

As Introduced

**124th General Assembly
Regular Session
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H. B. No. 489

REPRESENTATIVES Reidelbach, Webster, Seitz, Roman, Britton

A B I L L

To amend sections 4112.01, 4112.02, 4112.08, and 1
4112.14 and to enact section 4112.16 of the Revised 2
Code to exclude employees from personal liability 3
and to create a uniform statute of limitations for 4
purposes of filing a civil action under the Ohio 5
Civil Rights Law. 6

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

Section 1. That sections 4112.01, 4112.02, 4112.08, and 7
4112.14 be amended and section 4112.16 of the Revised Code be 8
enacted to read as follows: 9

Sec. 4112.01. (A) As used in this chapter: 10

(1) "Person" includes one or more individuals, partnerships, 11
associations, organizations, corporations, legal representatives, 12
trustees, trustees in bankruptcy, receivers, and other organized 13
groups of persons. "Person" also includes, but is not limited to, 14
any owner, lessor, assignor, builder, manager, broker, 15
salesperson, appraiser, agent, employee, lending institution, and 16
the state and all political subdivisions, authorities, agencies, 17
boards, and commissions of the state. 18

(2) "Employer" includes the state, any political subdivision 19
of the state, and any person employing four or more persons within 20

~~the state, and any person acting directly or indirectly in the~~ 21
~~interest of an employer.~~ 22

(3) "Employee" means an individual employed by any employer 23
but does not include any individual employed in the domestic 24
service of any person. 25

(4) "Labor organization" includes any organization that 26
exists, in whole or in part, for the purpose of collective 27
bargaining or of dealing with employers concerning grievances, 28
terms or conditions of employment, or other mutual aid or 29
protection in relation to employment. 30

(5) "Employment agency" includes any person regularly 31
undertaking, with or without compensation, to procure 32
opportunities to work or to procure, recruit, refer, or place 33
employees. 34

(6) "Commission" means the Ohio civil rights commission 35
created by section 4112.03 of the Revised Code. 36

(7) "Discriminate" includes segregate or separate. 37

(8) "Unlawful discriminatory practice" means any act 38
prohibited by section 4112.02, 4112.021, or 4112.022 of the 39
Revised Code. 40

(9) "Place of public accommodation" means any inn, 41
restaurant, eating house, barbershop, public conveyance by air, 42
land, or water, theater, store, other place for the sale of 43
merchandise, or any other place of public accommodation or 44
amusement of which the accommodations, advantages, facilities, or 45
privileges are available to the public. 46

(10) "Housing accommodations" includes any building or 47
structure, or portion of a building or structure, that is used or 48
occupied or is intended, arranged, or designed to be used or 49
occupied as the home residence, dwelling, dwelling unit, or 50
sleeping place of one or more individuals, groups, or families 51

whether or not living independently of each other; and any vacant
land offered for sale or lease. "Housing accommodations" also
includes any housing accommodations held or offered for sale or
rent by a real estate broker, salesperson, or agent, by any other
person pursuant to authorization of the owner, by the owner, or by
the owner's legal representative.

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

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

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

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(14) Except as otherwise provided in section 4112.021 of the
Revised Code, "age" means at least forty years old.

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(15) "Familial status" means either of the following:

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(a) One or more individuals who are under eighteen years of
age and who are domiciled with a parent or guardian having legal
custody of the individual or domiciled, with the written

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permission of the parent or guardian having legal custody, with a
designee of the parent or guardian;

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(b) Any person who is pregnant or in the process of securing
legal custody of any individual who is under eighteen years of
age.

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(16)(a) Except as provided in division (A)(16)(b) of this
section, "physical or mental impairment" includes any of the
following:

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(i) Any physiological disorder or condition, cosmetic
disfigurement, or anatomical loss affecting one or more of the
following body systems: neurological; musculoskeletal; special
sense organs; respiratory, including speech organs;
cardiovascular; reproductive; digestive; genito-urinary; hemic and
lymphatic; skin; and endocrine;

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(ii) Any mental or psychological disorder, including, but not
limited to, mental retardation, organic brain syndrome, emotional
or mental illness, and specific learning disabilities;

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(iii) Diseases and conditions, including, but not limited to,
orthopedic, visual, speech, and hearing impairments, cerebral
palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis,
cancer, heart disease, diabetes, human immunodeficiency virus
infection, mental retardation, emotional illness, drug addiction,
and alcoholism.

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(b) "Physical or mental impairment" does not include any of
the following:

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(i) Homosexuality and bisexuality;

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(ii) Transvestism, transsexualism, pedophilia, exhibitionism,
voyeurism, gender identity disorders not resulting from physical
impairments, or other sexual behavior disorders;

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(iii) Compulsive gambling, kleptomania, or pyromania;

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(iv) Psychoactive substance use disorders resulting from 113
current illegal use of a controlled substance. 114

(17) "Dwelling unit" means a single unit of residence for a 115
family of one or more persons. 116

(18) "Common use areas" means rooms, spaces, or elements 117
inside or outside a building that are made available for the use 118
of residents of the building or their guests, and includes, but is 119
not limited to, hallways, lounges, lobbies, laundry rooms, refuse 120
rooms, mail rooms, recreational areas, and passageways among and 121
between buildings. 122

(19) "Public use areas" means interior or exterior rooms or 123
spaces of a privately or publicly owned building that are made 124
available to the general public. 125

(20) "Controlled substance" has the same meaning as in 126
section 3719.01 of the Revised Code. 127

(21) "Disabled tenant" means a tenant or prospective tenant 128
who is a person with a disability. 129

(B) For the purposes of divisions (A) to (F) of section 130
4112.02 of the Revised Code, the terms "because of sex" and "on 131
the basis of sex" include, but are not limited to, because of or 132
on the basis of pregnancy, any illness arising out of and 133
occurring during the course of a pregnancy, childbirth, or related 134
medical conditions. Women affected by pregnancy, childbirth, or 135
related medical conditions shall be treated the same for all 136
employment-related purposes, including receipt of benefits under 137
fringe benefit programs, as other persons not so affected but 138
similar in their ability or inability to work, and nothing in 139
division (B) of section 4111.17 of the Revised Code shall be 140
interpreted to permit otherwise. This division shall not be 141
construed to require an employer to pay for health insurance 142
benefits for abortion, except where the life of the mother would 143

be endangered if the fetus were carried to term or except where
medical complications have arisen from the abortion, provided that
nothing in this division precludes an employer from providing
abortion benefits or otherwise affects bargaining agreements in
regard to abortion.

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

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

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

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

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

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

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(1) Limit or classify its membership on the basis of race,
color, religion, sex, national origin, disability, age, or
ancestry;

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(2) Discriminate against, limit the employment opportunities
of, or otherwise adversely affect the employment status, wages,
hours, or employment conditions of any person as an employee

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because of race, color, religion, sex, national origin, 174
disability, age, or ancestry. 175

(D) For any employer, labor organization, or joint 176
labor-management committee controlling apprentice training 177
programs to discriminate against any person because of race, 178
color, religion, sex, national origin, disability, or ancestry in 179
admission to, or employment in, any program established to provide 180
apprentice training. 181

(E) Except where based on a bona fide occupational 182
qualification certified in advance by the commission, for any 183
employer, employment agency, personnel placement service, or labor 184
organization, prior to employment or admission to membership, to 185
do any of the following: 186

(1) Elicit or attempt to elicit any information concerning 187
the race, color, religion, sex, national origin, disability, age, 188
or ancestry of an applicant for employment or membership; 189

(2) Make or keep a record of the race, color, religion, sex, 190
national origin, disability, age, or ancestry of any applicant for 191
employment or membership; 192

(3) Use any form of application for employment, or personnel 193
or membership blank, seeking to elicit information regarding race, 194
color, religion, sex, national origin, disability, age, or 195
ancestry; but an employer holding a contract containing a 196
nondiscrimination clause with the government of the United States, 197
or any department or agency of that government, may require an 198
employee or applicant for employment to furnish documentary proof 199
of United States citizenship and may retain that proof in the 200
employer's personnel records and may use photographic or 201
fingerprint identification for security purposes; 202

(4) Print or publish or cause to be printed or published any 203
notice or advertisement relating to employment or membership 204

indicating any preference, limitation, specification, or 205
discrimination, based upon race, color, religion, sex, national 206
origin, disability, age, or ancestry; 207

(5) Announce or follow a policy of denying or limiting, 208
through a quota system or otherwise, employment or membership 209
opportunities of any group because of the race, color, religion, 210
sex, national origin, disability, age, or ancestry of that group; 211

(6) Utilize in the recruitment or hiring of persons any 212
employment agency, personnel placement service, training school or 213
center, labor organization, or any other employee-referring source 214
known to discriminate against persons because of their race, 215
color, religion, sex, national origin, disability, age, or 216
ancestry. 217

(F) For any person seeking employment to publish or cause to 218
be published any advertisement that specifies or in any manner 219
indicates that person's race, color, religion, sex, national 220
origin, disability, age, or ancestry, or expresses a limitation or 221
preference as to the race, color, religion, sex, national origin, 222
disability, age, or ancestry of any prospective employer. 223

(G) For any proprietor or any employee, keeper, or manager of 224
a place of public accommodation to deny to any person, except for 225
reasons applicable alike to all persons regardless of race, color, 226
religion, sex, national origin, disability, age, or ancestry, the 227
full enjoyment of the accommodations, advantages, facilities, or 228
privileges of the place of public accommodation. 229

(H) For any person to do any of the following: 230

(1) Refuse to sell, transfer, assign, rent, lease, sublease, 231
or finance housing accommodations, refuse to negotiate for the 232
sale or rental of housing accommodations, or otherwise deny or 233
make unavailable housing accommodations because of race, color, 234
religion, sex, familial status, ancestry, disability, or national 235

origin;	236
(2) Represent to any person that housing accommodations are not available for inspection, sale, or rental, when in fact they are available, because of race, color, religion, sex, familial status, ancestry, disability, or national origin;	237 238 239 240
(3) Discriminate against any person in the making or purchasing of loans or the provision of other financial assistance for the acquisition, construction, rehabilitation, repair, or maintenance of housing accommodations, or any person in the making or purchasing of loans or the provision of other financial assistance that is secured by residential real estate, because of race, color, religion, sex, familial status, ancestry, disability, or national origin or because of the racial composition of the neighborhood in which the housing accommodations are located, provided that the person, whether an individual, corporation, or association of any type, lends money as one of the principal aspects or incident to the person's principal business and not only as a part of the purchase price of an owner-occupied residence the person is selling nor merely casually or occasionally to a relative or friend;	241 242 243 244 245 246 247 248 249 250 251 252 253 254 255
(4) Discriminate against any person in the terms or conditions of selling, transferring, assigning, renting, leasing, or subleasing any housing accommodations or in furnishing facilities, services, or privileges in connection with the ownership, occupancy, or use of any housing accommodations, including the sale of fire, extended coverage, or homeowners insurance, because of race, color, religion, sex, familial status, ancestry, disability, or national origin or because of the racial composition of the neighborhood in which the housing accommodations are located;	256 257 258 259 260 261 262 263 264 265
(5) Discriminate against any person in the terms or conditions of any loan of money, whether or not secured by	266 267

mortgage or otherwise, for the acquisition, construction, 268
rehabilitation, repair, or maintenance of housing accommodations 269
because of race, color, religion, sex, familial status, ancestry, 270
disability, or national origin or because of the racial 271
composition of the neighborhood in which the housing 272
accommodations are located; 273

(6) Refuse to consider without prejudice the combined income 274
of both husband and wife for the purpose of extending mortgage 275
credit to a married couple or either member of a married couple; 276

(7) Print, publish, or circulate any statement or 277
advertisement, or make or cause to be made any statement or 278
advertisement, relating to the sale, transfer, assignment, rental, 279
lease, sublease, or acquisition of any housing accommodations, or 280
relating to the loan of money, whether or not secured by mortgage 281
or otherwise, for the acquisition, construction, rehabilitation, 282
repair, or maintenance of housing accommodations, that indicates 283
any preference, limitation, specification, or discrimination based 284
upon race, color, religion, sex, familial status, ancestry, 285
disability, or national origin, or an intention to make any such 286
preference, limitation, specification, or discrimination; 287

(8) Except as otherwise provided in division (H)(8) or (17) 288
of this section, make any inquiry, elicit any information, make or 289
keep any record, or use any form of application containing 290
questions or entries concerning race, color, religion, sex, 291
familial status, ancestry, disability, or national origin in 292
connection with the sale or lease of any housing accommodations or 293
the loan of any money, whether or not secured by mortgage or 294
otherwise, for the acquisition, construction, rehabilitation, 295
repair, or maintenance of housing accommodations. Any person may 296
make inquiries, and make and keep records, concerning race, color, 297
religion, sex, familial status, ancestry, disability, or national 298
origin for the purpose of monitoring compliance with this chapter. 299

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

(10) Induce or solicit, or attempt to induce or solicit, a housing accommodations listing, sale, or transaction by representing that a change has occurred or may occur with respect to the racial, religious, sexual, familial status, or ethnic composition of the block, neighborhood, or other area in which the housing accommodations are located, or induce or solicit, or attempt to induce or solicit, a housing accommodations listing, sale, or transaction by representing that the presence or anticipated presence of persons of any race, color, religion, sex, familial status, ancestry, disability, or national origin, in the block, neighborhood, or other area will or may have results including, but not limited to, the following:

(a) The lowering of property values;

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

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

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

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

(12) Coerce, intimidate, threaten, or interfere with any 331
person in the exercise or enjoyment of, or on account of that 332
person's having exercised or enjoyed or having aided or encouraged 333
any other person in the exercise or enjoyment of, any right 334
granted or protected by division (H) of this section; 335

(13) Discourage or attempt to discourage the purchase by a 336
prospective purchaser of housing accommodations, by representing 337
that any block, neighborhood, or other area has undergone or might 338
undergo a change with respect to its religious, racial, sexual, 339
familial status, or ethnic composition; 340

(14) Refuse to sell, transfer, assign, rent, lease, sublease, 341
or finance, or otherwise deny or withhold, a burial lot from any 342
person because of the race, color, sex, familial status, age, 343
ancestry, disability, or national origin of any prospective owner 344
or user of the lot; 345

(15) Discriminate in the sale or rental of, or otherwise make 346
unavailable or deny, housing accommodations to any buyer or renter 347
because of a disability of any of the following: 348

(a) The buyer or renter; 349

(b) A person residing in or intending to reside in the 350
housing accommodations after they are sold, rented, or made 351
available; 352

(c) Any individual associated with the person described in 353
division (H)(15)(b) of this section. 354

(16) Discriminate in the terms, conditions, or privileges of 355
the sale or rental of housing accommodations to any person or in 356
the provision of services or facilities to any person in 357
connection with the housing accommodations because of a disability 358
of any of the following: 359

(a) That person; 360

(b) A person residing in or intending to reside in the housing accommodations after they are sold, rented, or made available;

(c) Any individual associated with the person described in division (H)(16)(b) of this section.

(17) Except as otherwise provided in division (H)(17) of this section, make an inquiry to determine whether an applicant for the sale or rental of housing accommodations, a person residing in or intending to reside in the housing accommodations after they are sold, rented, or made available, or any individual associated with that person has a disability, or make an inquiry to determine the nature or severity of a disability of the applicant or such a person or individual. The following inquiries may be made of all applicants for the sale or rental of housing accommodations, regardless of whether they have disabilities:

(a) An inquiry into an applicant's ability to meet the requirements of ownership or tenancy;

(b) An inquiry to determine whether an applicant is qualified for housing accommodations available only to persons with disabilities or persons with a particular type of disability;

(c) An inquiry to determine whether an applicant is qualified for a priority available to persons with disabilities or persons with a particular type of disability;

(d) An inquiry to determine whether an applicant currently uses a controlled substance in violation of section 2925.11 of the Revised Code or a substantively comparable municipal ordinance;

(e) An inquiry to determine whether an applicant at any time has been convicted of or pleaded guilty to any offense, an element of which is the illegal sale, offer to sell, cultivation, manufacture, other production, shipment, transportation, delivery, or other distribution of a controlled substance.

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

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

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

(iii) Paying into an interest-bearing escrow account that is in the landlord's name, over a reasonable period of time, a reasonable amount of money not to exceed the projected costs at the end of the tenancy of the restoration of the interior of the housing accommodations to the condition they were in prior to the proposed modification, but subject to reasonable wear and tear during the period of occupancy, if the landlord finds the account reasonably necessary to ensure the availability of funds for the restoration work. The interest earned in connection with an escrow account described in this division shall accrue to the benefit of the disabled tenant who makes payments into the account.

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(b) A landlord shall not condition permission for a proposed 425
modification upon a disabled tenant's payment of a security 426
deposit that exceeds the customarily required security deposit of 427
all tenants of the particular housing accommodations. 428

(19) Refuse to make reasonable accommodations in rules, 429
policies, practices, or services when necessary to afford a person 430
with a disability equal opportunity to use and enjoy a dwelling 431
unit, including associated public and common use areas; 432

(20) Fail to comply with the standards and rules adopted 433
under division (A) of section 3781.111 of the Revised Code; 434

(21) Discriminate against any person in the selling, 435
brokering, or appraising of real property because of race, color, 436
religion, sex, familial status, ancestry, disability, or national 437
origin; 438

(22) Fail to design and construct covered multifamily 439
dwellings for first occupancy on or after June 30, 1992, in 440
accordance with the following conditions: 441

(a) The dwellings shall have at least one building entrance 442
on an accessible route, unless it is impractical to do so because 443
of the terrain or unusual characteristics of the site. 444

(b) With respect to dwellings that have a building entrance 445
on an accessible route, all of the following apply: 446

(i) The public use areas and common use areas of the 447
dwellings shall be readily accessible to and usable by persons 448
with a disability. 449

(ii) All the doors designed to allow passage into and within 450
all premises shall be sufficiently wide to allow passage by 451
persons with a disability who are in wheelchairs. 452

(iii) All premises within covered multifamily dwelling units 453

shall contain an accessible route into and through the dwelling;
all light switches, electrical outlets, thermostats, and other
environmental controls within such units shall be in accessible
locations; the bathroom walls within such units shall contain
reinforcements to allow later installation of grab bars; and the
kitchens and bathrooms within such units shall be designed and
constructed in a manner that enables an individual in a wheelchair
to maneuver about such rooms.

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

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

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(J) For any person to aid, abet, incite, compel, or coerce
the doing of any act declared by this section to be an unlawful
discriminatory practice, to obstruct or prevent any person from
complying with this chapter or any order issued under it, or to
attempt directly or indirectly to commit any act declared by this
section to be an unlawful discriminatory practice.

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(K)(1) Nothing in division (H) of this section shall bar any
religious or denominational institution or organization, or any
nonprofit charitable or educational organization that is operated,
supervised, or controlled by or in connection with a religious
organization, from limiting the sale, rental, or occupancy of
housing accommodations that it owns or operates for other than a
commercial purpose to persons of the same religion, or from giving
preference in the sale, rental, or occupancy of such housing

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accommodations to persons of the same religion, unless membership
in the religion is restricted on account of race, color, or
national origin.

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

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(3) Nothing in division (H) of this section limits the
applicability of any reasonable local, state, or federal
restrictions regarding the maximum number of occupants permitted
to occupy housing accommodations. Nothing in that division
prohibits the owners or managers of housing accommodations from
implementing reasonable occupancy standards based on the number
and size of sleeping areas or bedrooms and the overall size of a
dwelling unit, provided that the standards are not implemented to
circumvent the purposes of this chapter and are formulated,
implemented, and interpreted in a manner consistent with this
chapter and any applicable local, state, or federal restrictions
regarding the maximum number of occupants permitted to occupy
housing accommodations.

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

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

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(a) Housing accommodations provided under any state or
federal program that have been determined under the "Fair Housing

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Amendments Act of 1988," 102 Stat. 1623, 42 U.S.C.A. 3607, as
amended, to be specifically designed and operated to assist
elderly persons;

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

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

(L) Nothing in divisions (A) to (E) of this section shall be
construed to require a person with a disability to be employed or
trained under circumstances that would significantly increase the
occupational hazards affecting either the person with a
disability, other employees, the general public, or the facilities
in which the work is to be performed, or to require the employment
or training of a person with a disability in a job that requires
the person with a disability routinely to undertake any task, the
performance of which is substantially and inherently impaired by
the person's disability.

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

(N) An aggrieved individual may enforce the individual's
rights relative to discrimination on the basis of age as provided

for in this section by instituting a civil action, within ~~one~~ 548
~~hundred eighty days~~ two years after the alleged unlawful 549
discriminatory practice occurred, in any court with jurisdiction 550
for any legal or equitable relief that will effectuate the 551
individual's rights. 552

A person who files a civil action under this division is 553
barred, with respect to the practices complained of, from 554
instituting a civil action under section 4112.14 of the Revised 555
Code and from filing a charge with the commission under section 556
4112.05 of the Revised Code. 557

(O) With regard to age, it shall not be an unlawful 558
discriminatory practice and it shall not constitute a violation of 559
division (A) of section 4112.14 of the Revised Code for any 560
employer, employment agency, joint labor-management committee 561
controlling apprenticeship training programs, or labor 562
organization to do any of the following: 563

(1) Establish bona fide employment qualifications reasonably 564
related to the particular business or occupation that may include 565
standards for skill, aptitude, physical capability, intelligence, 566
education, maturation, and experience; 567

(2) Observe the terms of a bona fide seniority system or any 568
bona fide employee benefit plan, including, but not limited to, a 569
retirement, pension, or insurance plan, that is not a subterfuge 570
to evade the purposes of this section. However, no such employee 571
benefit plan shall excuse the failure to hire any individual, and 572
no such seniority system or employee benefit plan shall require or 573
permit the involuntary retirement of any individual, because of 574
the individual's age except as provided for in the "Age 575
Discrimination in Employment Act Amendment of 1978," 92 Stat. 189, 576
29 U.S.C.A. 623, as amended by the "Age Discrimination in 577
Employment Act Amendments of 1986," 100 Stat. 3342, 29 U.S.C.A. 578
623, as amended. 579

(3) Retire an employee who has attained sixty-five years of age who, for the two-year period immediately before retirement, is employed in a bona fide executive or a high policymaking position, if the employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of those plans, of the employer of the employee, which equals, in the aggregate, at least forty-four thousand dollars, in accordance with the conditions of the "Age Discrimination in Employment Act Amendment of 1978," 92 Stat. 189, 29 U.S.C.A. 631, as amended by the "Age Discrimination in Employment Act Amendments of 1986," 100 Stat. 3342, 29 U.S.C.A. 631, as amended;

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

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

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

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

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

(4) The maximum age requirements established for original

appointment to a police department or fire department in sections 611
124.41 and 124.42 of the Revised Code; 612

(5) Any maximum age not in conflict with federal law that may 613
be established by a municipal charter, municipal ordinance, or 614
resolution of a board of township trustees for original 615
appointment as a police officer or firefighter; 616

(6) Any mandatory retirement provision not in conflict with 617
federal law of a municipal charter, municipal ordinance, or 618
resolution of a board of township trustees pertaining to police 619
officers and firefighters; 620

(7) Until January 1, 1994, the mandatory retirement of any 621
employee who has attained seventy years of age and who is serving 622
under a contract of unlimited tenure, or similar arrangement 623
providing for unlimited tenure, at an institution of higher 624
education as defined in the "Education Amendments of 1980," 94 625
Stat. 1503, 20 U.S.C.A. 1141(a). 626

(Q)(1)(a) Except as provided in division (Q)(1)(b) of this 627
section, for purposes of divisions (A) to (E) of this section, a 628
disability does not include any physiological disorder or 629
condition, mental or psychological disorder, or disease or 630
condition caused by an illegal use of any controlled substance by 631
an employee, applicant, or other person, if an employer, 632
employment agency, personnel placement service, labor 633
organization, or joint labor-management committee acts on the 634
basis of that illegal use. 635

(b) Division (Q)(1)(a) of this section does not apply to an 636
employee, applicant, or other person who satisfies any of the 637
following: 638

(i) The employee, applicant, or other person has successfully 639
completed a supervised drug rehabilitation program and no longer 640
is engaging in the illegal use of any controlled substance, or the 641

employee, applicant, or other person otherwise successfully has
been rehabilitated and no longer is engaging in that illegal use.

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(ii) The employee, applicant, or other person is
participating in a supervised drug rehabilitation program and no
longer is engaging in the illegal use of any controlled substance.

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

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

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

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

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

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

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(e) Holding an employee who engages in the illegal use of any
controlled substance or who is an alcoholic to the same
qualification standards for employment or job performance, and the

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same behavior, to which the employer, employment agency, personnel
placement service, labor organization, or joint labor-management
committee holds other employees, even if any unsatisfactory
performance or behavior is related to an employee's illegal use of
a controlled substance or alcoholism;

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

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

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

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

(B) A person does not have a cause of action or claim based

on unlawful discriminatory practices in employment under this 704
chapter against a supervisor, manager, or other employee of an 705
employer unless that supervisor, manager, or other employee is the 706
employer. Nothing in this division abrogates statutory law or the 707
common law imposing vicarious liability on an employer for the 708
actions or omissions of its agents. 709

Sec. 4112.14. (A) No employer shall discriminate in any job 710
opening against any applicant or discharge without just cause any 711
employee aged forty or older who is physically able to perform the 712
duties and otherwise meets the established requirements of the job 713
and laws pertaining to the relationship between employer and 714
employee. 715

(B) Any person aged forty or older who is discriminated 716
against in any job opening or discharged without just cause by an 717
employer in violation of division (A) of this section may 718
institute a civil action against the employer within two years 719
after the discrimination or discharge occurred in a court of 720
competent jurisdiction. If the court finds that an employer has 721
discriminated on the basis of age, the court shall order an 722
appropriate remedy which shall include reimbursement to the 723
applicant or employee for the costs, including reasonable 724
attorney's fees, of the action, or to reinstate the employee in 725
the employee's former position with compensation for lost wages 726
and any lost fringe benefits from the date of the illegal 727
discharge and to reimburse the employee for the costs, including 728
reasonable attorney's fees, of the action. The remedies available 729
under this section are coexistent with other remedies available 730
~~pursuant to sections 4112.01 to 4112.11 of the Revised Code under~~ 731
this chapter; except that any person instituting a civil action 732
under this section is barred, with respect to the practices 733
complained of, ~~thereby barred~~ from instituting a civil action 734
under division (N) of section 4112.02 of the Revised Code or from 735

filing a charge with the Ohio civil rights commission under 736
section 4112.05 of the Revised Code. 737

(C) The cause of action described in division (B) of this 738
section and any other remedies available ~~pursuant to sections~~ 739
~~4112.01 to 4112.11 of the Revised Code under this chapter~~ shall 740
not be available in the case of discharges where the employee has 741
available to the employee the opportunity to arbitrate the 742
discharge or where a discharge has been arbitrated and has been 743
found to be for just cause. 744

Sec. 4112.16. A civil action commenced pursuant to section 745
4112.99 of the Revised Code shall be brought within two years 746
after the alleged unlawful discriminatory practice occurred. The 747
period of limitation specified in this section for purposes of a 748
civil action authorized by section 4112.99 of the Revised Code 749
does not affect any other period of limitation that is specified 750
in another section of this chapter for purposes of a distinct 751
civil action authorized by that other section, including, but not 752
limited to, a civil action authorized by division (N) of section 753
4112.02, division (D) of section 4112.021, division (A) of section 754
4112.051, or division (B) of section 4112.14 of the Revised Code. 755

Section 2. That existing sections 4112.01, 4112.02, 4112.08, 756
and 4112.14 of the Revised Code are hereby repealed. 757

Section 3. The General Assembly hereby declares its intent in 758
amending sections 4112.01 and 4112.08 of the Revised Code to 759
supersede the effect of the holding of the Ohio Supreme Court in 760
Genaro v. Central Transport, Inc. (1999), 84 Ohio St3d 293. In 761
amending these sections, the General Assembly further declares its 762
intent that individual supervisors, managers, and employees not be 763
held liable under Chapter 4112. of the Revised Code for unlawful 764
discriminatory practices related to employment. The General 765

Assembly does not intend this act to abrogate the imposition at 766
common law of vicarious liability on employers for the unlawful 767
discriminatory practices of their agents. 768

Section 4. This act does not impair or affect a cause of 769
action arising before the effective date of this act. 770

Section 5. The General Assembly declares its intent in 771
amending sections 4112.01, 4112.02, and 4112.14 and in enacting 772
section 4112.16 of the Revised Code to supersede the decision of 773
the Ohio Supreme Court in *Cosgrove v. Williamsburg of Cincinnati* 774
Mgt. Co., Inc. (1994), 70 Ohio St.3d 281. It is the General 775
Assembly's intent to establish a uniform two-year statute of 776
limitations for civil actions provided for in Chapter 4112. of the 777
Revised Code with respect to unlawful discriminatory practices 778
related to employment. 779