

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 HOUSE BILL 3074

By: Shannon

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5
6 AS INTRODUCED

7 An Act relating to the Office of the Attorney
8 General; abolishing the Oklahoma Human Rights
9 Commission; providing for interpretation of certain
10 statutory references; transferring the duties of the
11 Oklahoma Human Rights Commission to the Office of the
12 Attorney General; transferring certain personnel,
13 funds, records, encumbrances, equipment, and other
14 items to the Office of the Attorney General;
15 providing requirements pertaining to transfer of
16 employees; providing for transition coordinators and
17 a transition team; providing duties of the transition
18 team; amending 22 O.S. 2001, Sections 34.4 and 34.5,
19 which relate to racial profiling complaints;
20 modifying the entity to which a complaint may be
21 filed to reflect the transfer of administration and
22 enforcement of complaints of discrimination;
23 providing for continuation of promulgated rules and
24 compilation of annual report; amending 25 O.S. 2001,
Section 1201, which relates to definitions; modifying
definitions; amending 25 O.S. 2001, Section 1310,
which relates to discrimination in employment;
modifying laws to reflect transfer of administration
and enforcement from the Oklahoma Human Rights
Commission to the Office of the Attorney General;
amending 25 O.S. 2001, Sections 1451, 1452 and 1453,
which relate to discrimination in housing; modifying
certain definitions; modifying laws to reflect
transfer of administration and enforcement from the
Oklahoma Human Rights Commission to the Office of the
Attorney General; amending 25 O.S. 2001, Sections
1501, 1502, 1502.1, 1502.2, 1502.3, 1502.4, 1502.5,
1502.6, 1502.7, 1502.8, 1502.9, 1502.10, 1502.12,
1502.13, 1502.14, 1502.15, 1503, 1504, 1505, 1505.1,
1506, 1506.1, 1506.6, 1506.7, 1506.8, 1507, 1508 and
1604, which relate to enforcement and review by the

1 Oklahoma Human Rights Commission and discriminatory
2 practices; modifying laws to reflect transfer of
3 administration, enforcement and powers of judicial
4 review from the Oklahoma Human Rights Commission to
5 the Office of the Attorney General; amending 25 O.S.
6 2001, Sections 1704, 1705 and 1706, which relate to
7 local commissions; modifying laws to reflect transfer
8 of administration and enforcement from the Oklahoma
9 Human Rights Commission to the Office of the Attorney
10 General; amending 25 O.S. 2001, Section 1901, which
11 relates to employment discrimination; modifying laws
12 to reflect transfer of administration and enforcement
13 from the Oklahoma Human Rights Commission to the
14 Office of the Attorney General; amending 73 O.S.
15 2001, Section 163.2, which relates to deposit of
16 funds for certain leases; modifying entities that are
17 not subject to deposit requirement; amending 74 O.S.
18 2001, Sections 840-2.1, as amended by Section 5,
19 Chapter 347, O.S.L. 2002 and 840-5.5, as last amended
20 by Section 3, Chapter 208, O.S.L. 2007 (74 O.S. Supp.
21 2007, Sections 840-2.1 and 840-5.5), which relate to
22 the Oklahoma Personnel Act; modifying unclassified
23 offices, positions, and personnel to reflect transfer
24 of administration and enforcement from the Oklahoma
Human Rights Commission to the Office of the Attorney
General; eliminating provision making position of
Administrative Assistant at the Oklahoma Human Rights
Commission unclassified; amending 74 O.S. 2001,
Section 954, which relates to discrimination in state
employment; modifying laws to reflect transfer of
administration and enforcement from the Oklahoma
Human Rights Commission to the Office of the Attorney
General; repealing 25 O.S. 2001, Sections 1502.11 and
1506.5, which relate to referral of discrimination
complaints to the Attorney General and Attorney
General intervention; repealing 74 O.S. 2001,
Sections 952, 953 and 955, which relate to the
Oklahoma Human Rights Commission and classification
of employees; providing for codification; providing
for noncodification; providing effective dates; and
declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 952.1 of Title 74, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The Oklahoma Human Rights Commission is hereby abolished
5 effective January 1, 2009. Any reference in the Oklahoma Statutes
6 to the Oklahoma Human Rights Commission shall be deemed to be a
7 reference to the Office of the Attorney General. Any reference in
8 the Oklahoma Statutes to the Director of the Oklahoma Human Rights
9 Commission shall be deemed to be a reference to the Attorney
10 General.

11 B. All assets, funds, liabilities, allotments, purchase orders,
12 outstanding financial obligations, encumbrances, records, aircraft,
13 vehicles, equipment, and other property of the Oklahoma Human Rights
14 Commission is hereby transferred to the Office of the Attorney
15 General.

16 C. Personnel employed by the Oklahoma Human Rights Commission
17 on January 1, 2009, shall be transferred to the Office of the
18 Attorney General pursuant to a transition plan implemented by the
19 Attorney General as required by Section 2 of this act.

20 D. The classified and unclassified employees who are
21 transferred pursuant to this section shall be subject to the
22 following provisions:
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1 1. Classified employees shall remain subject to the provisions
2 of the Merit System of Personnel Administration, as provided in the
3 Oklahoma Personnel Act;

4 2. Unclassified employees shall remain in the unclassified
5 service and shall serve at the pleasure of the Attorney General;

6 3. All employees who are transferred to the Office of the
7 Attorney General shall retain leave, sick and annual time earned and
8 any retirement and longevity benefits which have accrued during
9 their employment with the state. The salaries of employees who are
10 transferred shall not be reduced as a direct and immediate result of
11 the transfer;

12 4. If the Office of the Attorney General should implement a
13 reduction in force, all employees transferred from the Oklahoma
14 Human Rights Commission shall be credited for the time they were
15 employed by the Oklahoma Human Rights Commission; and

16 5. The transfer of personnel shall be coordinated with the
17 Office of Personnel Management.

18 SECTION 2. NEW LAW A new section of law not to be
19 codified in the Oklahoma Statutes reads as follows:

20 A. Effective July 1, 2008, the Attorney General and the
21 Director of the Oklahoma Human Rights Commission shall serve as
22 transition coordinators and shall establish a transition team to
23 coordinate the orderly transfer of duties, personnel, property,
24 funds, and encumbrances from the Oklahoma Human Rights Commission to

1 the Office of the Attorney General. The Attorney General and the
2 Director may assign personnel to the transition team from their
3 respective agencies as deemed necessary.

4 B. The transition team shall:

5 1. In conjunction with the Oklahoma Department of Central
6 Services, the Oklahoma Office of State Finance and the Oklahoma
7 Office of Personnel Management, oversee and administer the orderly
8 transfer of responsibilities, liabilities, property, records,
9 personnel and any outstanding financial obligations or encumbrances
10 to the Office of the Attorney General from the Oklahoma Human Rights
11 Commission;

12 2. Review functions currently assigned to or managed by the
13 Oklahoma Human Rights Commission;

14 3. Devise a proposal for an organizational framework within the
15 Office of the Attorney General for eliminating discrimination;

16 4. Establish a plan for the transfer of employees from the
17 Oklahoma Human Rights Commission to the Office of the Attorney
18 General. The plan shall include a list of positions to be
19 transferred. In no event shall the number of full-time-equivalent
20 employees for the Oklahoma Human Rights Commission transferring or
21 electing to remain with the Office of the Attorney General exceed
22 twenty-eight full-time-equivalent positions; and

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1 5. Take such other action as may be reasonably necessary and
2 appropriate to effectuate the orderly transition of functions as
3 provided by this act.

4 SECTION 3. AMENDATORY 22 O.S. 2001, Section 34.4, is
5 amended to read as follows:

6 Section 34.4 Whenever a person who is stopped or arrested
7 believes the stop or arrest was in violation of Section ~~±~~ 34.3 of
8 this ~~act~~ title, that person may file a complaint with the ~~Oklahoma~~
9 ~~Human Rights Commission~~ Office of the Attorney General and may also
10 file a complaint with the district attorney for the county in which
11 the stop or arrest occurred. A copy of the complaint shall be
12 forwarded to the arresting officer's employer by the ~~Commission~~
13 Office of the Attorney General. The employer shall investigate the
14 complaint for purposes of disciplinary action and/or criminal
15 prosecution.

16 SECTION 4. AMENDATORY 22 O.S. 2001, Section 34.5, is
17 amended to read as follows:

18 Section 34.5 A. The ~~Oklahoma Human Rights Commission~~ Office of
19 the Attorney General shall promulgate rules establishing procedures
20 for filing a racial profiling complaint with the ~~Oklahoma Human~~
21 ~~Rights Commission~~ Office of the Attorney General and the district
22 attorney and the process for delivering a copy of the complaint by
23 the ~~Commission~~ Office of the Attorney General to the employing
24 agency. The ~~Commission~~ Office of the Attorney General, in

1 consultation with the Governor's Cabinet Secretary for Safety and
2 Security, shall promulgate forms for complaints of racial profiling.

3 B. The ~~Commission~~ Office of the Attorney General shall compile
4 an annual report of all complaints received for racial profiling and
5 submit the report on or before January 31 of each year to the
6 Governor, the President Pro Tempore of the Senate, and the Speaker
7 of the House of Representatives.

8 SECTION 5. AMENDATORY 25 O.S. 2001, Section 1201, is
9 amended to read as follows:

10 Section 1201. In this act, unless the context otherwise
11 requires, :

12 ~~(1) "Commission" means the Human Rights Commission created by 74~~
13 ~~Oklahoma Statutes, Section 952;~~

14 ~~(2) "Commissioner" means a member of the Commission;~~

15 ~~(3) 1.~~ "Discriminatory practice" means a practice designated as
16 discriminatory under the terms of this act;

17 ~~(4) 2.~~ "National origin" includes the national origin of an
18 ancestor; and

19 ~~(5) 3.~~ "Person" includes an individual, association,
20 corporation, joint apprenticeship committee, joint stock company,
21 labor union, legal representative, mutual company, partnership,
22 receiver, trust, trustee, trustee in bankruptcy, unincorporated
23 organization, any other legal or commercial entity, the state, or
24 any governmental entity or agency.

1 SECTION 6. AMENDATORY 25 O.S. 2001, Section 1310, is
2 amended to read as follows:

3 Section 1310. Nothing contained in Sections 1101 through 1706
4 of this title requires an employer, employment agency, labor
5 organization, or joint labor-management committee subject to
6 Sections 1101 through 1706 of this title to grant preferential
7 treatment to an individual or to a group because of race, color,
8 religion, sex, national origin, age, or handicap of the individual
9 or group on account of an imbalance which may exist with respect to
10 the total number or percentage of persons of any race, color,
11 religion, sex, national origin, age, or handicap employed by an
12 employer, referred or classified for employment by an employment
13 agency or labor organization, admitted to membership or classified
14 by a labor organization, or admitted to, or employed in, an
15 apprenticeship, or other training or retraining program, in
16 comparison with the total number or percentage of persons of the
17 race, color, religion, sex, national origin, age, or handicapped
18 persons in the state or a community, section, or other area, or in
19 the available work force in the state or a community, section, or
20 other area. However, it is not a discriminatory practice for a
21 person subject to Sections 1101 through 1706 of this title to adopt
22 and carry out a plan to eliminate or reduce imbalance with respect
23 to race, color, religion, sex, national origin, age, or handicap if
24 the plan has been filed with the ~~Commission~~ Office of the Attorney

1 General under regulations of the ~~Commission~~ Office of the Attorney
2 General and the ~~Commission~~ Office of the Attorney General has not
3 disapproved the plan.

4 SECTION 7. AMENDATORY 25 O.S. 2001, Section 1451, is
5 amended to read as follows:

6 Section 1451. As used in Sections 1451 through 1453 of this
7 title:

8 1. "Elderly person" means any natural person fifty-five (55)
9 years of age or older~~;~~;

10 2. "Dwelling" means:

11 a. any building, structure, or part of a building or
12 structure that is occupied as, or designed or intended
13 for occupancy as, a residency by one or more
14 families~~;~~, or

15 b. any vacant land that is offered for sale or lease for
16 the construction or location of a building, structure,
17 or part of a building or structure by subparagraph a
18 of this paragraph~~;~~;

19 3. "Person" includes one or more individuals, corporations,
20 partnerships, associations, labor organizations, legal
21 representatives, mutual companies, joint-stock companies, trusts,
22 unincorporated organizations, trustees, trustees in bankruptcy,
23 receivers and fiduciaries, the state, and all political subdivisions
24 and agencies thereof~~;~~;

1 4. "Restrictive covenants" means any specification limiting the
2 transfer, rental, or lease of any dwelling because of race, color,
3 religion, sex, national origin, age, handicap or familial status-i

4 5. "Discriminatory housing practices" means an act that is
5 prohibited pursuant to Section 1452 of this title-i

6 6. "Handicap" means a mental or physical impairment that
7 substantially limits at least one major life activity, when there is
8 a record of such an impairment, or the individual is regarded as
9 having such an impairment. The term does not include current
10 illegal use of or addiction to any drug or illegal or federally
11 controlled substance. For purposes of this act, "an individual with
12 a handicap" or "handicap" does not apply to an individual because of
13 sexual orientation or the sexual preference of the individual or
14 because that individual is a transvestite-i

15 7. "Unlawful discriminatory practice because of age" means an
16 act prohibited pursuant to Section 1452 of this title against a
17 person at least eighteen (18) years of age or older solely on that
18 basis-i

19 8. "Aggrieved person" means any person who:

20 a. claims to have been injured by a discriminatory
21 housing practice, or

22 b. believes that he will be injured by a discriminatory
23 housing practice that is about to occur-i

24

1 9. "Complainant" means a person, ~~the Commission,~~ or the
2 Attorney General, who files a complaint pursuant to Section 1452 of
3 this title-; i

4 ~~10. "Commission" means the Oklahoma Human Rights Commission.~~

5 ~~11.~~ "Conciliation" means the attempted resolution of issues
6 raised by a complaint or by the investigation of the complaint,
7 through informal negotiations involving the aggrieved person, the
8 respondent, and the ~~Commission.~~ Office of the Attorney General;

9 ~~12.~~ 11. "Conciliation agreement" means a written agreement
10 setting forth the resolution of the issues in conciliation-; i

11 ~~13.~~ 12. "Discriminatory housing practice" means an act
12 prohibited by Section 1452 of this title-; i

13 ~~14.~~ 13. "Family" includes a single individual-; i

14 ~~15.~~ 14. "Respondent" means:

15 a. the person accused of a violation of this act in a
16 complaint of a discriminatory housing practice, or

17 b. any person identified as an additional or substitute
18 respondent pursuant to Section ~~14~~ 1502.5 of this ~~act~~
19 title or an agent of an additional or substitute
20 respondent-; i

21 ~~16.~~ 15. "To rent" includes to lease, to sublease, to let, or to
22 otherwise grant for a consideration the right to occupy premises not
23 owned by the occupant-; and

24

1 ~~17.~~ 16. For purposes of this act, a discriminatory act is
2 committed because of familial status only if the act is committed
3 because the person who is the subject of discrimination is:

4 a. pregnant,

5 b. domiciled with an individual less than eighteen (18)
6 years of age in regard to whom the person:

7 (1) is the parent or legal custodian, or

8 (2) has the written permission of the parent or legal
9 custodian for domicile with that person, or

10 c. in the process of obtaining legal custody of an
11 individual less than eighteen (18) years of age.

12 SECTION 8. AMENDATORY 25 O.S. 2001, Section 1452, is
13 amended to read as follows:

14 Section 1452. A. It shall be an unlawful discriminatory
15 housing practice for any person, or any agent or employee of such
16 person:

17 1. To refuse to sell or rent after the making of a bona fide
18 offer, or to refuse to negotiate for the sale or rental of any
19 housing, or otherwise make unavailable or deny any housing because
20 of race, color, religion, gender, national origin, age, familial
21 status, or handicap;

22 2. To discriminate against any person in the terms, conditions,
23 or privileges of sale or rental of housing, or in the provision of
24 services or facilities in connection with any housing because of

1 race, color, religion, gender, national origin, age, familial
2 status, or handicap;

3 3. To make, print, publish, or cause to be made, printed, or
4 published any notice, statement, or advertisement, with respect to
5 the sale or rental of housing that indicates any preference,
6 limitation, discrimination, or intention to make any such
7 preference, limitation, or discrimination because of race, color,
8 religion, gender, national origin, age, familial status, or
9 handicap;

10 4. To represent to any person, for reasons of discrimination,
11 that any housing is not available for inspection, sale, or rental
12 when such housing is in fact so available because of race, color,
13 religion, gender, national origin, age, familial status, or
14 handicap;

15 5. To deny any person access to, or membership or participation
16 in, a multiple-listing service, real estate brokers' organization or
17 other service, organization, or facility relating to the business of
18 selling or renting dwellings, or discriminate against a person in
19 the terms or conditions of access, membership, or participation in
20 such an organization, service, or facility because of race, color,
21 religion, gender, national origin, age, familial status, or
22 handicap;

23 6. To include in any transfer, sale, rental, or lease of
24 housing any restrictive covenant that discriminates, or for any

1 person to honor or exercise, or attempt to honor or exercise, any
2 discriminatory covenant pertaining to housing because of race,
3 color, religion, gender, national origin, age, familial status, or
4 handicap;

5 7. To refuse to consider the income of both applicants when
6 both applicants seek to buy or lease housing because of race, color,
7 religion, gender, national origin, age, familial status, or
8 handicap;

9 8. To refuse to consider as a valid source of income any public
10 assistance, alimony, or child support, awarded by a court, when that
11 source can be verified as to its amount, length of time received,
12 regularity, or receipt because of race, color, religion, gender,
13 national origin, age, familial status, or handicap;

14 9. To discriminate against a person in the terms, conditions,
15 or privileges relating to the obtaining or use of financial
16 assistance for the acquisition, construction, rehabilitation,
17 repair, or maintenance of any housing because of race, color,
18 religion, gender, national origin, age, familial status, or
19 handicap;

20 10. To discharge, demote, or discriminate in matters of
21 compensation or working conditions against any employee or agent
22 because of the obedience of said employee or agent to the provisions
23 of this section;

24

1 11. To solicit or attempt to solicit the listing of housing for
2 sale or lease, by door to door solicitation, in person, or by
3 telephone, or by distribution of circulars, if one of the purposes
4 is to change the racial composition of the neighborhood;

5 12. To knowingly induce or attempt to induce another person to
6 transfer an interest in real property, or to discourage another
7 person from purchasing real property, by representations regarding
8 the existing or potential proximity of real property owned, used, or
9 occupied by persons of any particular race, color, religion, gender,
10 national origin, age, familial status or handicap, or to represent
11 that such existing or potential proximity shall or may result in:

- 12 a. the lowering of property values,
- 13 b. a change in the racial, religious, or ethnic character
14 of the block, neighborhood, or area in which the
15 property is located,
- 16 c. an increase in criminal or antisocial behavior in the
17 area, or
- 18 d. a decline in quality of the schools serving the area;

19 13. To refuse to rent or lease housing to a blind, deaf, or
20 handicapped person on the basis of the person's use or possession of
21 a bona fide, properly trained guide, signal, or service dog;

22 14. To demand the payment of an additional nonrefundable fee or
23 an unreasonable deposit for rent from a blind, deaf, or handicapped
24

1 person for such dog. Such blind, deaf, or handicapped person may be
2 liable for any damage done to the dwelling by such dog;

3 15. a. To discriminate in the sale or rental or otherwise
4 make available or deny a dwelling to any buyer or
5 renter because of a handicap of:

6 (1) that buyer or renter,

7 (2) a person residing in or intending to reside in
8 that dwelling after it is sold, rented, or made
9 available, or

10 (3) any person associated with that buyer or renter,

11 b. To discriminate against any person in the terms,
12 conditions, or privileges of sale or rental of a
13 dwelling or in the provision of services or facilities
14 in connection with the dwelling because of a handicap
15 of:

16 (1) that person,

17 (2) a person residing in or intending to reside in
18 that dwelling after it is so sold, rented, or
19 made available, or

20 (3) any person associated with that person;

21 16. For purposes of handicap discrimination in housing pursuant
22 to this act, discrimination includes:

23 a. a refusal to permit, at the expense of the handicapped
24 person, reasonable modifications of existing premises

1 occupied or to be occupied by the person if the
2 modifications may be necessary to afford the person
3 full enjoyment of the premises, provided that such
4 person also provides a surety bond guaranteeing
5 restoration of the premises to their prior condition,
6 if necessary to make the premises suitable for
7 nonhandicapped tenants,

8 b. a refusal to make reasonable accommodations in rules,
9 policies, practices, or services, when the
10 accommodations may be necessary to afford the person
11 equal opportunity to use and enjoy a dwelling, or

12 c. in connection with the design and construction of
13 covered multifamily dwellings for first occupancy
14 thirty (30) months after the date of enactment of the
15 federal Fair Housing Amendments Act of 1988 (Public
16 Law 100-430), a failure to design and construct those
17 dwellings in a manner that:

18 (1) the public use and common use portions of the
19 dwellings are readily accessible to and usable by
20 handicapped persons,

21 (2) all the doors designed to allow passage into and
22 within all premises within the dwellings are
23 sufficiently wide to allow passage by handicapped
24 persons in wheelchairs, and

1 (3) all premises within the dwellings contain the
2 following features of adaptive design:

3 (a) an accessible route into and through the
4 dwelling,

5 (b) light switches, electrical outlets,
6 thermostats, and other environmental
7 controls in accessible locations,

8 (c) reinforcements in bathroom walls to allow
9 later installation of grab bars, and

10 (d) usable kitchen and bathrooms so that an
11 individual in a wheelchair can maneuver
12 about the space,

13 (4) compliance with the appropriate requirements of
14 the American National Standard for buildings and
15 facilities providing accessibility and usability
16 for physically handicapped people, commonly cited
17 as "ANSI A 117.1", suffices to satisfy the
18 requirements of ~~subdivision~~ division (3) of this
19 subparagraph e of this paragraph,

20 (5) as used in this subsection, the term "covered
21 multifamily dwellings" means:

22 (a) buildings consisting of four or more units
23 if the buildings have one or more elevators,
24 and

1 (b) ground floor units in other buildings
2 consisting of four or more units,

3 (6) nothing in this subsection requires that a
4 dwelling be made available to an individual whose
5 tenancy would constitute a direct threat to the
6 health or safety of other individuals or whose
7 tenancy would result in substantial physical
8 damage to the property of others;

9 17. a. A person whose business includes engaging in
10 residential real estate related transactions may not
11 discriminate against a person in making a real estate
12 related transaction available or in the terms or
13 conditions of a real estate related transaction
14 because of race, color, religion, gender, handicap,
15 familial status, national origin or age.

16 b. In this section, "residential real estate related
17 transaction" means:

18 (1) making or purchasing loans or providing other
19 financial assistance:

20 (a) to purchase, construct, improve, repair, or
21 maintain a dwelling, or

22 (b) to secure residential real estate, or

23 (2) selling, brokering, or appraising residential
24 real property;

1 18. This section does not prohibit discrimination against a
2 person because the person has been convicted under federal law or
3 the law of any state of the illegal manufacture or distribution of a
4 controlled substance.

5 B. No other categories or classes of persons are protected
6 pursuant to this act. The ~~Human Rights Commission~~ Office of the
7 Attorney General shall have no authority or jurisdiction to act on
8 complaints based on any kind of discrimination other than those
9 kinds of discrimination prohibited pursuant to ~~Sections~~ Section 1101
10 et seq. of ~~Title 25 of the Oklahoma Statutes~~ this title or any other
11 specifically authorized by law.

12 SECTION 9. AMENDATORY 25 O.S. 2001, Section 1453, is
13 amended to read as follows:

14 Section 1453. Nothing provided for in Sections 1451 through
15 1453 of this title shall:

16 1. Prohibit a religious organization, association, or society,
17 or any nonprofit institution or organization operated, supervised,
18 or controlled by or in conjunction with a religious organization,
19 association, or society, from limiting the sale, rental, or
20 occupancy of housing which it owns or operates for other than a
21 commercial purpose to persons of the same religion, or from giving
22 preferences to such persons, unless membership in such religion is
23 restricted on account of race, color, or national origin. Nor shall
24 anything in Sections ~~±~~ 1101 through ~~7~~ 1502.1 of this ~~act~~ title apply

1 to a private membership club which is a bona fide club and which is
2 exempt from taxation pursuant to Section 501 (c) of the Internal
3 Revenue Code of 1954;

4 2. Prohibit a religious organization, association, or society,
5 or a nonprofit institution or organization operated, supervised, or
6 controlled by or in conjunction with a religious organization,
7 association, or society, from:

8 a. limiting the sale, rental, or occupancy of dwellings
9 that it owns or operates for other than a commercial
10 purpose to persons of the same religion, or

11 b. giving preference to persons of the same religion,
12 unless membership in the religion is restricted
13 because of race, color, or national origin;

14 3. Prohibit a private club not open to the public that, as an
15 incident to its primary purpose, provides lodging that it owns or
16 operates for other than a commercial purpose from limiting the
17 rental or occupancy of that lodging to its members or from giving
18 preference to its members;

19 4. Nothing provided for in Sections 1451 through 1453 of this
20 title relating to familial status applies to housing for older
21 persons. As used in this section, "housing for older persons" means
22 housing:

23 a. that the ~~Commission~~ Office of the Attorney General
24 determines is specifically designed and operated to

1 assist elderly persons pursuant to a federal or state
2 program,

3 b. intended for, and solely occupied by, persons sixty-
4 two (62) years of age or older, or

5 c. intended and operated for occupancy by at least one
6 person fifty-five (55) years of age or older per unit
7 as determined by ~~Commission~~ rules of the Office of the
8 Attorney General;

9 5. a. Subject to subdivision (b) of ~~subparagraph~~ division
10 (1) of this ~~paragraph~~ subparagraph, this act does not
11 apply to:

12 (1) the sale or rental of a single-family house sold
13 or rented by an owner if:

14 (a) the owner does not:

15 (i) own more than three (3) single-family
16 houses at any one time, or

17 (ii) own any interest in, or is there owned
18 or reserved on his behalf, pursuant to
19 any express or voluntary agreement,
20 title to or any right to any part of
21 the proceeds from the sale or rental of
22 more than three (3) single-family
23 houses at any one time, and

24 (b) the house was sold or rented without:

1 (i) the use of the sales or rental
2 facilities or services of a real estate
3 broker, agent, or salesman licensed
4 pursuant to the Oklahoma Real Estate
5 License Code, or of an employee or
6 agent of a licensed broker, agent, or
7 salesman, or the facilities or services
8 of the owner of a dwelling designed or
9 intended for occupancy by five (5) or
10 more families, or

11 (ii) the publication, posting, or mailing of
12 a notice, statement, or advertisement
13 prohibited by Section 1452 of this
14 title, or

15 (2) the sale or rental of rooms or units in a
16 dwelling containing living quarters occupied or
17 intended to be occupied by no more than four (4)
18 families living independently of each other, if
19 the owner maintains and occupies one of the
20 living quarters as the owner's residence.

21 b. The exemption in ~~subdivision~~ division (1) of
22 subparagraph a of this paragraph applies to only one
23 sale or rental in a twenty-four-month period, if the
24

1 owner was not the most recent resident of the house at
2 the time of the sale or rental;

3 6. Nothing provided for in Sections 1451 through 1453 of this
4 title shall prohibit a person engaged in the business of furnishing
5 appraisals of real property from taking into consideration factors
6 other than race, color, age, religion, gender, handicap, familial
7 status, or national origin;

8 7. Nothing provided for in Sections 1451 through 1453 of this
9 title shall affect a reasonable local or state restriction on the
10 maximum number of occupants permitted to occupy a dwelling or
11 restriction relating to health or safety standards;

12 8. Nothing provided for in Sections 1451 through 1453 of this
13 title shall prevent or restrict the sale, lease, rental, transfer,
14 or development of housing designed or intended for the use of the
15 handicapped;

16 9. Nothing provided for in Sections 1451 through 1453 of this
17 title shall affect a requirement of nondiscrimination in any other
18 state or federal law;

19 10. Nothing provided for in Sections 1451 through 1453 of this
20 title shall prohibit the transfer of property by will, intestate
21 succession, or by gift.

22 SECTION 10. AMENDATORY 25 O.S. 2001, Section 1501, is
23 amended to read as follows:

1 Section 1501. A. Within the limitations provided by law, the
2 ~~Human Rights Commission~~ Office of the Attorney General has the
3 following additional powers:

4 1. To promote the creation of local commissions on human
5 rights, and to contract with individuals and state, local and other
6 agencies, both public and private, including agencies of the federal
7 government and of other states;

8 2. To accept public grants or private gifts, bequests, or other
9 payments;

10 3. To receive, investigate, seek to conciliate, hold hearings
11 on, and pass upon complaints alleging violations of this act;

12 4. To furnish technical assistance requested by persons subject
13 to this act to further compliance with the act or an order issued
14 thereunder;

15 5. To make provisions for technical and clerical assistance to
16 an advisory committee or committees ~~appointed in accordance with~~
17 ~~subsection (b) of Section 953 of Title 74 of the Oklahoma Statutes;~~

18 6. To require answers to interrogatories, under the procedures
19 established by Section ~~3210~~ 3233 of Title 12 of the Oklahoma
20 Statutes, compel the attendance of witnesses, examine witnesses
21 under oath or affirmation, and require the production of documents
22 in connection with complaints filed under this act, said powers to
23 be exercised only in relation to areas directly and materially
24 related to the complaint. The ~~Commission~~ Office of the Attorney

1 General may make rules authorizing any member or hearing examiner
2 designated by order to pass upon a complaint after a hearing under
3 Section 1503 of this title, and such decision must be approved in
4 writing by ~~a majority of the membership of the Commission~~ the Office
5 of the Attorney General;

6 7. To hear, and issue orders on, complaints involving state
7 government agencies and departments on the same basis as complaints
8 involving private employers; and

9 8. To provide technical assistance and public information to
10 assist in preventing and eliminating discriminatory housing
11 practices.

12 B. The ~~Commission~~ Office of the Attorney General shall:

13 1. At least annually, publish a written report recommending
14 legislative or other action to carry out the purposes of this act as
15 it relates to housing discrimination;

16 2. Make studies relating to the nature and extent of
17 discriminatory housing practices in this state; and

18 3. Cooperate with and, as appropriate, may provide technical
19 and other assistance to federal, state, local, and other public or
20 private entities that are formulating or operating programs to
21 prevent or eliminate discriminatory housing practices.

22 SECTION 11. AMENDATORY 25 O.S. 2001, Section 1502, is
23 amended to read as follows:

24

1 Section 1502. A. A person claiming to be aggrieved by a
2 discriminatory practice, his attorney, the Attorney General, or a
3 nonprofit organization chartered for the purpose of combatting
4 discrimination ~~or a member of the Commission~~, may file with the
5 ~~Commission~~ Office of the Attorney General a written sworn complaint
6 stating that a discriminatory practice has been committed, and
7 setting forth the facts upon which the complaint is based, and
8 setting forth facts sufficient to enable the ~~Commission~~ Office of
9 the Attorney General to identify the person charged, hereinafter
10 called the respondent. The ~~Commission or a member of the Commission~~
11 ~~or the staff~~ Office of the Attorney General shall promptly furnish
12 the respondent with a copy of the complaint and shall promptly
13 investigate the allegations of discriminatory practice set forth in
14 the complaint. The complaint must be filed within one hundred
15 eighty (180) days after the alleged discriminatory practice occurs.

16 B. If within sixty (60) days after the complaint is filed it is
17 determined by the ~~Commission or a member of the Commission or the~~
18 ~~staff~~ Office of the Attorney General that there is no reasonable
19 cause to believe that the respondent has engaged in a discriminatory
20 practice, the ~~Commission~~ Office of the Attorney General shall issue
21 an order dismissing the complaint and shall furnish a copy of the
22 order to the complainant, the respondent, ~~the Attorney General~~ and
23 such other public officers and persons as the ~~Commission~~ Office of
24 the Attorney General deems proper.

1 C. The complainant, within thirty (30) days after receiving a
2 copy of an order dismissing the complaint, may file with the
3 ~~Commission~~ Office of the Attorney General an application for
4 reconsideration of the order. Upon such application, the ~~Commission~~
5 ~~or a designated member of the Commission~~ Office of the Attorney
6 General shall make a new determination whether there is a reasonable
7 cause to believe that the respondent has engaged in a discriminatory
8 practice. If it is determined within thirty (30) days after the
9 application is filed that there is no reasonable cause to believe
10 that the respondent has engaged in a discriminatory practice, the
11 ~~Commission~~ Office of the Attorney General shall issue an order
12 dismissing the complaint and furnish a copy of the order to the
13 complainant, the respondent, ~~the Attorney General~~, and such other
14 public officers and persons as the ~~Commission~~ Office of the Attorney
15 General deems proper.

16 D. This section does not apply to persons claiming to be
17 aggrieved by a discriminatory housing practice to the extent that it
18 is inconsistent with specific provisions of this act relating to a
19 discriminatory housing complaint.

20 SECTION 12. AMENDATORY 25 O.S. 2001, Section 1502.1, is
21 amended to read as follows:

22 Section 1502.1 If, at any time after the filing of a verified
23 charge, the ~~Commission~~ Office of the Attorney General has reason to
24 believe that a respondent has engaged in any unlawful discriminatory

1 practice, the ~~Commission~~ Office of the Attorney General may file a
2 petition in the district court in a county in which the subject of
3 the complaint occurs, or in a county in which a respondent resides
4 or transacts business, seeking appropriate temporary injunctive
5 relief against the respondent pending final determination of
6 proceedings pursuant to this act, including an order or decree
7 restraining him from doing an act tending to render ineffectual an
8 order the ~~Commission~~ Office of the Attorney General may enter with
9 respect to the complaint. The court shall have power to grant
10 injunctive relief or a restraining order as it deems just and
11 proper, but no relief or order shall be granted except by consent of
12 the respondent or after hearing upon notice to the respondent and a
13 finding by the court that there is reasonable cause to believe that
14 the respondent has engaged in a discriminatory practice. Except as
15 modified by this section, the Oklahoma rules of civil procedure
16 shall apply to an application, and the district court shall have
17 authority to grant or deny the relief sought on conditions as it
18 deems just and equitable. This section is subject to the provisions
19 of Section ~~13~~ 1502.7 of this ~~act~~ title.

20 SECTION 13. AMENDATORY 25 O.S. 2001, Section 1502.2, is
21 amended to read as follows:

22 Section 1502.2 A. The ~~Commission~~ Office of the Attorney
23 General shall investigate alleged discriminatory housing practices.

24 B. A complaint must be:

- 1 1. In writing;
- 2 2. Under oath; and
- 3 3. In the form prescribed by the ~~Commission~~ Office of the
- 4 Attorney General.

5 C. An aggrieved person may, not later than one (1) year after
6 an alleged discriminatory housing practice has occurred or
7 terminated, whichever is later, file a complaint with the ~~Commission~~
8 Office of the Attorney General alleging the discriminatory housing
9 practice.

10 D. Not later than one (1) year after an alleged discriminatory
11 housing practice has occurred or terminated, whichever is later, the
12 ~~Commission~~ Office of the Attorney General may file its own
13 complaint.

14 E. A complaint may be amended at any time.

15 F. On the filing of a complaint the ~~Commission~~ Office of the
16 Attorney General shall:

17 1. Give the aggrieved person notice that the complaint has been
18 received;

19 2. Advise the aggrieved person of the time limits and choice of
20 forums pursuant to this act; and

21 3. Not later than the 20th day after the filing of the
22 complaint or the identification of an additional respondent pursuant
23 to Section ~~11~~ 1502.5 of this ~~act~~ title, serve on each respondent:
24

- 1 a. a notice identifying the alleged discriminatory
- 2 housing practice and advising the respondent of the
- 3 procedural rights and obligations of a respondent
- 4 pursuant to this act, and
- 5 b. a copy of the original complaint.

6 SECTION 14. AMENDATORY 25 O.S. 2001, Section 1502.3, is
7 amended to read as follows:

8 Section 1502.3 A. Not later than the 10th day after receipt of
9 the notice and copy pursuant to paragraph 3 of subsection F of
10 Section ~~&~~ 1502.2 of this ~~act~~ title, a respondent may file an answer
11 to the complaint.

12 B. An answer must be:

- 13 1. In writing;
- 14 2. Under oath; and
- 15 3. In the form prescribed by the ~~Commission~~ Office of the

16 Attorney General.

17 C. An answer may be amended at any time.

18 D. An answer does not inhibit the investigation of a complaint.

19 SECTION 15. AMENDATORY 25 O.S. 2001, Section 1502.4, is
20 amended to read as follows:

21 Section 1502.4 A. If the federal government has referred a
22 complaint to the ~~Commission~~ Office of the Attorney General or has
23 deferred jurisdiction over the subject matter of the complaint to
24 the ~~Commission~~ Office of the Attorney General, the ~~Commission~~ Office

1 of the Attorney General shall promptly investigate the allegations
2 set forth in the complaint.

3 B. The ~~Commission~~ Office of the Attorney General shall
4 investigate all complaints and except as provided by subsection C of
5 this section, shall complete an investigation not later than the
6 100th day after the date the complaint is filed, or if it is unable
7 to complete the investigation within the one-hundred-day period,
8 shall dispose of all administrative proceedings related to the
9 investigation not later than one (1) year after the date the
10 complaint is filed.

11 C. If the ~~Commission~~ Office of the Attorney General is unable
12 to complete an investigation within the time periods prescribed by
13 subsection B of this section, the ~~Commission~~ Office of the Attorney
14 General shall notify the complainant and the respondent in writing
15 of the reasons for the delay.

16 SECTION 16. AMENDATORY 25 O.S. 2001, Section 1502.5, is
17 amended to read as follows:

18 Section 1502.5 A. The ~~Commission~~ Office of the Attorney
19 General may join a person not named in the complaint as an
20 additional or substitute respondent if in the course of the
21 investigation the ~~Commission~~ Office of the Attorney General
22 determines that the person should be accused of a discriminatory
23 housing practice.

24

1 B. In addition to the information required in the notice
2 pursuant to paragraph 3 of subsection F of Section § 1502.2 of this
3 ~~act~~ title, the ~~Commission~~ Office of the Attorney General shall
4 include in a notice to a respondent joined pursuant to this section
5 an explanation of the basis for the determination that the person is
6 properly joined as a respondent.

7 SECTION 17. AMENDATORY 25 O.S. 2001, Section 1502.6, is
8 amended to read as follows:

9 Section 1502.6 A. The ~~Commission~~ Office of the Attorney
10 General shall, during the period beginning with the filing of a
11 complaint and ending with the filing of a charge or a dismissal by
12 the ~~Commission~~ Office of the Attorney General, to the extent
13 feasible, engage in conciliation with respect to the complaint.

14 B. A conciliation agreement is an agreement between a
15 respondent and the complainant and is subject to ~~Commission~~ approval
16 by the Office of the Attorney General.

17 C. A conciliation agreement may provide for binding arbitration
18 or other method of dispute resolution. Dispute resolution that
19 results from a conciliation agreement may authorize appropriate
20 relief, including monetary relief.

21 D. A conciliation agreement shall be made public unless the
22 complainant and respondent agree otherwise, and the ~~Commission~~
23 Office of the Attorney General determines that disclosure is not
24 necessary to further the purpose of this act.

1 E. Nothing said or done in the course of conciliation may be
2 made public or used as evidence in a subsequent proceeding pursuant
3 to this act without the written consent of the persons concerned.

4 F. After completion of the ~~Commission's~~ investigation by the
5 Office of the Attorney General, the ~~Commission~~ Office of the
6 Attorney General shall make available to the aggrieved person and
7 the respondent, at any time, information derived from the
8 investigation and the final investigation report relating to that
9 investigation.

10 SECTION 18. AMENDATORY 25 O.S. 2001, Section 1502.7, is
11 amended to read as follows:

12 Section 1502.7 A. If the ~~Commission~~ Office of the Attorney
13 General concludes at any time following the filing of a
14 discriminatory housing complaint that prompt judicial action is
15 necessary to carry out the purposes of this act, the ~~Commission may~~
16 ~~authorize~~ Office of the Attorney General shall promptly file a civil
17 action for appropriate temporary or preliminary relief pending final
18 disposition of the complaint.

19 B. ~~On receipt of the Commission's authorization, the Attorney~~
20 ~~General shall promptly file the action.~~

21 C. A temporary restraining order or other order granting
22 preliminary or temporary relief on a discriminatory housing
23 complaint filed under this section is governed by the provisions of
24

1 Section 1502.1 of this title and the applicable Oklahoma rules of
2 civil procedure.

3 ~~D.~~ C. The filing of a civil action pursuant to this section
4 does not affect the initiation or continuation of administrative
5 proceeding pursuant to Section 1503 of this title.

6 SECTION 19. AMENDATORY 25 O.S. 2001, Section 1502.8, is
7 amended to read as follows:

8 Section 1502.8 A. The ~~Commission~~ Office of the Attorney
9 General shall prepare a final investigative report showing:

- 10 1. The name and dates of contact with witnesses;
- 11 2. A summary of correspondence and other contacts with the
12 aggrieved person and the respondent showing the dates of the
13 correspondence and contacts;
- 14 3. A summary description of other pertinent records;
- 15 4. A summary of witness statements; and
- 16 5. Answers to interrogatories.

17 B. A final report pursuant to this section may be amended if
18 additional evidence is discovered.

19 SECTION 20. AMENDATORY 25 O.S. 2001, Section 1502.9, is
20 amended to read as follows:

21 Section 1502.9 A. The ~~Commission~~ Office of the Attorney
22 General shall determine based on the facts whether reasonable cause
23 exists to believe that a discriminatory housing practice has
24 occurred or is about to occur.

1 B. The ~~Commission~~ Office of the Attorney General shall make the
2 determination pursuant to subsection A of this section not later
3 than the 100th day after the date a complaint is filed unless:

4 1. It is impracticable to make the determination; or

5 2. The ~~Commission~~ Office of the Attorney General has approved a
6 conciliation agreement relating to the complaint.

7 C. If it is impracticable to make the determination within the
8 time period provided by subsection B of this section, the ~~Commission~~
9 Office of the Attorney General shall notify the complainant and
10 respondent in writing of the reasons for the delay.

11 D. If the ~~Commission~~ Office of the Attorney General determines
12 that reasonable cause exists to believe that a discriminatory
13 housing practice has occurred or is about to occur, the ~~Commission~~
14 Office of the Attorney General shall, ~~except as provided by Section~~
15 ~~17 of this act,~~ immediately issue a charge on behalf of the
16 aggrieved person.

17 SECTION 21. AMENDATORY 25 O.S. 2001, Section 1502.10, is
18 amended to read as follows:

19 Section 1502.10 A. A charge issued pursuant to Section ~~15~~
20 1502.9 of this ~~act~~ title:

21 1. Must consist of a short and plain statement of the facts on
22 which the ~~Commission~~ Office of the Attorney General has found
23 reasonable cause to believe that a discriminatory housing practice
24 has occurred or is about to occur;

- 1 2. Must be based on the final investigative report; and
2 3. Need not be limited to the facts or grounds alleged in the
3 complaint.

4 B. Not later than the 20th day after the ~~Commission~~ Office of
5 the Attorney General issues a charge, the ~~Commission~~ Office of the
6 Attorney General shall send a copy of a charge with information
7 concerning the election pursuant to Section ~~20~~ 1502.14 of this ~~act~~
8 title to:

- 9 1. Each respondent, together with a notice of the opportunity
10 for a hearing provided by Section 1503 of this title; and
11 2. Each aggrieved person on whose behalf the complaint was
12 filed.

13 SECTION 22. AMENDATORY 25 O.S. 2001, Section 1502.12, is
14 amended to read as follows:

15 Section 1502.12 A. If the ~~Commission~~ Office of the Attorney
16 General determines that no reasonable cause exists to believe that a
17 discriminatory housing practice has occurred or is about to occur,
18 the ~~Commission~~ Office of the Attorney General shall promptly dismiss
19 the complaint.

20 B. The ~~Commission~~ Office of the Attorney General shall make
21 public disclosure of each dismissal pursuant to this section.

22 SECTION 23. AMENDATORY 25 O.S. 2001, Section 1502.13, is
23 amended to read as follows:

24

1 Section 1502.13 The ~~Commission~~ Office of the Attorney General
2 may not issue a charge pursuant to this section regarding an alleged
3 discriminatory housing practice after the beginning of the trial of
4 a civil action ~~commenced~~ commenced by the aggrieved party under
5 federal or state law seeking relief with respect to that
6 discriminatory housing practice.

7 SECTION 24. AMENDATORY 25 O.S. 2001, Section 1502.14, is
8 amended to read as follows:

9 Section 1502.14 A. A complainant, a respondent, or an
10 aggrieved person on whose behalf the complaint was filed may elect
11 to have the claims asserted in that charge decided in a civil action
12 as provided by Section ~~21~~ 1502.15 of this ~~act~~ title.

13 B. The election must be made not later than the 20th day after
14 the date of receipt by the electing person of service pursuant to
15 subsection B of Section ~~16~~ 1502.10 of this ~~act~~ title or, in the case
16 of the ~~Commission~~ Office of the Attorney General, not later than the
17 20th day after the date the charge was issued.

18 C. The person making the election shall give notice to the
19 ~~Commission~~ Office of the Attorney General and to all other
20 complainants and respondents to whom the charge relates.

21 SECTION 25. AMENDATORY 25 O.S. 2001, Section 1502.15, is
22 amended to read as follows:

23 Section 1502.15 A. If a timely election is made pursuant to
24 Section ~~20~~ 1502.14 of this ~~act~~ title, the ~~Commission~~ Office of the

1 Attorney General shall authorize, and not later than the 30th day
2 after the election is made, ~~the Attorney General~~ shall file, a civil
3 action on behalf of the aggrieved person in a district court seeking
4 relief pursuant to this section.

5 B. Venue for an action pursuant to this section is in the
6 county in which the alleged discriminatory housing practice
7 occurred, or in a county where the respondent resides or transacts
8 business.

9 C. An aggrieved person may intervene in the action.

10 D. If the court finds that a discriminatory housing practice
11 has occurred or is about to occur, the court may grant as relief any
12 relief that a court may grant in a civil action pursuant to Section
13 ~~26~~ 1506.3 of this ~~act~~ title.

14 E. If monetary relief is sought for the benefit of an aggrieved
15 person who does not intervene in the civil action, the court may not
16 award the monetary relief if that aggrieved person has not complied
17 with discovery orders entered by the court.

18 SECTION 26. AMENDATORY 25 O.S. 2001, Section 1503, is
19 amended to read as follows:

20 Section 1503. A. After the ~~Commission~~ Office of the Attorney
21 General has completed its investigation and exhausted efforts of
22 settlement, conciliation, and persuasion, unless the ~~Commission~~
23 Office of the Attorney General has issued an order dismissing the
24 complaint or within thirty (30) days after an application for review

1 is filed under subsection C of Section 1502 of this title, the
2 ~~Commission~~ Office of the Attorney General shall serve on the
3 respondent by certified mail a written notice, together with a copy
4 of the complaint as it may have been amended requiring the
5 respondent to answer the allegations of the complaint at a hearing
6 before ~~a member of the Commission~~ the Office of the Attorney General
7 or hearing examiner designated by order of the ~~Commission~~ Office of
8 the Attorney General to decide the complaint, at a time and place
9 specified in the notice. A copy of the notice shall be furnished to
10 the complainant ~~and the Attorney General~~. The notice shall conform
11 to and the hearing shall be conducted in accordance with the
12 Oklahoma Administrative Procedures Act. The decision must be
13 approved in writing by ~~a majority of the Commission~~ the Office of
14 the Attorney General.

15 B. ~~A member of the Commission~~ The individual from the Office of
16 the Attorney General who investigated the complaint shall not
17 preside at the hearing nor participate in the subsequent
18 deliberation of the ~~Commission~~ Office of the Attorney General in
19 deciding the case.

20 C. The respondent may file an answer with the ~~Commission~~ Office
21 of the Attorney General as prescribed by the rules of the ~~Commission~~
22 Office of the Attorney General. The ~~Commission~~ Office of the
23 Attorney General shall furnish a copy of the answer to the
24 complainant and any other party to the proceeding. The ~~Commission~~

1 Office of the Attorney General or the complainant may amend a
2 complaint and the respondent may amend an answer at any time prior
3 to the issuance of an order based on the complaint, but no order
4 shall be issued unless the respondent has had the opportunity of a
5 hearing on the complaint or amendment on which the order is based.

6 D. The case in support of the complaint shall be presented at
7 the hearing by the ~~Commission staff~~ Office of the Attorney General.

8 E. A respondent who has filed an answer or whose default in
9 answering has been set aside for good cause shown may appear at the
10 hearing with or without representation, may examine and
11 cross-examine witnesses and the complainant, and may offer evidence.
12 The complainant or the Attorney General may intervene, examine and
13 cross-examine witnesses, and may present evidence.

14 F. If the respondent fails to answer the complaint, the
15 ~~Commission~~ Office of the Attorney General may enter ~~his~~ the default
16 of the respondent and the hearing shall proceed on the evidence in
17 support of the complaint. The default may be set aside for good
18 cause shown upon equitable terms and conditions.

19 G. Testimony taken at the hearing shall be under oath and
20 preserved by either audio tape or transcription as determined by the
21 ~~Commissioner~~ Office of the Attorney General or hearing examiner
22 designated by order to hear the complaint; provided a party shall be
23 able to have the proceedings transcribed at ~~such party's own cost~~
24 the cost of that party. The ~~Commission~~ Office of the Attorney

1 General shall furnish transcripts of the hearing upon payment of the
2 costs by such party requesting the transcripts. After the hearing,
3 in its discretion, the ~~Commission~~ Office of the Attorney General
4 upon notice to all parties affording an opportunity to be heard may
5 take further evidence or hear argument.

6 H. The ~~Commission~~ Office of the Attorney General shall abide by
7 the provisions of this section in a discriminatory housing complaint
8 only if an election is not made pursuant to Section ~~20~~ 1502.14 of
9 this ~~act~~ title.

10 I. A hearing pursuant to this section may not continue
11 regarding any alleged discriminatory housing practice after the
12 beginning of the trial of a civil action commenced by the aggrieved
13 person pursuant to federal or state law seeking relief with respect
14 to that discriminatory housing practice.

15 SECTION 27. AMENDATORY 25 O.S. 2001, Section 1504, is
16 amended to read as follows:

17 Section 1504. If the ~~Commission~~ Office of the Attorney General
18 determines that the respondent has not engaged in a discriminatory
19 practice, the ~~Commission~~ Office of the Attorney General shall state
20 its findings of fact and conclusions of law, and shall dismiss the
21 complaint by order and furnish a copy of the order to the
22 complainant, and the respondent ~~and the Attorney General~~.

23 SECTION 28. AMENDATORY 25 O.S. 2001, Section 1505, is
24 amended to read as follows:

1 Section 1505. A. If the ~~Commission~~ Office of the Attorney
2 General determines from a review of all of the evidence that the
3 respondent has engaged in a discriminatory practice, the ~~Commission~~
4 Office of the Attorney General shall state its findings of fact and
5 conclusions of law and ~~a member of the Commission designated by the~~
6 ~~chairman or the staff~~ the Office of the Attorney General shall
7 endeavor to eliminate the discriminatory practice by conference,
8 conciliation, and persuasion. The terms of a conciliation agreement
9 reached with the respondent may require ~~him~~ the respondent to
10 refrain in the future from committing discriminatory practices of
11 the type stated in the agreement and to take such affirmative action
12 as in the judgment of the ~~Commission~~ Office of the Attorney General
13 will carry out the purposes of this act. If a conciliation
14 agreement is entered into, the ~~Commission~~ Office of the Attorney
15 General shall issue an order stating its terms and furnish a copy of
16 the order to the complainant, and the respondent, ~~and the Attorney~~
17 ~~General~~. Except for the fact of the consummation of a conciliation
18 agreement, ~~neither the Commission nor any officer or employee~~
19 ~~thereof~~ the Office of the Attorney General shall not make public,
20 without the written consent of the complainant and the respondent,
21 information concerning the agreement or efforts in a particular case
22 to eliminate a discriminatory practice by conference, conciliation,
23 or persuasion. At any time in its discretion but not later than one
24 (1) year from the date of a conciliation agreement, the ~~Commission~~

1 Office of the Attorney General shall investigate whether the terms
2 of the agreement are being complied with by the respondent, ~~the~~
3 ~~Commission~~. The Office of the Attorney General shall take
4 appropriate action as authorized by this act to assure compliance.

5 B. If the ~~Commission~~ Office of the Attorney General is unable
6 to eliminate the discriminatory practice by conference,
7 conciliation, or persuasion, it shall issue an order requiring the
8 respondent to cease and desist from the discriminatory practice and
9 to take such affirmative action as in the judgment of the ~~Commission~~
10 Office of the Attorney General will carry out the purposes of this
11 act. A copy of the order shall be delivered to the respondent, and
12 the complainant ~~and the Attorney General~~.

13 C. Affirmative action ordered under subsection B of this
14 section may include but is not limited to:

15 1. Hiring or reinstatement of employees with or without back
16 pay (less amount earned or earnable with reasonable diligence by
17 such employees);

18 2. Admission or restoration of individuals to union membership,
19 admission to or participation in a guidance program, apprenticeship
20 training or retraining program, on-the-job training program, or
21 other occupational training or retraining program, with the
22 utilization of objective criteria in the admission of individuals to
23 such program;

24 3. Admission of individuals to a public accommodation;

1 4. Reporting as to the manner of compliance;

2 5. Posting notices in conspicuous places in ~~respondent's~~ the
3 place of business of the respondent in form prescribed by the
4 ~~Commission~~ Office of the Attorney General and inclusion of such
5 notices in advertising material;

6 6. Awarding costs, including attorneys fees, to:

7 a. a prevailing complaining party, or

8 b. the party complained against, if the ~~Commission~~ Office
9 of the Attorney General determines that the complaint
10 is clearly frivolous, or

11 c. the party complained against, if the district court
12 determines that the complaint is frivolous and that
13 the ~~Commission~~ Office of the Attorney General dealt
14 with the party complained against in a willful, wanton
15 and oppressive manner, in which case, the ~~Commission~~
16 Office of the Attorney General shall be ordered to pay
17 such costs and attorneys fees; and

18 7. Ordering a person to rehire, reinstate, and provide back pay
19 to any employee or agent discriminated against because of obedience
20 to the laws prohibiting discriminatory practices in housing.

21 D. In the case of a respondent who is found by the ~~Commission~~
22 Office of the Attorney General to have engaged in a discriminatory
23 practice in the course of performing under a contract or subcontract
24 with the state or any governmental entity, or agency thereof, if the

1 discriminatory practice was authorized, requested, commanded,
2 performed or recklessly tolerated by the board of directors of the
3 respondent or by a high managerial agent acting within the scope of
4 his employment, the ~~Commission~~ Office of the Attorney General shall
5 so certify to the contracting agency. Unless the ~~Commission's~~
6 finding of a discriminatory practice by the Office of the Attorney
7 General is upheld in the course of judicial review under Section
8 1506 of this title, the finding of discrimination is not binding on
9 the contracting agency.

10 E. If the ~~Commission~~ Office of the Attorney General determines
11 that a respondent has engaged in or is about to engage in a
12 discriminatory housing practice, the ~~Commission~~ Office of the
13 Attorney General may order the appropriate relief, including actual
14 damages, reasonable attorneys fees, court costs, and other
15 injunctive or equitable relief.

16 1. To vindicate the public interest, the ~~Commission~~ Office of
17 the Attorney General may assess a civil penalty against the
18 respondent in an amount that does not exceed:

- 19 a. Ten Thousand Dollars (\$10,000.00), if the respondent
20 has been adjudged by order of the ~~Commission~~ Office of
21 the Attorney General or a court to have committed a
22 prior discriminatory housing practice,
23 b. except as provided by paragraph 2 of this subsection,
24 Twenty-five Thousand Dollars (\$25,000.00), if the

1 respondent has been adjudged by order of the
2 ~~Commission~~ Office of the Attorney General or a court
3 to have committed one other discriminatory housing
4 practice during the five-year period ending on the
5 date of the filing of the charge, and

6 c. except as provided by paragraph 2 of this subsection,
7 Fifty Thousand Dollars (\$50,000.00), if the respondent
8 has been adjudged by order of the ~~Commission~~ Office of
9 the Attorney General or a court to have committed two
10 or more discriminatory housing practices during the
11 seven-year period ending on the date of the filing of
12 the charge.

13 2. If the acts constituting the discriminatory housing practice
14 that is the object of the charge are committed by the same
15 individual who has been previously adjudged to have committed acts
16 constituting a discriminatory housing practice, the civil penalties
17 in ~~subparagraph~~ subparagraphs b and c of paragraph 1 of this
18 subsection may be imposed without regard to the period of time
19 within which any other discriminatory housing practice occurred.

20 3. ~~At the request of the Commission, the~~ The Attorney General
21 shall sue to recover a civil penalty due pursuant to this section.
22 Funds collected pursuant to this section shall be paid to the State
23 Treasurer for deposit in the State Treasury to the credit of the
24 Fair Housing Fund.

1 4. ~~A Commission~~ An order from the Office of the Attorney
2 General pursuant to this subsection ~~E of this section~~ does not
3 affect a contract, sale, encumbrance, or lease that:

4 a. was consummated before the ~~Commission~~ Office of the
5 Attorney General issued the order, and

6 b. involved a bona fide purchaser, encumbrancer, or
7 tenant who did not have actual notice of the charge
8 filed pursuant to this act.

9 5. If the ~~Commission~~ Office of the Attorney General issues an
10 order with respect to a discriminatory housing practice that
11 occurred in the course of a business subject to a licensing or
12 regulation by a governmental agency, the ~~Commission~~ Office of the
13 Attorney General shall, not later than the 30th day after the date
14 of the issuance of the order:

15 a. send copies of the findings and the order to the
16 governmental agency, and

17 b. recommend to the governmental agency appropriate
18 disciplinary action.

19 6. ~~If the Commission issues an order against a respondent~~
20 ~~against whom another order was issued within the preceding five (5)~~
21 ~~years pursuant to subsection E of this section, the Commission shall~~
22 ~~send a copy of each order issued pursuant to that subsection to the~~
23 ~~Attorney General.~~

1 7. No order issued pursuant to this section shall have any
2 legal effect, unless and until and to the extent that a district
3 court may issue a corresponding order pursuant to Section 1506 of
4 this title.

5 SECTION 29. AMENDATORY 25 O.S. 2001, Section 1505.1, is
6 amended to read as follows:

7 Section 1505.1 If the ~~Commission~~ Office of the Attorney General
8 upon final determination finds that an act of housing discrimination
9 pursuant to Section ~~2~~ 1452 of this ~~act~~ title has been committed by a
10 person holding a real estate license pursuant to state law, the
11 ~~Commission~~ Office of the Attorney General will certify its
12 determination to the licensing agency. Unless such determination of
13 discriminatory practice is reversed in the course of judicial
14 review, a final determination is binding on the licensing agency.
15 Such agency shall take appropriate administrative action, including
16 suspension or revocation of the license of the respondent.

17 SECTION 30. AMENDATORY 25 O.S. 2001, Section 1506, is
18 amended to read as follows:

19 Section 1506. ~~(a)~~ A. The ~~Commission~~ Office of the Attorney
20 General may petition for an order of the district court for
21 enforcement of an order issued by the ~~Commission~~ Office of the
22 Attorney General under Section 1505 of this title, in a proceeding
23 brought in the district court of the county in which the alleged
24

1 discriminatory practice which is the subject of the order occurs or
2 in which a respondent resides or transacts business.

3 ~~(b)~~ B. The proceeding for an enforcement order shall be a
4 review on the record without a jury and shall follow the procedures
5 of the Administrative Procedures Act unless the ~~Commission~~ Office of
6 the Attorney General, complainant, or respondent requests the
7 proceedings to be de novo. If so requested, the proceeding for an
8 enforcement order shall be a de novo proceeding and shall follow the
9 procedures of the courts of this state applicable to a civil action.
10 If the party requesting the de novo proceeding is not the prevailing
11 party in such proceeding, the court shall award reasonable attorney
12 fees and costs of court to the prevailing party. The evidence in
13 support of the complaint may be presented by the complainant, ~~his~~
14 the attorney of the complainant, ~~the Commission or its attorney~~, or
15 the Attorney General. The court shall have power to grant such
16 temporary relief or restraining order as it deems just, and to enter
17 an order enforcing the order of the ~~Commission~~ Office of the
18 Attorney General or restraining its violation if the court finds
19 that the preponderance of the evidence supports such order of the
20 ~~Commission~~ Office of the Attorney General. All such proceedings
21 shall be heard and determined by the court, and any appellate court,
22 as expeditiously as possible.

23

24

1 ~~(e)~~ C. A proceeding under this section must be initiated within
2 thirty (30) days after the order of the ~~Commission~~ Office of the
3 Attorney General is issued.

4 SECTION 31. AMENDATORY 25 O.S. 2001, Section 1506.1, is
5 amended to read as follows:

6 Section 1506.1 A. An aggrieved person may file a civil action
7 in district court not later than the second year after the
8 occurrence of the termination of an alleged discriminatory housing
9 practice, or the breach of a conciliation agreement entered into
10 pursuant to this act, whichever occurs last, to obtain appropriate
11 relief with respect to the discriminatory housing practice or
12 breach.

13 B. The two-year period does not include any time during which
14 an administrative hearing pursuant to this act is pending with
15 respect to a complaint or charge pursuant to this act based on the
16 discriminatory housing practice. This subsection does not apply to
17 actions arising from a breach of a conciliation agreement.

18 C. An aggrieved person may file an action pursuant to this
19 section whether or not a complaint has been filed pursuant to
20 Section ~~&~~ 1502.2 of this ~~act~~ title and without regard to the status
21 of any complaint filed pursuant to this section.

22 D. If the ~~Commission~~ Office of the Attorney General has
23 obtained a conciliation agreement with the consent of an aggrieved
24 person, the aggrieved person may not file an action pursuant to this

1 section with respect to the alleged discriminatory housing practice
2 that forms the basis for the complaint except to enforce the terms
3 of the agreement.

4 E. An aggrieved person may not file an action pursuant to this
5 section with respect to an alleged discriminatory housing practice
6 that forms the basis of a charge issued by the ~~Commission~~ Office of
7 the Attorney General if the ~~Commission~~ Office of the Attorney
8 General has begun a hearing on the record pursuant to this act with
9 respect to the charge.

10 SECTION 32. AMENDATORY 25 O.S. 2001, Section 1506.6, is
11 amended to read as follows:

12 Section 1506.6 A. ~~On request of the Commission, the~~ The
13 Attorney General may file a civil action in district court for
14 appropriate relief if the ~~Commission~~ Office of the Attorney General
15 has reasonable cause to believe that:

16 1. A person is engaged in pattern or practice of resistance to
17 the full enjoyment of any right granted by this act; or

18 2. A person has been denied any right granted by this act and
19 that denial raises an issue of general public importance.

20 B. In an action pursuant to this section the court may:

21 1. Award preventive relief, including a permanent or temporary
22 injunctive, restraining ~~order~~, or other order against the person
23 responsible for a violation of this act as necessary to assure the
24 full enjoyment of the rights granted by this act;

1 2. Award other appropriate relief, including monetary damages,
2 reasonable attorneys fees, and court costs; and

3 3. To vindicate the public interest, assess a civil penalty
4 against the respondent in an amount that does not exceed:

5 a. Fifty Thousand Dollars (\$50,000.00), for a first
6 violation, and

7 b. One Hundred Thousand Dollars (\$100,000.00), for a
8 second or subsequent violation.

9 C. A person may intervene in an action pursuant to this section
10 if the person is:

11 1. An aggrieved person to the discriminatory housing practice;
12 or

13 2. A party to a conciliation agreement concerning the
14 discriminatory housing practice.

15 SECTION 33. AMENDATORY 25 O.S. 2001, Section 1506.7, is
16 amended to read as follows:

17 Section 1506.7 The Office of the Attorney General on its own or
18 on behalf of the Commission or other another party at whose request
19 a subpoena is issued pursuant to this act, may enforce the subpoena
20 in appropriate proceedings in district court.

21 SECTION 34. AMENDATORY 25 O.S. 2001, Section 1506.8, is
22 amended to read as follows:

23 Section 1506.8 A court in a civil action brought pursuant to
24 this act or the ~~Commission~~ Office of the Attorney General in an

1 administrative hearing pursuant to Section 1503 of this title may
2 award reasonable attorneys fees to the prevailing party and assess
3 court costs against the nonprevailing party.

4 SECTION 35. AMENDATORY 25 O.S. 2001, Section 1507, is
5 amended to read as follows:

6 Section 1507. ~~(a)~~ A. In connection with an investigation of a
7 complaint filed under this act, the ~~Commission~~ Office of the
8 Attorney General or its designated representative shall have access
9 at any reasonable time to premises, records and documents relevant
10 to the complaint and the right to examine, photograph and copy
11 evidence, in accordance with the Oklahoma Administrative Procedures
12 Act.

13 ~~(b)~~ B. The ~~Commission~~ Office of the Attorney General, by
14 regulation, shall require each person subject to this act which
15 controls an apprenticeship or other training program to keep all
16 records reasonably necessary to carry out the purposes of this act,
17 including, but not limited to, a list of applicants who wish to
18 participate in such program, including the chronological order in
19 which applications were received, and shall furnish to the
20 ~~Commission~~ Office of the Attorney General, upon request, a detailed
21 description of the manner in which persons are selected to
22 participate in the apprenticeship or other training programs.

23
24

1 ~~(c)~~ C. A person who believes that the application ~~to him~~ of a
2 regulation or order issued to that person under this section would
3 result in undue hardship may ~~(1) apply:~~

4 1. Apply to the ~~Commission~~ Office of the Attorney General for
5 an exemption from the application of the regulation or order ~~or (2)~~
6 bring;

7 2. Bring an action for a declaratory judgment under Section 306
8 of Title 75 of the Oklahoma Statutes, ~~Section 306,~~ if appropriate,i
9 ~~or may resist~~

10 3. Resist an enforcement application brought under subsection C
11 of Section 315 of Title 75 of the Oklahoma Statutes, ~~Section 315(3).~~

12 ~~(d)~~ D. So as to avoid undue burden on persons subject to the
13 act, records and reports required by the ~~Commission~~ Office of the
14 Attorney General under this section shall conform as near as may be
15 to similar records and reports required by federal law.

16 ~~(e)~~ E. It is unlawful for an officer or employee of the
17 ~~Commission~~ Office of the Attorney General to make public with
18 respect to a particular person without ~~his~~ that person's consent
19 information obtained by the ~~Commission~~ Office of the Attorney
20 General pursuant to its authority under this section.

21 SECTION 36. AMENDATORY 25 O.S. 2001, Section 1508, is
22 amended to read as follows:

23 Section 1508. ~~(a)~~ A. Subpoenas shall issue in proceedings
24 under this act, as provided in the Oklahoma Administrative

1 Procedures Act. A subpoena so issued shall show on its face the
2 name and address of the party at whose request the subpoena was
3 issued. On petition of the individual to whom the subpoena is
4 directed and notice to the requesting party, the ~~Commission~~ Office
5 of the Attorney General or an individual designated pursuant to its
6 rules may vacate or modify the subpoena.

7 ~~(b)~~ B. Witnesses whose depositions are taken or who are
8 summoned before the ~~Commission~~ Office of the Attorney General or its
9 agents shall be entitled to the same witness and mileage fees as are
10 paid to witnesses in the courts of the state.

11 SECTION 37. AMENDATORY 25 O.S. 2001, Section 1604, is
12 amended to read as follows:

13 Section 1604. Upon receiving a certification made under Section
14 ~~505(e)~~ 1505.1 of this title, a contracting agency may take
15 appropriate action to:

16 ~~(1)~~ 1. Terminate a contract or portion thereof previously
17 entered into with the respondent, either absolutely or on condition
18 that the respondent carry out a program of compliance with the
19 provisions of this act₇; and

20 ~~(2)~~ 2. Assist the state and all governmental entities and
21 agencies thereof to refrain from entering into further contracts, or
22 extensions or other modifications of existing contracts, with the
23 respondent until the ~~Commission~~ Office of the Attorney General is
24

1 satisfied that the respondent will carry out policies in compliance
2 with the provisions of this act.

3 SECTION 38. AMENDATORY 25 O.S. 2001, Section 1704, is
4 amended to read as follows:

5 Section 1704. A local commission may have the following powers
6 in addition to powers authorized by other laws:

7 1. To employ an executive director and other employees and
8 agents and fix their compensation;

9 2. To cooperate with individuals and state, local, and other
10 agencies, both public and private, including agencies of the federal
11 government and other states and municipalities;

12 3. To accept gifts, bequests, grants, or other payments, public
13 or private, to help finance its activities;

14 4. To receive, initiate, investigate, and seek to conciliate
15 complaints alleging violations of this act or of an ordinance
16 prohibiting discrimination because of race, color, religion, sex,
17 national origin, age, or handicap or legislation establishing the
18 commission;

19 5. To make studies appropriate to effectuate its purposes and
20 policies and to make the results thereof available to the public;
21 and

22 6. To render at least annually a report, a copy of which shall
23 be furnished to the ~~State Commission~~ Office of the Attorney General.

24

1 SECTION 39. AMENDATORY 25 O.S. 2001, Section 1705, is
2 amended to read as follows:

3 Section 1705. A. The ~~State Commission~~ Office of the Attorney
4 General:

5 1. Whether or not a complaint has been filed under the
6 provisions of ~~Sections~~ Section 1502 or 1704 of this title, may refer
7 a matter involving discrimination because of race, color, religion,
8 sex, national origin, age, or handicap to a local commission for
9 investigation, study, and report; and

10 2. May refer a complaint alleging a violation of this act to a
11 local commission for:

12 a. investigation,

13 b. determination whether there is reasonable cause to
14 believe that the respondent has engaged in a
15 discriminatory practice, or

16 c. assistance in eliminating a discriminatory practice by
17 conference, conciliation, or persuasion.

18 B. Upon referral by the ~~State Commission~~ Office of the
19 Attorney General, the local commission shall make a report and may
20 make recommendations to the ~~State Commission~~ Office of the Attorney
21 General and take other appropriate action within the scope of its
22 powers.

23 SECTION 40. AMENDATORY 25 O.S. 2001, Section 1706, is
24 amended to read as follows:

1 Section 1706. ~~(a)~~ A. A local commission may refer a matter
2 under its jurisdiction to the ~~State Commission~~ Office of the
3 Attorney General.

4 ~~(b)~~ B. At any time after a complaint under this ~~Act~~ act is
5 filed, the ~~State Commission~~ Office of the Attorney General may
6 require a local commission to transfer any related proceeding to the
7 ~~State Commission~~ Office of the Attorney General. After the local
8 commission is requested to transfer a proceeding, the local
9 commission has no further jurisdiction over the proceeding except to
10 take appropriate action to implement the transfer to the ~~State~~
11 Commission Office of the Attorney General.

12 SECTION 41. AMENDATORY 25 O.S. 2001, Section 1901, is
13 amended to read as follows:

14 Section 1901. A. If a charge for discrimination in employment
15 on the basis of handicap is filed under the provisions of Sections
16 1101 through 1801 of ~~Title 25 of the Oklahoma Statutes~~ this title
17 and is not resolved to the satisfaction of the charging party within
18 one hundred eighty (180) days from the filing of such charge, the
19 charging party may commence an action for redress against any person
20 who is alleged to have discriminated against the charging party and
21 against any person named as respondent in the charge, such action to
22 be commenced in the district court of this state for the county in
23 which the unlawful employment practice is alleged to have been
24 committed.

1 B. Either party in any such action shall be entitled to a jury
2 trial of any facts in dispute in the action.

3 C. If it is determined in such action that the defendant or
4 defendants in such action have discriminated against the charging
5 party on the basis of handicap as charged in the petition, the
6 aggrieved party shall be entitled to nominal or actual damages.
7 Actual damages shall include, but are not limited to, reinstatement
8 or hiring, with or without back pay, or any other legal or equitable
9 relief as the court deems appropriate. Back pay liability shall not
10 accrue from a date more than two (2) years prior to the filing of
11 the charge with the ~~Oklahoma Human Rights Commission~~ Office of the
12 Attorney General. Interim earnings or amounts earnable with
13 reasonable diligence by the person discriminated against shall
14 operate to reduce the back pay otherwise allowable. No order of the
15 court shall require the hiring or reinstatement or promotion of an
16 individual as an employee, or the payment to ~~him~~ the employee of any
17 back pay, if such individual was refused employment or advancement
18 or was suspended or discharged for legitimate reasons other than
19 discrimination on account of handicap.

20 D. In any action or proceeding under this section the court
21 shall allow a prevailing party a reasonable attorneys fee.

22 E. No action shall be maintainable in district court as herein
23 provided more than two (2) years after a timely filing of a charge
24

1 with the ~~Oklahoma Human Rights Commission~~ Office of the Attorney
2 General.

3 SECTION 42. AMENDATORY 73 O.S. 2001, Section 163.2, is
4 amended to read as follows:

5 Section 163.2 Monies collected from private tenants in the
6 State Office Building in Tulsa, Oklahoma, through June 30, 1976, or
7 monies collected from lease agreement with state agencies entered
8 into subsequent to the date of this act, except the State Department
9 of Agriculture, the Supreme Court, the Commissioner of Narcotics and
10 Dangerous Drugs Control, the ~~Human Rights Commission~~ Office of the
11 Attorney General, the Indian Affairs Commission, the Water Resources
12 Board, the Oklahoma Educational Television Authority, the Oklahoma
13 Department of Commerce, the Department of Mental Health and
14 Substance Abuse Services, the Department of Labor, the University of
15 Oklahoma and the board of county commissioners of Tulsa County,
16 shall be paid to the State Treasurer for deposit to the General
17 Revenue Fund. Monies collected from any agency or institution of
18 the government of the United States are exempted from payment to the
19 State Treasurer for deposit to the General Revenue Fund.

20 SECTION 43. AMENDATORY 74 O.S. 2001, Section 840-2.1, as
21 amended by Section 5, Chapter 347, O.S.L. 2002 (74 O.S. Supp. 2007,
22 Section 840-2.1), is amended to read as follows:

23 Section 840-2.1 A. All agencies, boards, commissions,
24 departments, and offices of each branch of state government, except

1 institutions within The Oklahoma State System of Higher Education,
2 shall submit an affirmative action plan to the Office of Personnel
3 Management annually by September 1 following the end of the fiscal
4 year ending June 30. Institutions within The Oklahoma State System
5 of Higher Education shall submit an affirmative action plan to the
6 Oklahoma State Regents for Higher Education in accordance with
7 standards established by the Oklahoma State Regents for Higher
8 Education.

9 B. Said plan for agencies of the executive branch, except
10 institutions within The Oklahoma State System of Higher Education,
11 is subject to the approval of the Administrator of the Office of
12 Personnel Management.

13 C. The Administrator of the Office of Personnel Management
14 shall analyze the affirmative action plans of executive branch
15 agencies and Equal Employment Opportunity Commission reports
16 prepared by such agencies, except institutions within The Oklahoma
17 State System of Higher Education, and, on or before March 1 of each
18 year, shall submit a report to the Speaker of the House of
19 Representatives, the President Pro Tempore of the Senate, and the
20 Governor. Said report shall state the efforts and progress made by
21 governmental entities in the area of affirmative action, including
22 the status of recruitment, hiring, and promotion of women, men and
23 minorities within job categories.

24

1 D. The provisions of this section shall not require an agency,
2 board, commission, department, or office of state government to
3 grant preferential treatment to an individual or group because of
4 race, color, religion, sex, national origin, age, or handicap
5 because of an imbalance which may exist in comparison with the
6 employment statistics of the area involved.

7 E. It is not a discriminatory practice for the appointing
8 authority of an entity subject to the provisions of this title to
9 adopt and implement an affirmative action plan to eliminate or
10 reduce imbalances with respect to women and minorities if the plan
11 has been approved by the Office of Personnel Management in
12 accordance with rules and guidelines adopted by the Office of
13 Personnel Management. For affirmative action purposes, any person
14 who lists American Indian as his race or national origin shall,
15 within thirty (30) days of his appointment, verify his tribal
16 affiliation by providing a certificate of Degree of Indian Blood
17 from the U.S. Department of Interior, Bureau of Indian Affairs, or
18 by providing the name and address of tribal officials who can verify
19 his tribal affiliation.

20 F. 1. The Administrator of the Office of Personnel Management
21 shall establish qualification requirements for personnel serving as
22 agency civil rights or affirmative action administrators, officers,
23 coordinators and other personnel responsible for civil rights
24 compliance or affirmative action for executive branch agencies.

1 Such qualification requirements shall include, but not be limited
2 to, knowledge of federal and state civil rights, affirmative action,
3 and equal employment laws and regulations. Such personnel shall be
4 subject to the training requirements specified by the Office of
5 Personnel Management. The Administrator shall be authorized to bill
6 agencies for the training of personnel professionals pursuant to
7 this paragraph to recover reasonable costs associated with the
8 training. Monies received for such training shall be deposited in
9 the Office of Personnel Management Revolving Fund. Expenditure of
10 such funds collected for the training shall be exempt from any
11 expenditure limit for the Office of Personnel Management established
12 by law. Effective December 1, 1995, complaints of alleged illegal
13 discrimination shall be investigated only by personnel trained
14 pursuant to the requirements of the Administrator, unless otherwise
15 provided by federal or state law. This paragraph shall not apply to
16 such personnel of the Oklahoma Merit Protection Commission or the
17 ~~Oklahoma Human Rights Commission~~ Office of the Attorney General.

18 2. If, after notice, administrative hearing and determination,
19 pursuant to Article II of the Administrative Procedures Act, Section
20 308a et seq. of Title 75 of the Oklahoma Statutes, the Administrator
21 finds that an appointing authority of any executive branch agency
22 has failed to make significant progress toward affirmative action
23 goals, or has failed to appoint a civil rights administrator without
24 justifiable reasons, the Administrator may begin requiring remedies

1 as allowed by subsection G of this section and rules promulgated
2 thereto and appropriate to making progress toward affirmative action
3 goals. Such action shall remain in effect until the Administrator
4 determines that significant progress toward affirmative action goals
5 is being made. The provisions of law pertaining to the duties and
6 powers of any agency shall not be construed to deny the
7 Administrator the authority provided for in this paragraph, unless
8 the agency is specifically excluded by law from the provisions of
9 this paragraph.

10 G. 1. The Administrator of the Office of Personnel Management
11 shall develop rules for the imposition of appropriate remedies for
12 agencies in the executive branch of state government, excluding The
13 Oklahoma State System of Higher Education, when an agency has failed
14 to make significant progress toward affirmative action goals or has
15 been found to have a pattern of noncompliance with affirmative
16 action goals. If, pursuant to Article II of the Administrative
17 Procedures Act, the Administrator finds that an agency has failed to
18 make significant progress toward affirmative action goals or is
19 found to have a pattern of noncompliance with affirmative action
20 goals, remedies that the Administrator may impose shall include:

21 a. requiring noncomplying appointing authorities to
22 participate in programs for special recruiting
23 efforts,
24

- 1 b. development of training programs to enhance
2 promotability of minorities within agencies and
3 supervisory training in equal opportunity employment,
4 affirmative action, managing workplace diversity, and
5 c. mandatory review and approval of all hiring and
6 promotion decisions by an appointing authority by the
7 Administrator if the Administrator can document a
8 pattern of noncompliance in previous remedial actions
9 pursuant to this subsection or appointment of a full-
10 time affirmative action officer to any agency in
11 noncompliance with affirmative action remedies.

12 2. Effective July 1, 1995, if the Administrator determines that
13 a pattern of noncompliance with affirmative action goals exists at
14 an agency and that none of the remedies provided by paragraph 1 of
15 this subsection are appropriate and the Administrator determines the
16 Office of Personnel Management has sufficient resources, the
17 Administrator shall be empowered to remove personnel function(s)
18 relating to recruitment, hiring or promotion from the appointing
19 authority and to place that function with the Administrator of the
20 Office of Personnel Management as provided by this paragraph.
21 Removal of personnel function(s) shall occur only when a pattern of
22 noncompliance with the affirmative action plan can be documented and
23 a vote by two-thirds (2/3) of the Affirmative Action Council
24 recommends to the Administrator to remove personnel function(s).

1 Removal of personnel function(s) shall terminate one (1) calendar
2 year after the Administrator removes such function(s) unless the
3 Administrator is able to demonstrate that the restoration of
4 personnel function(s) to the appointing authority will result in
5 further noncompliance with this section. A vote of two-thirds (2/3)
6 of the Council shall be necessary to continue the removal of
7 personnel function(s) by the Administrator for each additional year.
8 The Administrator must receive approval from the Director of the
9 Office of State Finance to develop recruitment, hiring and promotion
10 actions within budgetary constraints for the affected agencies. The
11 Administrator shall consult with the appointing authority about
12 personnel plans and actions, but the Administrator shall retain
13 final authority for personnel decisions within the scope of the
14 Administrator's authority for the period an agency is operating
15 under removal of the personnel function(s). Nothing in this section
16 shall prohibit the removal of a personnel function(s) remedy at any
17 time if the Administrator determines the appointing authority and
18 agency have the capability of reassuming the authority that was
19 removed. The provisions of law pertaining to the duties and powers
20 of any agency shall not be construed to deny the Administrator the
21 authority provided for in this paragraph, unless the agency is
22 specifically excluded by law from the provisions of this paragraph.
23 Upon removal of an agency's personnel function(s), the Administrator

24

1 may employ employees at the Office of Personnel Management to assume
2 the personnel function(s) of the agency as provided by this section.

3 H. 1. There is hereby created the Affirmative Action Review
4 Council to assist in the implementation of the state's equal
5 employment opportunity and affirmative action efforts mandated by
6 this section. The Administrator of the Office of Personnel
7 Management shall consult with and request the assistance of the
8 Council in developing standards that executive branch agencies shall
9 follow in adopting their affirmative action plans. The Council
10 shall review agency affirmative action plans and assist the
11 Administrator in preparing the annual status report for agencies on
12 equal employment opportunity and affirmative action required by this
13 section. Staff for the Council shall be provided by the Office of
14 Personnel Management.

15 2. The Affirmative Action Review Council shall consist of six
16 (6) members. The individuals making the appointment shall consider
17 experience in the field, theory, and application of human resources
18 management and affirmative action in making their appointments.
19 Members of the Council shall serve at the pleasure of the respective
20 individuals making the appointments. Two members of the Council
21 shall be appointed by the Governor, two members shall be appointed
22 by the Speaker of the House of Representatives, and two members
23 shall be appointed by the President Pro Tempore of the Senate.
24 Nothing shall preclude the appointment of members of the

1 Legislature. Each individual making appointments shall give
2 consideration to the diversity of the Council's membership when
3 making the appointments and shall not appoint more than one
4 individual who is an employee of the executive branch, excluding The
5 Oklahoma State System of Higher Education. The Governor shall
6 appoint the initial chair from among the Council's membership to
7 serve a two-year term. Thereafter, the chair shall be selected by
8 the Council from among its membership. The Council shall select a
9 vice-chair from among its membership. All members shall serve two-
10 year terms, unless removed prior to the expiration of a term by the
11 respective individual making the appointment. Any vacancy on the
12 Council shall be filled by the individual who made the original
13 appointment.

14 Except as provided in subparagraph b of paragraph 4 of this
15 subsection, a majority of the members of the Council shall
16 constitute a quorum to transact business, but no vacancy shall
17 impair the right of the remaining members to exercise all of the
18 powers of the Council and every act of a majority of the members
19 present shall be deemed the act of the Council.

20 3. Members of the Council shall receive no compensation for
21 serving on the Council, but shall be reimbursed for their necessary
22 travel expenses incurred in the performance of their duties in
23 accordance with the State Travel Reimbursement Act. Any member who
24 is employed in state government shall receive the reimbursement from

1 their employing entity. Any member who is not an employee of state
2 government shall receive the reimbursement from the Office of
3 Personnel Management.

4 4. a. The Council shall make any recommendations to the
5 Administrator, the Governor, the Speaker of the House
6 of Representatives or the President Pro Tempore of the
7 Senate the Council deems will assist in the attaining
8 of affirmative action goals for state government.

9 b. The Council shall review agency affirmative action
10 plans for compliance with the standards adopted by the
11 Administrator. The Council shall recommend that the
12 Administrator reject any agency plans which it finds
13 in noncompliance.

14 c. The Council shall request the Administrator to
15 investigate any agency that the Council believes has
16 violated equal employment opportunity or affirmative
17 action provisions of this section and to conduct
18 hearings to determine if such violations have
19 occurred. If the Administrator finds that an agency
20 is not in compliance with such law and the Council
21 believes that the noncompliance indicates a pattern of
22 noncompliance, the Council, upon a two-thirds vote of
23 its members, may recommend to the Administrator to act
24 in accordance with this section to compel the agency

1 to comply with equal employment opportunity and
2 affirmative action laws. If the Administrator decides
3 not to act on the Council's recommendation, the
4 Administrator shall respond in writing within thirty
5 (30) days of the Council's recommendation setting
6 forth the reasons why the Administrator has decided
7 not to act in accordance with said recommendation.

8 d. Any member who is an employee of an agency that is
9 subject to investigation pursuant to subparagraph b of
10 this paragraph shall disqualify himself or herself
11 from voting on the matter.

12 e. This paragraph applies to review of issues related to
13 affirmative action. This paragraph does not apply to
14 prohibited discrimination that is within the
15 jurisdiction of the Oklahoma Merit Protection
16 Commission ~~or the Oklahoma Human Rights Commission.~~

17 5. The Council shall not have authority to adopt rules pursuant
18 to the Administrative Procedures Act.

19 I. Affirmative action plans for the judicial branch of
20 government, except the Court of Criminal Appeals and the Workers'
21 Compensation Court, shall be prepared by the Administrative Director
22 of the Courts. The Court of Criminal Appeals shall prepare
23 affirmative action plans for the Court of Criminal Appeals. The
24

1 Administrator of the Workers' Compensation Court shall prepare
2 affirmative action plans for the Workers' Compensation Court.

3 J. The Administrator of the Office of Personnel Management is
4 hereby directed to adopt rules necessary to implement the provisions
5 of this section. Such rules regarding affirmative action plans
6 shall include, but not be limited to, a set of specific and result-
7 oriented programs to which an appointing authority commits himself
8 or herself to apply every good faith effort to achieve prompt and
9 full utilization of women and minorities at all levels and in all
10 segments of the work force where deficiencies exist. Such rules
11 shall also include separate provisions for affirmative plans for
12 agencies with fewer than fifteen full-time-equivalent employees.

13 SECTION 44. AMENDATORY 74 O.S. 2001, Section 840-5.5, as
14 last amended by Section 3, Chapter 208, O.S.L. 2007 (74 O.S. Supp.
15 2007, Section 840-5.5), is amended to read as follows:

16 A. The following offices, positions, and personnel shall be in
17 the unclassified service and shall not be placed under the
18 classified service:

19 1. Persons chosen by popular vote or appointment to fill an
20 elective office, and their employees, except the employees of the
21 Corporation Commission, the State Department of Education and the
22 Department of Labor;

23

24

1 2. Members of boards and commissions, and heads of agencies;
2 also one principal assistant or deputy and one executive secretary
3 for each state agency;

4 3. All judges, elected or appointed, and their employees;

5 4. Persons employed with one-time, limited duration, federal or
6 other grant funding that is not continuing or indefinitely
7 renewable. The length of the unclassified employment shall not
8 exceed the period of time for which that specific federal funding is
9 provided;

10 5. All officers and employees of The Oklahoma State System of
11 Higher Education, State Board of Education and Oklahoma Department
12 of Career and Technology Education;

13 6. Persons employed in a professional or scientific capacity to
14 make or conduct a temporary and special inquiry, investigation, or
15 examination on behalf of the Legislature or a committee thereof or
16 by authority of the Governor. These appointments and authorizations
17 shall terminate on the first day of the regular legislative session
18 immediately following the appointment, if not terminated earlier.
19 However, nothing in this paragraph shall prevent the reauthorization
20 and reappointment of any such person. Any such appointment shall be
21 funded from the budget of the appointing authority;

22 7. Election officials and employees;

23 8. Temporary employees employed to work less than one thousand
24 (1,000) hours in any twelve-month period, and seasonal employees

1 employed by the Oklahoma Tourism and Recreation Department pursuant
2 to Section 2241 of this title who work less than one thousand six
3 hundred (1,600) hours in any twelve-month period;

4 9. Department of Public Safety employees occupying the
5 following offices or positions:

- 6 a. administrative aides to the Commissioner,
- 7 b. executive secretaries to the Commissioner,
- 8 c. the Governor's representative of the Oklahoma Highway
9 Safety Office who shall be appointed by the Governor,
- 10 d. Highway Patrol Colonel,
- 11 e. Highway Patrol Lieutenant Colonel,
- 12 f. Highway Patrol Major,
- 13 g. Director of Finance,
- 14 h. noncommissioned pilots,
- 15 i. Information Systems Administrator,
- 16 j. Law Enforcement Telecommunications System Specialist,
- 17 k. Director of Driver License Administration,
- 18 l. Director of Transportation Division,
- 19 m. Director of the Alcohol and Drug Countermeasures Unit,
- 20 n. Director of the Oklahoma Highway Safety Office,
- 21 o. Civil Rights Administrator,
- 22 p. Budget Analyst,
- 23 q. Comptroller,
- 24 r. Chaplain,

- 1 s. Helicopter Mechanic,
- 2 t. Director of Safety Compliance,
- 3 u. Human Resources Director,
- 4 v. Administrator of Department Services, and
- 5 w. a maximum of seven (7) positions for the purpose of
- 6 administering programs in the Oklahoma Highway Safety
- 7 Office, within full-time employee limitations of the
- 8 Department, employed with federal funding that is
- 9 continuing or indefinitely renewable. The
- 10 authorization for such positions shall be terminated
- 11 if the federal funding for positions is discontinued;

12 provided, any person appointed to a position prescribed in
13 subparagraph d, e, f or o of this paragraph shall have a right of
14 return to the classified commissioned position without any loss of
15 rights, privileges or benefits immediately upon completion of the
16 duties in the unclassified commissioned position, and any person
17 appointed to a position prescribed in subparagraph i, j, k, l, m or
18 n of this paragraph shall have a right of return to the previously
19 held vacant classified position within the Department of Public
20 Safety without any loss of rights, privileges or benefits
21 immediately upon completion of the duties in the unclassified
22 commissioned position;

23 10. Professional trainees only during the prescribed length of
24 their course of training or extension study;

1 11. Students who are employed on a part-time basis, which shall
2 be seventy-five percent (75%) of a normal forty-hour work week or
3 thirty (30) hours per week, or less, or on a full-time basis if the
4 employment is pursuant to a cooperative education program such as
5 that provided for under Title I IV-D of the Higher Education Act of
6 1965 (20 U.S.C. 1087a-1087c), as amended, and who are regularly
7 enrolled in:

8 a. an institution of higher learning within The Oklahoma
9 State System of Higher Education,

10 b. an institution of higher learning qualified to become
11 coordinated with The Oklahoma State System of Higher
12 Education. For purposes of this section, a student
13 shall be considered a regularly enrolled student if
14 the student is enrolled in a minimum of five (5) hours
15 of accredited graduate courses or a minimum of ten
16 (10) hours of accredited undergraduate courses,
17 provided, however, the student shall only be required
18 to be enrolled in a minimum of six (6) hours of
19 accredited undergraduate courses during the summer, or

20 c. high school students regularly enrolled in a high
21 school in Oklahoma and regularly attending classes
22 during such time of enrollment;
23
24

1 12. The spouses of personnel who are employed on a part-time
2 basis to assist or work as a relief for their spouses in the
3 Oklahoma Tourism and Recreation Department;

4 13. Service substitute attendants who are needed to replace
5 museum and site attendants who are unavoidably absent. Service
6 substitutes may work as part-time or full-time relief for absentees
7 for a period of not more than four (4) weeks per year in the
8 Oklahoma Historical Society sites and museums; such substitutes will
9 not count towards the agency's full-time-equivalent (FTE) employee
10 limit;

11 14. Employees of the Oklahoma House of Representatives, the
12 State Senate, or the Legislative Service Bureau;

13 15. Corporation Commission personnel occupying the following
14 offices and positions:

- 15 a. Administrative aides, and executive secretaries to the
16 Commissioners,
- 17 b. Directors of all the divisions, personnel managers and
18 comptrollers,
- 19 c. General Counsel,
- 20 d. Public Utility Division Chief Engineer,
- 21 e. Public Utility Division Chief Accountant,
- 22 f. Public Utility Division Chief Economist,
- 23 g. Public Utility Division Deputy Director,
- 24 h. Secretary of the Commission,

- 1 i. Deputy Conservation Director,
- 2 j. Manager of Pollution Abatement,
- 3 k. Manager of Field Operations,
- 4 l. Manager of Technical Services,
- 5 m. Public Utility Division Chief of Telecommunications,
- 6 n. Director of Information Services,
- 7 o. All Data Processing employees hired on or after
- 8 September 1, 2005,
- 9 p. All Public Utilities employees hired on or after
- 10 September 1, 2007, and
- 11 q. All Regulatory Program Managers hired on or after
- 12 September 1, 2007;

13 16. At the option of the employing agency, the Supervisor,
14 Director, or Educational Coordinator in any other state agency
15 having a primary responsibility to coordinate educational programs
16 operated for children in state institutions;

17 17. Department of Mental Health and Substance Abuse Services
18 personnel occupying the following offices and positions at each
19 facility:

- 20 a. Director of Facility,
- 21 b. Deputy Director for Administration,
- 22 c. Clinical Services Director,
- 23 d. Executive Secretary to Director, and
- 24 e. Directors or Heads of Departments or Services;

1 18. Office of State Finance personnel occupying the following
2 offices and positions:

- 3 a. State Comptroller,
- 4 b. Administrative Officers,
- 5 c. Alternator Claims Auditor,
- 6 d. Employees hired to fulfill state compliance agency
7 requirements under Model Tribal Gaming Compacts,
- 8 e. Employees of the Budget Division,
- 9 f. Employees of the Fiscal and Research Division,
- 10 g. Employees hired to work on the CORE Systems Project;

11 and

12 h. The following employees of the Information Services
13 Division:

- 14 (1) Information Services Division Manager,
- 15 (2) Network Manager,
- 16 (3) Network Technician,
- 17 (4) Security Manager,
- 18 (5) Contracts/Purchasing Manager,
- 19 (6) Operating and Applications Manager,
- 20 (7) Project Manager,
- 21 (8) Help Desk Manager,
- 22 (9) Help Desk Technician,
- 23 (10) Quality Assurance Manager,
- 24 (11) ISD Analysts,

- 1 (12) CORE Manager,
- 2 (13) Enterprise System/Database Software Manager,
- 3 (14) Data Center Operations and Production Manager,
- 4 (15) Voice Communications Manager,
- 5 (16) Applications Development Manager,
- 6 (17) Projects Manager,
- 7 (18) PC's Manager,
- 8 (19) Servers Manager,
- 9 (20) Portal Manager,
- 10 (21) Procurement Specialists,
- 11 (22) Security Technicians,
- 12 (23) Enterprise Communications and Network
- 13 Administrator,
- 14 (24) Server Support Specialists,
- 15 (25) Senior Server Support Specialists,
- 16 (26) Systems Support Specialists, and
- 17 (27) Senior Systems Support Specialists;
- 18 19. Employees of the Oklahoma Industrial Finance Authority;
- 19 20. Those positions so specified in the annual business plan of
- 20 the Oklahoma Department of Commerce;
- 21 21. Those positions so specified in the annual business plan of
- 22 the Oklahoma Center for the Advancement of Science and Technology;
- 23 22. The following positions and employees of the Oklahoma
- 24 School of Science and Mathematics:

- a. positions for which the annual salary is Twenty-four Thousand One Hundred Ninety-three Dollars (\$24,193.00) or more, as determined by the Office of Personnel Management, provided no position shall become unclassified because of any change in salary or grade while it is occupied by a classified employee,
- b. positions requiring certification by the State Department of Education, and
- c. positions and employees authorized to be in the unclassified service of the state elsewhere in this section or in subsection B of this section;

23. Office of Personnel Management employees occupying the following positions:

- a. the Carl Albert Internship Program Coordinator,
- b. one Administrative Assistant,
- c. one Workforce Planning Manager,
- d. Assistant Administrators,
- e. one Associate Administrator, and
- f. Division Directors;

24. Department of Labor personnel occupying the following offices and positions:

- a. two Deputy Commissioners,
- b. two Executive Secretaries to the Commissioner,
- c. Chief of Staff,

- 1 d. two Administrative Assistants,
2 e. Information Systems Administrator,
3 f. three Safety and Health Directors,
4 g. Research Director,
5 h. Employment Standards Director,
6 i. Asbestos Director,
7 j. General Counsel,
8 k. one Legal Secretary,
9 l. one Docket Clerk, and
10 m. two Information Systems Application Specialists;

11 25. The State Bond Advisor and his or her employees;

12 26. The Oklahoma Employment Security Commission employees
13 occupying the following positions:

- 14 a. Associate Director,
15 b. Secretary to the Associate Director, and
16 c. Assistant to the Executive Director;

17 ~~27. Oklahoma Human Rights Commission personnel occupying the~~
18 ~~position of Administrative Assistant;~~

19 ~~28.~~ Officers and employees of the State Banking Department;

20 ~~29.~~ 28. Officers and employees of the University Hospitals

21 Authority except personnel in the state classified service pursuant
22 to Section 3211 of Title 63 of the Oklahoma Statutes and members of
23 the University Hospitals Authority Model Personnel System created
24 pursuant to subsection E of Section 3211 of Title 63 of the Oklahoma

1 Statutes or as otherwise provided for in Section 3213.2 of Title 63
2 of the Oklahoma Statutes;

3 ~~30.~~ 29. Alcoholic Beverage Laws Enforcement Commission

4 employees occupying the following positions:

5 a. three Administrative Service Assistant positions,
6 however, employees in such positions who are in the
7 unclassified service on June 4, 2003, may make an
8 election to be in the classified service without a
9 loss in salary by September 1, 2003, and

10 b. the Deputy Director position in addition to the one
11 authorized by paragraph 2 of this subsection;

12 ~~31.~~ 30. The Oklahoma State Bureau of Investigation employees
13 occupying the following positions:

14 a. five assistant directors,

15 b. six special investigators,

16 c. one information representative,

17 d. one federally funded physical evidence technician,

18 e. four federally funded laboratory analysts,

19 f. a maximum of fourteen positions employed for the

20 purpose of managing the automated information systems
21 of the agency,

22 g. one executive secretary in addition to the one

23 authorized pursuant to paragraph 2 of this subsection,

24 h. Child Abuse Response Team (CART) investigator, and

1 i. Child Abuse Response Team (CART) forensic interviewer;

2 ~~32.~~ 31. The Department of Transportation, the following
3 positions:

4 a. Director of the Oklahoma Aeronautics Commission,

5 b. five Department of Transportation Assistant Director
6 positions,

7 c. eight field division engineer positions,

8 d. one pilot position,

9 e. five Project Manager Positions, and

10 f. five Transportation Coordinators;

11 ~~33.~~ 32. Commissioners of the Land Office employees occupying
12 the following positions:

13 a. Director of the Investments Division,

14 b. Assistant Director of the Investments Division,

15 c. one Administrative Assistant,

16 d. one Audit Tech position,

17 e. one Auditor I position,

18 f. two Accounting Tech I positions,

19 g. two Administrative Assistant I positions,

20 h. two Imaging Specialist positions, and

21 i. one Information Systems Specialist position;

22 ~~34.~~ 33. Within the Oklahoma State Bureau of Narcotics and
23 Dangerous Drugs Control Commission, the following positions:

1 a. six Narcotics Agent positions and three Typist
2 Clerk/Spanish transcriptionists, including a Typist
3 Clerk Supervisor/Spanish transcriptionist, provided,
4 authorization for such positions shall be terminated
5 if the federal funding for the positions is
6 discontinued,

7 b. one executive secretary in addition to the one
8 authorized pursuant to paragraph 2 of this subsection,

9 c. one fiscal officer,

10 d. one full-time Programmer, and

11 e. one full-time Network Engineer;

12 ~~35.~~ 34. The Military Department of the State of Oklahoma is
13 authorized such unclassified employees within full-time employee
14 limitations to work in any of the Department of Defense directed
15 youth programs, the State of Oklahoma Juvenile Justice youth
16 programs, those persons reimbursed from Armory Board or Billeting
17 Fund accounts, and skilled trade positions;

18 ~~36.~~ 35. Within the Oklahoma Commission on Children and Youth
19 the following unclassified positions:

20 a. one Oversight Specialist and one Community Development
21 Planner,

22 b. one State Plan Grant Coordinator, provided
23 authorization for the position shall be terminated
24 when federal support for the position by the United

1 States Department of Education Early Intervention
2 Program is discontinued, and

- 3 c. one executive secretary in addition to the one
4 authorized pursuant to paragraph 2 of this subsection;

5 ~~37.~~ 36. The following positions and employees of the Department
6 of Central Services:

- 7 a. one Executive Secretary in addition to the Executive
8 Secretary authorized by paragraph 2 of this
9 subsection,

10 b. the Director of Central Purchasing,

11 c. one Alternate Fuels Administrator,

12 d. one Director of Special Projects,

13 e. three postauditors,

14 f. four high-technology contracting officers,

15 g. one Executive Assistant to the Purchasing Director,

16 h. four Contracts Managers,

17 i. one Associate Director,

18 j. one specialized HiTech/Food Contracting Officer,

19 k. one State Use Contracting Officer,

20 l. one Property Distribution Administrator,

21 m. three licensed architects assigned to the Facilities
22 and Properties Division,

23 n. three licensed engineers assigned to the Facilities
24 and Properties Division,

- 1 o. four construction consultants assigned to the
- 2 Facilities and Properties Division,
- 3 p. one attorney assigned to the Facilities and Properties
- 4 Division,
- 5 q. three positions assigned to the Information Services
- 6 Division, which shall include one Information
- 7 Technology Manager, one Applications Specialist and
- 8 one Data Planning Specialist, and
- 9 r. four positions assigned to Fleet Management, which
- 10 shall include one Deputy Fleet Manager and three
- 11 Management Analysts;

12 ~~38.~~ 37. Four Water Quality Specialists, and four Water
13 Resources Division Chiefs within the Oklahoma Water Resources Board;

14 ~~39.~~ 38. J.D. McCarty Center for Children with Developmental
15 Disabilities personnel occupying the following offices and
16 positions:

- 17 a. Physical Therapists,
- 18 b. Physical Therapist Assistants,
- 19 c. Occupational Therapists,
- 20 d. Certified Occupational Therapist Aides, and
- 21 e. Speech Pathologists;

22 ~~40.~~ 39. The Development Officer and the Director of the State
23 Museum of History within the Oklahoma Historical Society;

1 ~~41.~~ 40. Oklahoma Department of Agriculture, Food, and Forestry
2 personnel occupying the following positions:

- 3 a. one Executive Secretary in addition to the Executive
4 Secretary authorized by paragraph 2 of this subsection
5 and one Executive Assistant,
- 6 b. nineteen Agricultural Marketing Coordinator III
7 positions,
- 8 c. temporary fire suppression personnel, regardless of
9 the number of hours worked, who are employed by the
10 Oklahoma Department of Agriculture, Food, and
11 Forestry; provided, however, notwithstanding the
12 provisions of any other section of law, the hours
13 worked by such employees shall not entitle such
14 employees to any benefits received by full-time
15 employees,
- 16 d. one Administrator for Human Resources,
- 17 e. one Director of Administrative Services,
- 18 f. one Water Quality Consumer Complaint Coordinator,
- 19 g. one hydrologist position,
- 20 h. Public Information Office Director,
- 21 i. Market Development Services Director,
- 22 j. Legal Services Director,
- 23 k. Animal Industry Services Director,

- 1 l. Agricultural Environmental Management Services
2 Director,
3 m. Forestry Services Director,
4 n. Plant Industry and Consumer Services Director,
5 o. one Grants Administrator position,
6 p. Director of Laboratory Services,
7 q. Chief of Communications,
8 r. Public Information Manager,
9 s. Inventory/Supply Officer,
10 t. five Agriculture Field Inspector positions assigned
11 the responsibility for conducting inspections and
12 audits of agricultural grain storage warehouses. All
13 other Agriculture Field Inspector positions and
14 employees of the Oklahoma Department of Agriculture,
15 Food, and Forestry shall be classified and subject to
16 the provisions of the Merit System of Personnel
17 Administration. On November 1, 2002, all other
18 unclassified Agriculture Field Inspectors shall be
19 given status in the classified service as provided in
20 Section 840-4.2 of this title,
21 u. Rural Fire Coordinator,
22 v. one Agricultural Marketing Coordinator III,
23 w. Food Safety Division Director,
24 x. two Environmental Program Specialists,

1 y. two Scale Technicians, and

2 z. two Plant Protection Specialists;

3 ~~42.~~ 41. The Contracts Administrator within the Oklahoma State
4 Employees Benefits Council;

5 ~~43.~~ 42. The Development Officer within the Oklahoma Department
6 of Libraries;

7 ~~44.~~ 43. Oklahoma Real Estate Commission personnel occupying the
8 following offices and positions:

9 a. Educational Program Director, and

10 b. Data Processing Manager;

11 ~~45.~~ 44. A Chief Consumer Credit Examiner for the Department of
12 Consumer Credit;

13 ~~46.~~ 45. All officers and employees of the Oklahoma Capitol
14 Complex and Centennial Commemoration Commission;

15 ~~47.~~ 46. All officers and employees of the Oklahoma Motor
16 Vehicle Commission;

17 ~~48.~~ 47. One Museum Archivist of The Will Rogers Memorial
18 Commission;

19 ~~49.~~ 48. One Fire Protection Engineer of the Office of the State
20 Fire Marshal;

21 ~~50.~~ 49. Acting incumbents employed pursuant to Section 209 of
22 Title 44 or Section 48 of Title 72 of the Oklahoma Statutes who
23 shall not be included in any limitation on full-time equivalency
24 imposed by law on an agency. Permanent classified employees may

1 request a leave of absence from classified status and accept an
2 unclassified appointment and compensation as an acting incumbent
3 with the same agency; provided, the leave shall expire no later than
4 two (2) years from the date of the acting incumbent appointment. An
5 appointing authority may establish unclassified positions and
6 appoint unclassified employees to perform the duties of a permanent
7 classified employee who is on leave of absence from a classified
8 position to serve as an acting incumbent. All unclassified
9 appointments created pursuant to this paragraph shall expire no
10 later than two (2) years from the date of appointment. Classified
11 employees accepting unclassified appointments and compensation
12 pursuant to this paragraph shall be entitled to participate without
13 interruption in any benefit programs available to classified
14 employees, including retirement and insurance programs. Immediately
15 upon termination of an unclassified appointment pursuant to this
16 paragraph, an employee on assignment from the classified service
17 shall have a right to be restored to the classified service and
18 reinstated to the former job family level and compensation plus any
19 adjustments and increases in salary or benefits which the employee
20 would have received but for the leave of absence;

21 ~~51.~~ 50. The Oklahoma Homeland Security Director and all other
22 positions assigned the responsibilities of working in the Oklahoma
23 Office of Homeland Security;

24

1 ~~52.~~ 51. The following eighteen (18) positions in the State
2 Department of Health:

- 3 a. one surveillance supervisor,
- 4 b. one surveillance project monitor,
- 5 c. two bilingual interviewers,
- 6 d. eight senior interviewers, and
- 7 e. six interviewers;

8 ~~53.~~ 52. State Board of Registration for Professional Engineers
9 and Land Surveyors personnel occupying the following offices and
10 positions:

- 11 a. one Director of Enforcement, and
- 12 b. one Board Investigator;

13 ~~54.~~ 53. One Information Systems Data Management Analyst of the
14 Oklahoma State and Education Employees Group Insurance Board; and

15 ~~55.~~ 54. Two Management Information Systems positions of the
16 Office of Juvenile Affairs.

17 B. If an agency has the authority to employ personnel in the
18 following offices and positions, the appointing authority shall have
19 the discretion to appoint personnel to the unclassified service:

- 20 1. Licensed medical doctors, osteopathic physicians, dentists,
21 psychologists, and nurses;
- 22 2. Certified public accountants;
- 23 3. Licensed attorneys;
- 24 4. Licensed veterinarians; and

1 5. Licensed pharmacists.

2 C. Effective July 1, 1996, authorization for unclassified
3 offices, positions, or personnel contained in a bill or joint
4 resolution shall terminate June 30 of the ensuing fiscal year after
5 the authorization unless the authorization is codified in the
6 Oklahoma Statutes or the termination is otherwise provided in the
7 legislation.

8 D. The appointing authority of agencies participating in the
9 statewide information systems project may establish unclassified
10 positions and appoint unclassified employees to the project as
11 needed. Additional unclassified positions may be established, if
12 required, to appoint an unclassified employee to perform the duties
13 of a permanent classified employee who is temporarily absent from a
14 classified position as a result of assignment to this project. All
15 unclassified appointments under this authority shall expire no later
16 than December 31, 2007, and all unclassified positions established
17 to support the project shall be abolished. Both the positions and
18 appointments resulting from this authority shall be exempt from any
19 agency FTE limitations and any limits imposed on the number of
20 unclassified positions authorized. Permanent classified employees
21 may request a leave of absence from classified status and accept an
22 unclassified appointment and compensation with the same agency under
23 the provisions of this subsection; provided, the leave shall expire
24 no later than December 31, 2007. Employees accepting the

1 appointment and compensation shall be entitled to participate
2 without interruption in any benefit programs available to classified
3 employees, including retirement and insurance programs. Immediately
4 upon termination of an unclassified appointment pursuant to this
5 subsection, an employee on assignment from the classified service
6 shall have a right to be restored to the classified service and
7 reinstated to the former job family level and compensation plus any
8 adjustments and increases in salary or benefits which the employee
9 would have received but for the leave of absence.

10 SECTION 45. AMENDATORY 74 O.S. 2001, Section 954, is
11 amended to read as follows:

12 Section 954. It is hereby prohibited for any department or
13 agency of the State of Oklahoma, or any official or employee of the
14 same for and on behalf of the State of Oklahoma: to refuse to
15 employ or to discharge any person, otherwise qualified, on account
16 of race, color, creed, national origin, age, handicap, or ancestry;
17 to discriminate for the same reasons in regard to tenure, terms, or
18 conditions of employment; to deny promotion or increase in
19 compensation solely for these reasons; to publish an offer of
20 employment based on such discrimination; to adopt or enforce any
21 rule or employment policy which so discriminates as to any employee;
22 or to seek such information as to any applicant or employee or to
23 discriminate in the selection of personnel for training solely on
24

1 such basis. These provisions shall be cumulative and in addition to
2 existing laws relating to discrimination in the classified service.

3 It shall be the duty of the Oklahoma Merit Protection Commission
4 to investigate, upon its own initiative, upon complaint filed by any
5 aggrieved person, or upon complaint filed by the ~~Human Rights~~
6 ~~Commission~~ Office of the Attorney General, any violation of this
7 section and to enforce compliance with the same, both in the
8 classified and the nonclassified service. The ~~Human Rights~~
9 ~~Commission~~ Office of the Attorney General shall investigate, upon
10 its own initiative or on complaint filed with it, any such violation
11 and may file a formal complaint with the Oklahoma Merit Protection
12 Commission. When any complaint is filed by the ~~Human Rights~~
13 ~~Commission~~ Office of the Attorney General with the Oklahoma Merit
14 Protection Commission, the Oklahoma Merit Protection Commission
15 shall set a hearing on the same, at which hearing the ~~Director of~~
16 ~~the Human Rights Commission, or his representative,~~ Office of the
17 Attorney General may appear and present the finding of the
18 ~~Commission~~ Office of the Attorney General in regard to such
19 violation. In the enforcement of this section, the Oklahoma Merit
20 Protection Commission shall follow the provisions of existing laws
21 relating to hearings, procedures, and notices, and shall have power
22 to enforce its orders pertaining to violations of this section as is
23 provided by law in regard to the classified service.

24

1 SECTION 46. REPEALER 25 O.S. 2001, Sections 1502.11 and
2 1506.5, are hereby repealed.

3 SECTION 47. REPEALER 74 O.S. 2001, Sections 952, 953 and
4 955, are hereby repealed.

5 SECTION 48. Section 2 of this act shall become effective July
6 1, 2008.

7 SECTION 49. Section 1 and Sections 3 through 47 of this act
8 shall become effective January 1, 2009.

9 SECTION 50. It being immediately necessary for the preservation
10 of the public peace, health and safety, an emergency is hereby
11 declared to exist, by reason whereof this act shall take effect and
12 be in full force from and after its passage and approval.

13

14 51-2-9761 MMP 01/17/08

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