating to 1581
discrimination because of race, color, religion, sex, military 1582
status, familial status, disability, national origin, age, or 1583
ancestry, ~~except that any person filing a charge under division~~ 1584
~~(B)(1) of section 4112.05 of the Revised Code, with respect to~~ 1585
~~the unlawful discriminatory practices complained of, is barred~~ 1586
~~from instituting a civil action under section 4112.14 or~~ 1587
~~division (N) of section 4112.02 of the Revised Code.~~ 1588

However, no person has a cause of action or claim based on 1589
unlawful discriminatory practices relating to employment against 1590
a supervisor, manager, or other employee of an employer unless 1591
that supervisor, manager, or other employee is the employer. 1592
Nothing in this division abrogates statutory claims outside this 1593
chapter or any claims of liability that exist against an 1594
individual at common law. 1595

(B) The procedures and remedies for unlawful 1596
discriminatory practices relating to employment in this chapter 1597
are the sole and exclusive procedures and remedies available to 1598
a person who alleges such discrimination. Causes of action based 1599
on public policies embodied in this chapter for unlawful 1600
discriminatory practices relating to employment, or in state, 1601
federal, or local fair employment laws are barred. 1602

Sec. 4112.14. The sum of the amount of damages awarded for 1603
noneconomic losses, as defined under section 2315.18 of the 1604

Revised Code, and the amount of punitive damages awarded to each 1605
complaining party in a civil action based on an unlawful 1606
discriminatory practice relating to employment brought under 1607
section 4112.052 or 4112.99 of the Revised Code shall not exceed 1608
the following amounts: 1609

(A) If the defendant employs four to one hundred employees 1610
in each of twenty or more calendar weeks in the current or 1611
preceding calendar year, fifty thousand dollars; 1612

(B) If the defendant employs one hundred one to two 1613
hundred employees in each of twenty or more calendar weeks in 1614
the current or preceding calendar year, one hundred thousand 1615
dollars; 1616

(C) If the defendant employs two hundred one to five 1617
hundred employees in each of twenty or more calendar weeks in 1618
the current or preceding calendar year, two hundred thousand 1619
dollars; 1620

(D) If the defendant employs more than five hundred 1621
employees in each of twenty or more calendar weeks in the 1622
current or preceding calendar year, three hundred thousand 1623
dollars. 1624

Sec. 4112.99. (A) Whoever violates this chapter is subject 1625
to a civil action for damages, injunctive relief, or any other 1626
appropriate relief. Except as otherwise provided in division (B) 1627
of section 4112.053 of the Revised Code and division (B)(1) of 1628
this section, a person may bring such a civil action in a court 1629
of competent jurisdiction. 1630

(B)(1) A person is prohibited from bringing a civil action 1631
under this section if the person brought a civil action under 1632
section 4112.052 or 4112.055 of the Revised Code that is based, 1633

in whole or in part, on the same allegations and practices. 1634

(2) A person is prohibited from bringing a civil action 1635
under section 4112.052 or 4112.055 of the Revised Code if the 1636
person brought a civil action under this section that is based, 1637
in whole or in part, on the same allegations and practices. 1638

(C) Except as otherwise provided in division (C) of 1639
section 4112.053 of the Revised Code, a civil action brought 1640
under this section shall be filed within three hundred sixty- 1641
five days after the alleged violation was committed. 1642

Section 2. That existing sections 2305.07, 2305.09, 1643
4112.01, 4112.02, 4112.04, 4112.05, 4112.051, 4112.051, 1644
4112.052, 4112.052, 4112.08, 4112.14, and 4112.99 and section 1645
4112.14 of the Revised Code are hereby repealed. 1646

Section 3. The General Assembly, in amending section 1647
4112.01 and division (A) of section 4112.08 of the Revised Code 1648
pursuant to this act, hereby declares its intent to supersede 1649
the effect of the holding of the Ohio Supreme Court in *Genaro* 1650
v. Central Transport, Inc., 84 Ohio St.3d 293 (1999) and to 1651
follow the holding in *Wathen v. General Electric Co.*, 115 F.3d 1652
400 (1997) regarding the definition of "employer" for purposes 1653
of Chapter 4112. of the Revised Code. The General Assembly 1654
further declares its intent that individual supervisors, 1655
managers, or employees not be held liable under Chapter 4112. of 1656
the Revised Code for unlawful discriminatory practices relating 1657
to employment. The General Assembly does not intend this act to 1658
abrogate the imposition at common law of vicarious liability on 1659
employers for the unlawful discriminatory practices of their 1660
employees or agents or to abrogate any other statutory claims 1661
that exist outside of Chapter 4112. of the Revised Code or 1662
claims existing at common law that may be made against an 1663

individual. 1664

The General Assembly declares its intent in enacting new 1665
section 4112.14 of the Revised Code pursuant to this act that 1666
the amount of noneconomic and punitive damages awarded in civil 1667
actions alleging unlawful discriminatory practices relating to 1668
employment be capped based on the size of the employer as set 1669
forth in the "Civil Rights Act of 1991," 42 U.S.C. 1981a(b)(3). 1670

It is the intent of the General Assembly that common law 1671
claims for wrongful discharge are not available for actions 1672
maintainable under Chapter 4112. of the Revised Code and that 1673
the procedures and remedies set forth in Chapter 4112. of the 1674
Revised Code are the sole and exclusive procedures and remedies 1675
available under state law for claims of unlawful discriminatory 1676
practice relating to employment that are governed by that 1677
chapter. The General Assembly declares its intent in amending 1678
division (B) of section 4112.08 of the Revised Code to conform 1679
to, and not to overturn, the holding of the Ohio Supreme Court 1680
in *Collins v. Rizkana*, 73 Ohio St.3d 65, 73 (1995). 1681

The General Assembly declares its intent in enacting 1682
section 4112.054 of the Revised Code pursuant to this act that 1683
employers will be encouraged to implement meaningful anti- 1684
discrimination policies and foster a work environment that is 1685
fair and tolerant. The General Assembly further declares its 1686
intent that human resource professionals should have the first 1687
opportunity to resolve personnel complaints and rectify 1688
detrimental workplace behavior before such issues result in 1689
costly litigation. 1690

Section 4. Section 4112.04 of the Revised Code is 1691
presented in this act as a composite of the section as amended 1692
by both Am. Sub. H.B. 525 of the 127th General Assembly and Am. 1693

Sub. H.B. 1 of the 128th General Assembly. The General Assembly, 1694
applying the principle stated in division (B) of section 1.52 of 1695
the Revised Code that amendments are to be harmonized if 1696
reasonably capable of simultaneous operation, finds that the 1697
composite is the resulting version of the section in effect 1698
prior to the effective date of the section as presented in this 1699
act. 1700