

**PROPOSED**

## ORDINANCE NO. 2010 -

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, RELATING TO THE HUMAN RIGHTS ACT, SECTION 16½-1 THROUGH SECTION 16½-72 OF THE BROWARD COUNTY CODE OF ORDINANCES; AMENDING SECTION 16½-3 TO REVISE AND UPDATE DEFINITIONS TO BE CONSISTENT WITH THE 2008 AMENDMENTS TO THE AMERICANS WITH DISABILITIES ACT OF 1990; CHANGING THE DEFINITION OF "EMPLOYER" IN SUBSECTION 16½-3(s) TO ONE THAT EMPLOYS FIVE (5) OR MORE EMPLOYEES; PROVIDING IN SUBSECTION 16½-30.6(c) FOR REDETERMINATION REVIEWS BY A SINGLE HUMAN RIGHTS BOARD MEMBER IN DUAL-FILED CASES; EDITING TERMS AND PHRASES IN SECTIONS 16½-30.7, 16½-52, 16½-63, 16½-64.2, 16½-66, AND 16½-67; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

(Sponsored by the Board of County Commissioners)

WHEREAS, the Board of County Commissioners has directed the County Attorney to draft an ordinance amending the Human Rights Act, Sections 16½-1 through 16½-72 of the Broward County Code of Ordinances, to ensure continued consistency with federal and state civil rights laws, including the 2008 Amendments to the Americans with Disabilities Act of 1990, as amended ("ADA Amendments Act of 2008"); to change the definition of "employer" to that which employs five (5) or more employees; to continue redetermination reviews by a single Human Rights Board member in U.S. Equal Employment Opportunity Commission (EEOC) and U.S. Department of Housing and Urban Development (HUD) dual-filed cases; and to streamline processes to ensure a high level of service to clients.

1 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF  
2 BROWARD COUNTY, FLORIDA:

3 Section 1. Section 16½-3, Article I, of the Broward County Code of Ordinances,  
4 is amended to read:

5 **Sec. 16½-3. Definitions.**

6 Except as otherwise provided or unless the context otherwise requires, as used  
7 in Articles I--V:

8 (a) *Age* means any person as herein defined as being at least eighteen (18)  
9 years of age.

10 (b) *Aggrieved person*, with respect to discriminatory practices in employment,  
11 real estate transactions, or public accommodations, means any person that claims to  
12 have been injured by a discriminatory practice.

13 (c) *Auxiliary aids and services* includes qualified interpreters or other effective  
14 methods of making aurally-delivered materials available to individuals with hearing  
15 impairments; qualified readers, taped texts, or other effective methods of making  
16 visually-delivered materials available to individuals with visual impairments; acquisition  
17 or modification of equipment devices; and other similar services and actions.

18 (e)(d) *Board* means the Broward County Human Rights Board, unless a different  
19 meaning clearly appears from context.

20 (d)(e) *Chair* means the chair of the Human Rights Board or chair of a hearing  
21 panel, as the context may indicate.

22 (e)(f) *Charge* means, except as otherwise provided, a written statement which  
23 alleges the occurrence of a discriminatory practice under Article II, and includes an  
24 amended charge.

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in  
underscored type are additions.

1       ~~(f)~~(g)     *Civil Rights Division or Division* means the Civil Rights Division of Broward  
2 County.

3       ~~(g)~~(h)     *Clerk* means the person designated by the Division Director as the clerk of  
4 the Human Rights Board.

5       ~~(h)~~(i)     *Complainant* means a person filing a complaint.

6       ~~(i)~~(j)     *Complaint* means a written statement that alleges the occurrence of a  
7 discriminatory housing practice under Article III of this act. The term also means a  
8 formal administrative complaint filed with the Board by the Civil Rights Division  
9 subsequent to a finding of reasonable cause that a discriminatory practice in violation of  
10 Article II has occurred.

11       ~~(j)~~(k)     *Conciliation* means the attempted resolution of issues raised by a  
12 complaint or charge, or by the investigation of such complaint or charge, through  
13 informal negotiations involving the aggrieved person, complainant, respondent, and, as  
14 applicable, the Division or the Board.

15       ~~(k)~~(l)     *Conciliation agreement* means a written agreement entered into between  
16 the parties to a conciliation resolving an alleged discriminatory practice. The agreement  
17 may require respondent to refrain from committing a discriminatory practice or to take  
18 affirmative action, and may include consent to the entry of a court decree embodying  
19 the terms of the agreement. A conciliation agreement shall be subject to approval by  
20 the Director or the Board, as applicable.

21       ~~(l)~~(m)     *County Attorney* means the County Attorney of Broward County, or his or  
22 her designee, as established by Section 2.10 of the Broward County Charter.

23       ~~(m)~~(n)     *Director* means the executive director of the Civil Rights Division; the Chief  
24 Investigative and Administrative Officer of Articles I--V.

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1     ~~(n)~~(o)     *Disability*, with respect to an individual, means:

2           (1)     A physical or mental impairment that substantially limits one (1) or more of  
3           the major life activities of such individual;

4           (2)     A record of such impairment;

5           (3)     Being regarded as having such an impairment; ~~or~~

6           (4)     Having a developmental disability as defined in Subsection 393.063(9),  
7           Florida Statutes; or

8           (5)     Having human immunodeficiency virus (HIV).

9           However, the current, illegal use of, or addiction to, any drug or other illegal or  
10          federally controlled substance is not a disability. An individual with a disability is  
11          "qualified," with respect to employment, if such individual can perform the essential  
12          functions of the job in question with or without reasonable accommodation.

13          For charges of discrimination that allege discriminatory acts occurring on or after  
14          January 1, 2009, the definition of disability shall be construed in favor of broad coverage  
15          of individuals under the ADA Amendments Act of 2008 (ADAAA) to the maximum extent  
16          permitted by the terms of the ADAAA.

17           (1)     The term "substantially limits" shall be interpreted consistently with the  
18           findings and purposes of the ADAAA.

19           (2)     An impairment that substantially limits one (1) major life activity need not  
20           limit other major life activities in order to be considered a disability.

21           (3)     An impairment that is episodic or in remission is a disability if it would  
22           substantially limit a major life activity when active.

23           (4)     The determination of whether an impairment substantially limits a major  
24           life activity shall be made without regard to the ameliorative effects of

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1 mitigating measures such as medication, medical supplies, equipment, or  
2 appliances, low-vision devices (which do not include ordinary eyeglasses  
3 or contact lenses), prosthetics including limbs and devices, hearing aids  
4 and cochlear implants or other implantable hearing devices, mobility  
5 devices, or oxygen therapy equipment and supplies; use of assistive  
6 technology; reasonable accommodations or auxiliary aids or services; or  
7 learned behavioral or adaptive neurological modifications.

8 (5) The ameliorative effects of the mitigating measures of ordinary glasses or  
9 contact lenses shall be considered in determining whether an impairment  
10 substantially limits a major life activity. "Ordinary eyeglasses or contact  
11 lenses" means lenses that are intended to fully correct visual acuity or  
12 eliminate refractive error; and the term "low-vision devices" means devices  
13 that magnify, enhance, or otherwise augment a visual image.

14 ~~(e)~~(p) *Discriminatory classification* means a classification on the basis of race,  
15 color, religion, sex, national origin, age, marital status, political affiliation, familial status,  
16 disability, sexual orientation, pregnancy, or gender identity and expression. Familial  
17 status shall only be included in this definition for the purpose of Article III of this  
18 chapter.

19 ~~(p)~~(q) *Discriminatory practice* means an act or practice designated as unlawful  
20 under the terms of this chapter.

21 ~~(q)~~(r) *Document* includes, but is not limited to, writings, drawings, graphs,  
22 charts, photographs, sound recordings, and other data or compilations from which  
23 information can be obtained.

1       ~~(r)~~(s) *Employee* means any individual employed by an employer, or any  
2 applicant for employment.

3       ~~(s)~~(t) *Employer* means a person, or any agent of such person, who employs  
4 ~~fifteen (15)~~ five (5) or more employees for each working day in each of twenty (20) or  
5 more calendar weeks in the current or preceding calendar year. The weeks need not  
6 be consecutive. The term does not include:

- 7           (1) The United States or a corporation wholly owned by the Government of  
8           the United States;
- 9           (2) An Indian tribe;
- 10          (3) The state of Florida and its agencies; or
- 11          (4) Broward County and its agencies, excluding independent authorities,  
12          independent boards, and constitutional county officers.

13       ~~(t)~~(u) *Employment agency* means any person regularly undertaking, with or  
14 without compensation, to procure employees for an employer, or to procure for  
15 employees opportunity to work for an employer, and includes an agent of such a  
16 person.

17       ~~(u)~~(v) *Gender identity and expression* means gender-related identity,  
18 appearance, expression, or behavior of an individual, regardless of the individual's  
19 assigned sex at birth.

20       ~~(v)~~(w) *Hearing panel* means three (3) Board members appointed pursuant to  
21 Article V of this chapter to hold an evidentiary hearing.

22       ~~(w)~~(x) *Labor organization* includes:  
23  
24

1 (1) An organization of any kind representing employees in dealing with  
2 employers concerning grievances, labor disputes, wages, rates of pay,  
3 hours, or other terms or conditions of employment;

4 (2) A conference, general committee, system board, or council that is  
5 subordinate to a national or international labor organization; or

6 (3) An agent of a labor organization.

7 ~~(x)~~(y) *Marital status* means the state of being unmarried, married, or separated,  
8 as defined by state law. The term "unmarried" includes people who are single,  
9 divorced, or widowed.

10 ~~(y)~~(z) *Major life activities* means those basic activities that the average person  
11 in the general population can perform with little or no difficulty including, but not limited  
12 to, functions such as caring for oneself, performing manual tasks, ~~walking~~, seeing,  
13 hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing,  
14 learning, reading, concentrating, thinking, communicating, and working. Major life  
15 activities also includes the operation of a major bodily function, including, but not limited  
16 to, functions of the immune system, normal cell growth, digestive, bowel, bladder,  
17 neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

18 ~~(z)~~(aa) *National origin* means the national origin of an ancestor or the country of  
19 origin of a person's forebears, naturally, by marriage, or by adoption.

20 ~~(aa)~~(bb) *Party* means the Division, complainant, aggrieved person, respondent,  
21 and any person designated as a party to a proceeding before a single Board member or  
22 a three-member hearing panel, pursuant to Articles III and V.

23 ~~(bb)~~(cc) *Person* includes an individual, association, corporation, joint  
24 apprenticeship committee, joint stock company, labor organization, legal representative,

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1 mutual company, partnership, receiver, trust, trustee in bankruptcy, unincorporated  
2 organization, or any other legal or commercial entity not otherwise excluded pursuant to  
3 this subsection.

4 ~~(ee)~~(dd) *Place of public accommodations* means any establishment, either  
5 licensed or unlicensed, which supplies goods or services to the public or which is  
6 supported directly or indirectly by government funds; however, such term shall not  
7 include any institution or place of accommodation that is in its nature distinctly private.

8 ~~(dd)~~(ee) *Political affiliation* means belonging to or endorsing any political party.

9 ~~(ee)~~(ff) *Reasonable accommodation* means, ~~with respect to employment, a~~  
10 ~~change in the employer's work environment or in its usual and customary operations~~  
11 ~~practices that results in equal employment opportunity for an individual with a disability.~~  
12 ~~An employer must provide an employment-related reasonable accommodation to a~~  
13 ~~qualified individual with a disability when such accommodation is necessary to afford~~  
14 ~~such individual an equal opportunity to be considered for a job; to perform the essential~~  
15 ~~functions of a job; or to enjoy the equal benefits and privileges of a job. Reassignment~~  
16 ~~to an open position for which an individual is qualified should be considered a~~  
17 ~~reasonable accommodation. However, nothing in this part shall require an employer to~~  
18 ~~provide a particular accommodation if such accommodation is not reasonable or would~~  
19 ~~impose an undue hardship upon the employer~~ may include: making existing facilities  
20 used by employees readily accessible to and usable by individuals with disabilities; job  
21 restructuring, part-time or modified work schedules, reassignment to a vacant position,  
22 acquisition or modification of equipment or devices, appropriate adjustment or  
23 modifications of examinations, training materials or policies, the provision of qualified  
24

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1 readers or interpreters; and other similar accommodations for individuals with  
2 disabilities.

3 (gg) Reasonable cause means that a preponderance of credible evidence  
4 supports a conclusion that unlawful discrimination has been committed or is being  
5 committed.

6 ~~(ff)~~(hh) *Record of impairment* means, with respect to employment, an individual  
7 who:

8 (1) Has a history of a substantially limiting impairment; or

9 (2) Has been misclassified as having a substantially limiting impairment.

10 ~~(gg)~~(ii) *Regarded as having such an impairment* means, ~~with respect to~~  
11 employment, that an individual who: has established that he or she has been subjected  
12 to a prohibited action because of an actual or perceived physical or mental impairment  
13 whether or not the impairment limits or is perceived to limit a major life activity. This  
14 term shall not apply to impairments that are transitory and minor. A transitory  
15 impairment is an impairment with an actual or expected duration of six (6) months or  
16 less.

17 ~~(1) Has an impairment that does not substantially limit major life activities but~~  
18 ~~is treated by the employer, or other persons covered by this act, as~~  
19 ~~constituting such limitation; or~~

20 ~~(2) Has an impairment that substantially limits major life activities only as a~~  
21 ~~result of the actions of others toward such impairment; or~~

22 ~~(3) Has no impairment, but is treated by the employer, or other persons~~  
23 ~~covered by this act, as having a substantially limiting impairment.~~

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1     ~~(hh)~~(jj)     *Religion* means all aspects of religious observance and practice, as well  
2 as and a bona fide belief.

3     ~~(ii)~~(kk)     *Respondent* means:

- 4         (1)     In the case of a complaint or charge, the employer, employment agency,  
5                 labor organization, joint labor-management committee, or person  
6                 designated in the complaint or charge as responsible for the alleged  
7                 unlawful discriminatory practice of whatever kind;
- 8         (2)     The person or other entity accused in a complaint or charge of an unlawful  
9                 housing practice, and any other person or entity identified in the course of  
10                investigation and notified as required with respect to respondents so  
11                identified in Article III; or
- 12        (3)     The person against whom relief is requested.

13     ~~(jj)~~(ll)     *Sexual orientation* means ~~the condition of~~ being heterosexual, bisexual, or  
14 homosexual, or the perception that an individual is heterosexual, bisexual, or  
15 homosexual, or the perception that an individual is associated with individuals who  
16 maintain such orientation.

17     ~~(kk)~~     ~~*Substantially limits* means an individual with an impairment who is:~~

- 18         (1)     ~~Unable to perform a major life activity; or~~
- 19         (2)     ~~Significantly restricted as to the condition, manner, or duration under~~  
20                 ~~which an individual can perform a particular major life activity as compared~~  
21                 ~~to the condition, manner, or duration under which the average person can~~  
22                 ~~perform that same major life activity.~~

23     ~~(H)~~(mm)     *Training program* means any plan containing terms and conditions for  
24 qualification, recruitment, employment, or training of employees to:

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1 (1) Enter a specific trade or occupation after completion of a specified training  
2 program; or

3 (2) Offer a person, already either partially or wholly trained in a specified trade  
4 or occupation, an opportunity to advance himself or herself after  
5 completion of a specified training program. A training program may be  
6 "joint," i.e., managed and supervised by representatives of labor and  
7 management, or unilateral ("non-joint").

8 ~~(mm)(nn)~~ *Undue hardship* means ~~an action that imposes upon an employer~~  
9 ~~significant difficulty or expense in relation to the employer's size, availability of~~  
10 ~~resources, or the nature of its business operations, including any action that would~~  
11 ~~fundamentally alter the nature or operation of the employer's business~~ an action  
12 requiring significant difficulty or expense, when considered in light of the following  
13 factors: (i) the nature and cost of the accommodation needed; and (ii) the overall  
14 financial resources of the facility or facilities involved in the provision of the reasonable  
15 accommodation; the number of persons employed at such facility; and the effect on  
16 expenses and resources, or the impact otherwise of such accommodation upon the  
17 operation of the facility.

18 ~~(nn)(oo)~~ *Unlawful employment practice* means any practice so designated under  
19 Article II of this chapter.

20 Section 2. Section 16½-30.6, Article III, of the Broward County Code of  
21 Ordinances, is amended to read:

22 **Sec. 16½-30.6. Reasonable cause determination and effect.**

23 (a) The Division shall determine, based on the totality of the factual  
24 circumstances gathered by the Division in its investigation of the complaint, whether

1 reasonable cause exists to believe that a discriminatory housing practice has occurred  
2 or is about to occur, unless the Division has approved a conciliation agreement with  
3 respect to the complaint. If the Division is unable to make a reasonable cause  
4 determination within one hundred (100) calendar days after the filing of the complaint,  
5 the Division shall notify the aggrieved person, complainant ~~(if different from the~~  
6 ~~aggrieved person)~~, and the respondent in writing of the reasons preventing the Division  
7 from making the determination. The Division's determination shall be based solely on  
8 the facts concerning the alleged discriminatory housing practices provided by the  
9 complainant and respondent, or otherwise identified during the course of its  
10 investigation of the complaint. In making this determination, the Division shall consider  
11 whether the facts concerning the alleged discriminatory housing practice are sufficient  
12 to warrant the initiation of a civil action in federal or state court.

13 (b) Reasonable Cause Finding and Charge. If, based on the totality of the  
14 factual circumstances revealed by the investigation, the Division determines that  
15 reasonable cause exists to believe that a discriminatory housing practice has occurred  
16 or is about to occur, the Division shall issue such determination and notify the  
17 complainant, aggrieved person, and respondent of this determination by certified mail or  
18 personal service. The Division shall include a copy of its final investigative report with  
19 its notice of reasonable cause determination. In addition, the Director shall request that  
20 the ~~Division's attorney~~ Office of the County Attorney file a charge on behalf of the  
21 aggrieved person for further proceedings before the Human Rights Board.

22 (1) A charge filed under this section:  
23  
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- 1 a. Shall consist of a short and plain statement of the facts upon which  
2 the Division has found reasonable cause to believe that a  
3 discriminatory housing practice has occurred or is about to occur;  
4 b. Shall be based on the final investigative report; and  
5 c. Need not be limited to the facts or grounds alleged in the complaint  
6 filed.
- 7 (2) Within twenty (20) calendar days after the Division issues a reasonable  
8 cause finding, the Division shall send a copy of the charge to:  
9 a. Each respondent, together with a notice of the opportunity for a  
10 hearing at the time and place specified in the notice; and  
11 b. Each complainant and each aggrieved person on whose behalf the  
12 complaint was filed.
- 13 (3) If the Division determines that the matter involves the legality of any state  
14 or local zoning or other land use law or ordinance, it shall notify the  
15 Broward County ~~Building Code Services~~ Permitting, Licensing, and  
16 Consumer Protection Division, or other appropriate local governmental  
17 authority for appropriate action.
- 18 (c) No Reasonable Cause Finding and Redetermination. If the Division  
19 determines that no reasonable cause exists to believe that a discriminatory housing  
20 practice has occurred or is about to occur, the Division shall promptly dismiss the  
21 complaint and notify the aggrieved person, complainant, and respondent of the  
22 determination by certified mail or personal service. The Division shall include a copy of  
23 the final investigative report with its notice of no reasonable cause determination. Any  
24 dismissal made pursuant to this section shall be subject to public disclosure consistent

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1 with the provisions of Section 16½-72, 42 U.S.C. Section 3610(g)(3), Title VIII of the  
2 Civil Rights Act of 1964 as amended, 24 CFR Section 103.400, and Section 119.0713,  
3 Florida Statutes, as amended. If, at any time, the public disclosure subsections within  
4 Section 16½-72 conflict with federal or state law as amended, the provisions of the  
5 amended federal and state law shall prevail. In cases where the aggrieved person dual-  
6 filed a complaint with HUD and the Division, and no reasonable cause was found, the  
7 Division shall, ~~in addition to closing its case,~~ inform the parties of their rights to proceed  
8 in a court of competent jurisdiction. ~~However, if an aggrieved person's complaint is~~  
9 ~~based upon a category(ies) protected only by the Human Rights Act, and such~~ If the  
10 aggrieved person is dissatisfied with the no reasonable cause determination made by  
11 the Division, the aggrieved person may request that the Division's determination be  
12 reviewed by a member of the Board. The request must be made in writing within twenty  
13 (20) calendar days of the receipt of the Division's determination. Upon receipt of a  
14 request for such review ("redetermination request"), the Director shall assign such  
15 redetermination to a member of the Board in accordance with Section 16½-53, Broward  
16 County Code of Ordinances, as amended. In ~~redetermining~~ reviewing the Division's no  
17 reasonable cause determination, the Board member may:

- 18 (1) Based on review of the factual circumstances revealed by the Division's  
19 investigation, including the final investigative report, and applicable  
20 federal, state, and local law, determine reasonable cause exists to believe  
21 that a discriminatory housing practice has occurred or is about to occur. If  
22 such a determination is made, the Division shall, within ten (10) calendar  
23 days, notify the complainant, aggrieved person, and respondent of the  
24

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1 reasonable cause decision by certified mail. Thereafter, the Division shall  
2 proceed in accordance with subsection (b) of this section.

3 (2) Direct that the complaint be returned to the Division for further  
4 investigation; whereafter the Division shall notify the complainant,  
5 aggrieved person, and the respondent of this decision by certified mail or  
6 personal service. However, if the Division, after conducting further  
7 investigation upon receipt of the single Board member's return of the  
8 charge, determines that there is still no reasonable cause to believe that  
9 an unlawful discriminatory practice has occurred, the Division shall reissue  
10 and mail a notice of redetermination, which shall include a copy of the  
11 Board member's decision and its own redetermination, to the complainant,  
12 aggrieved person, and respondent.

13 (3) Based on a review of all the factual circumstances revealed by the  
14 Division's investigation, including the final investigative report, deny the  
15 request for redetermination, thereby allowing the Division's decision to  
16 remain in effect. The Division shall notify the complainant, aggrieved  
17 person, and the respondent of the redetermination denial by certified mail  
18 or personal service.

19 (d) Appeal of Redetermination Decision to Board. If the aggrieved person,  
20 complainant, or respondent in an action brought only under the Human Rights Act is  
21 dissatisfied with the redetermination decision rendered by the assigned Board member  
22 pursuant to subsection (c), the dissatisfied party may request a review of the  
23 redetermination decision by a hearing panel appointed pursuant to Section 16½-53,  
24 Broward County Code of Ordinances, as amended. The request shall be filed with the

1 Division within twenty (20) calendar days of the receipt of the Division's redetermination  
2 notice. A timely request for review pursuant to this section shall toll all time periods  
3 required under Articles I--V. The Division shall mail to each hearing panel member a  
4 copy of the investigative report, the notice of determination issued by the Division, and  
5 the notice of redetermination. Unless the hearing panel grants the aggrieved person,  
6 complainant, or the respondent a continuance for good cause, the hearing panel shall  
7 consider the redetermination at a hearing occurring as soon as practicable, but at least  
8 fifteen (15) calendar days after the date upon which the Division has mailed the  
9 information required by this subsection to each member of the hearing panel.  
10 Participation in a hearing held to consider a case under this subsection shall be limited  
11 to the parties and appropriate staff from the Division and Office of the County Attorney.  
12 The hearing panel shall make a determination from the record as provided by the  
13 Division and shall not take testimony or evidence, except the hearing panel may permit  
14 the parties to make a statement of their respective positions regarding the  
15 redetermination decision. After presentations permitted by the hearing panel, if any, are  
16 concluded, the hearing panel shall deliberate in the presence of the parties and decide,  
17 by a majority vote, whether there exists a substantial reasonable basis in fact and law,  
18 because of factual or legal errors made below, to overturn the redetermination decision.  
19 If the hearing panel overturns the redetermination so as to find that reasonable cause  
20 exists, the Division shall thereafter proceed in accordance with subsection (b) of this  
21 section. If the hearing panel upholds the redetermination decision that no reasonable  
22 cause exists, the Division shall provide notice of the decision to the parties by first class  
23 United States mail.

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1 Section 3. Section 16½-30.7, Article III, of the Broward County Code of  
2 Ordinances, is amended to read:

3 **Sec. 16½- 30.7. Administrative proceeding.**

4 (a) If the Division files a charge pursuant to Section 16½-30.6, Broward  
5 County Code of Ordinances, the claims asserted in the charge shall be decided in an  
6 administrative proceeding before the Board, unless the charge is settled and a  
7 settlement agreement is approved by the Division and the Board as provided in Section  
8 16½-30.3, Broward County Code of Ordinances. Settlement attempts after the  
9 issuance of a charge shall be completed not later than thirty (30) calendar days after a  
10 charge is issued, and any settlement agreement resulting therefrom approved by the  
11 Division and the Board within thirty (30) calendar days thereafter.

12 (b) Unless otherwise settled, the Director, in consultation with the Chair of the  
13 Board, shall assign a hearing panel in accordance with the blind rotation system  
14 established pursuant to Section 16½-53, Broward County Code of Ordinances, ~~and~~  
15 ~~shall appoint one (1) of the three (3).~~ Hearing panel members ~~to serve as~~ shall select  
16 a chair. A hearing panel shall be assigned no later than five (5) working days after a  
17 failure to settle occurs or the election period in Section 16½-30.10, Broward County  
18 Code of Ordinances, expires, whichever is later. Within three (3) working days of the  
19 assignment, and in consultation with the Director and the Office of the County Attorney,  
20 the chair of the hearing panel shall issue to the parties an order of assignment and initial  
21 matters which shall:

- 22 (1) Notice the dates of the final administrative hearing, which shall be  
23 scheduled not less than ninety (90) calendar days nor more than one  
24 hundred twenty (120) calendar days after the filing of the charge with the

1 Board. Alternatively, the order may require the parties to provide available  
2 days for hearing during the time period prescribed in this paragraph;

3 (2) Permit the parties to engage in discovery as permitted under the Florida  
4 Rules of Civil Procedure and establish an appropriate discovery schedule;

5 (3) Inform the parties that continuances shall not be granted except for good  
6 cause shown;

7 (4) Inform the parties that hearings conducted by the hearing panel shall be  
8 subject to the procedures prescribed in Article V of this act; and

9 (5) Address any other items considered necessary by the hearing panel, after  
10 consultation with the County Attorney.

11 (c) Within twenty (20) calendar days after the transcripts of the final  
12 administrative hearings are filed with the Director, both parties shall submit a draft  
13 recommended order to the hearing panel which shall contain the hearing panel's  
14 findings and conclusions as to each claim presented in the charge. Within twenty (20)  
15 calendar days thereafter, the hearing panel shall issue a recommended order relating to  
16 the claims asserted in the charge filed with the Board. ~~The recommended order shall~~  
17 ~~contain the hearing panel's findings and conclusions as to each claim presented in the~~  
18 ~~charge.~~ In the event the hearing panel finds that a discriminatory practice has occurred  
19 or is about to occur, the recommended order shall also recommend affirmative relief  
20 from the discriminatory practice, including damages, imposition of civil penalty, and an  
21 award of reasonable attorney's fees and costs. A copy of the hearing panel's  
22 recommended order shall be provided to each party. The parties may file exceptions to  
23 the recommended order within fifteen (15) calendar days from the date the  
24 recommended order is issued. The Division shall provide copies of the recommended

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1 order and the exceptions filed by the parties to the County Attorney and each member  
2 of the Board and, upon request, a copy of the transcript of the final administrative  
3 hearing.

4 (d) The Board shall consider the recommended order of the hearing panel  
5 and the exceptions submitted by the parties and shall render a final order at least twenty  
6 (20) calendar days after the parties submit their exceptions to the recommended order.  
7 The Board shall rule upon the exceptions filed by each party by granting or rejecting the  
8 exception; provided, however, the Board shall provide a short and concise explanation  
9 when granting any exception.

10 (e) The Board may adopt the recommended order as the final order of the  
11 Board. The Board may reject or modify conclusions of law and interpretations of the  
12 Broward County Human Rights Act and any rules of procedure over which it has  
13 substantive jurisdiction. However, the Board may not reject or modify any findings of  
14 fact, unless it first determines, from a review of the entire record and state with  
15 particularity in the order, that the findings of fact were not based on substantial  
16 competent evidence or that the proceedings on which the findings were based did not  
17 comply with the essential requirements of the act. The Board shall provide copies of the  
18 final order to each party and the order shall provide notice to the parties concerning  
19 their right to judicial review of the Board's final order pursuant to Section ~~16-1/2-69~~  
20 16<sup>1</sup>/<sub>2</sub>-29.

21 (f) A final order issued by the Board under this section shall not affect a  
22 contract, sale, encumbrance, or lease that was consummated before the Board issued  
23 the final order and which involved a bona fide purchaser, encumbrancer, or tenant who  
24 did not have actual notice of the charge filed under this article.

1 (g) No administrative hearing shall be held pursuant to this section after the  
2 commencement of a civil action, under federal or state fair housing laws, brought by the  
3 complainant or aggrieved party seeking relief with respect to the discriminatory housing  
4 practice claims asserted in a charge issued pursuant to Section 16½-30.6, Broward  
5 County Code of Ordinances.

6 (h) The general rules of procedure and the hearing procedures prescribed in  
7 Section 16½-66 and Section 16½-67 shall apply to all administrative proceedings  
8 initiated under this section, except to the extent such provisions conflict with the  
9 provisions in this section, but only to the extent of such conflict.

10 (i) All final orders rendered by the Board, and recommended orders issued  
11 by hearing panels, shall be subject to public disclosure consistent with the provisions of  
12 Section 16½-72.

13 Section 4. Section 16½-52, Article III, of the Broward County Code of  
14 Ordinances, is amended to read:

15 **Sec. 16½-52. Powers of board.**

16 (a) The Board is authorized to exercise the following general powers:

- 17 (1) To serve as a Board with administrative support provided by the Division;  
18 (2) To meet and exercise its powers at a designated place;  
19 (3) To adopt, modify, and repeal rules of procedure for the conduct of the  
20 Board's business; and  
21 (4) To accept gifts, bequests, grants, or other payments subject to the  
22 approval of the Board of County Commissioners.

23 (b) The Board is authorized to exercise the following quasijudicial powers:  
24

- 1 (1) To receive charges and complaints alleging any discriminatory practice, to  
2 seek to conciliate, to hold hearings in order to determine and adjudicate  
3 the facts, issue binding orders, act upon charges and complaints alleging  
4 violations of this act; to grant relief from discriminatory practices; and  
5 enforce final orders by application to the county or circuit court such  
6 charges and complaints;
- 7 (2) To administer oaths, subpoena witnesses, and compel production of  
8 evidence. This authority may be delegated by the Board for hearings to  
9 the chair of a hearing panel and for investigations to the Director;
- 10 (3) To apply to the county or circuit court for the enforcement of any  
11 subpoena upon the refusal of the witness to answer, appear, or produce  
12 the requested document or information for the purpose of obtaining a  
13 determination as to whether that witness should be made to answer the  
14 question, appear, or produce the requested document or information;
- 15 (4) To petition the county or circuit court for enforcement of the final order of  
16 the Board based upon a review of the proceedings before the Board and a  
17 determination that the issuance of the final order complied with the  
18 essential requirements of this act; and
- 19 (5) To exercise such other authority as provided in the act or as necessary to  
20 afford aggrieved persons, complainants, respondents, and other parties  
21 due process in accord with the procedures set forth in the act or adopted  
22 by Board rule pursuant to this act.
- 23  
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1 (c) The Board shall have the authority to advise the Division, County  
2 Administrator or his or her designee, and the Board of County Commissioners on  
3 matters relating to the following:

4 (1) Funding for the employment of investigators, clerks, attorneys, and other  
5 employees and agents to assist in effecting the purposes and provisions  
6 of this act;

7 (2) Encouraging equality of treatment, and prevention of discrimination  
8 against any racial, religious, ethnic, or other minority group or its  
9 members;

10 (3) Furnishing technical assistance to persons subject to this act to further  
11 compliance with the act or any final order issued pursuant to this act to  
12 prevent or eliminate discrimination;

13 (4) The development, preparation, and conduct of studies by the Division to  
14 effectuate the purposes and policies of this act and to make the results of  
15 such studies available to the public;

16 (5) Rendering assistance to various groups and agencies of the community to  
17 assist and cooperate in educational campaigns devoted to the elimination  
18 of group prejudices, racial tension, intolerance, and discrimination; and

19 (6) Review of quarterly statistical compilation of cases prepared by the  
20 Division concerning the number of complaints received and processed by  
21 the Division, the nature of the discriminatory practices alleged, and any  
22 resulting decisions.

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1 (d) In exercising its advisory powers pursuant to Subsection 16½-52(c),  
2 Broward County Code of Ordinances, the Board may make such reports and  
3 recommendations as are necessary to effectuate the purposes and policies of this act.

4 (e) The Board may not delegate any of the quasi-judicial powers and authority  
5 provided in subsection (b) to any non-governmental entity.

6 (f) Any member of the Board, having knowledge that a discriminatory practice  
7 prohibited by Articles II and III of this act has occurred, or that a discriminatory practice  
8 is about to occur, may file a charge or complaint, as applicable, with the Division. Any  
9 charge or complaint filed shall be in writing, signed by the Board member, verified, and  
10 shall otherwise comply with the applicable requirements of this act. Any Board member  
11 who files a charge or complaint pursuant to Articles II or III shall:

12 (1) Make available all information known about the matter to the Division and  
13 its investigators;

14 (2) Abstain from discussing the matter at any Board meeting, with other  
15 members of the Board, or any member of the public, until after the  
16 investigation is complete and a determination is made by the Division  
17 concerning whether or not reasonable cause exists that the alleged  
18 discriminatory practice occurred or is about to occur, including any  
19 applicable period for redetermination, or until an action is filed in a court of  
20 competent jurisdiction, as applicable; and

21 (3) Abstain from voting on any matter before the Board which is directly  
22 related to the investigation of the charge or complaint filed by the Board  
23 member, consistent with the time period described in paragraph (2).  
24

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1 (g) A charge or complaint filed by a Board member may not be voluntarily  
2 withdrawn after a determination of reasonable cause has been made. Also, a Board  
3 member may not voluntarily withdraw such charge or complaint filed on behalf of an  
4 aggrieved person without such aggrieved person's consent. After an administrative  
5 proceeding relating to the charge or complaint is initiated before the Board and a  
6 hearing panel is assigned to conduct a hearing, the charge or complaint may only be  
7 voluntarily dismissed upon a stipulated motion filed with the hearing panel and agreed  
8 to by all parties.

9 (h) A charge or complaint filed by a Board member, pursuant to Articles II and  
10 III, may be voluntarily withdrawn by the Board if the Board member no longer serves on  
11 the Board and the purposes of Articles II or III are no longer served by processing the  
12 charge or complaint. Also, the Board may not voluntarily withdraw a charge or complaint  
13 filed by a Board member on behalf of an aggrieved person without such aggrieved  
14 person's consent.

15 Section 5. Section 16½-63, Article V, of the Broward County Code of  
16 Ordinances, is amended to read:

17 **Sec. 16½-63. Charge of discrimination.**

18 (a) Unless specifically set forth in another part of this act, the procedure for  
19 charges of discrimination filed pursuant to Article II of this act, and Section 16½-65,  
20 Broward County Code of Ordinances, as amended, shall be as provided in this section.

21 (b) A person, claiming to be aggrieved by a discriminatory practice prohibited  
22 pursuant to Article II of this act, or Section 16½-65, Broward County Code of  
23 Ordinances, as amended, may file with the Civil Rights Division a sworn written  
24 statement describing the unlawful discrimination. For cases involving employment and

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1 public accommodation, the charge of discrimination must be filed within one (1) year  
2 after the alleged discriminatory practice occurs. The charge shall state the name and  
3 the last known address of the person alleged to have committed the discriminatory  
4 practice, set forth the facts upon which the charge is based, and contain such other  
5 information and be in the form prescribed by the Division. Within ten (10) calendar days  
6 after the date the charge of discrimination is filed with the Division, the respondent shall  
7 be furnished with a copy of the charge, the Division's procedures, and other forms  
8 necessary to process the charge within ten (10) calendar days after the date the charge  
9 of discrimination is filed with the Division. A respondent may file a written response to  
10 the charge with the Division within twenty (20) calendar days after receipt of the charge  
11 in person, or by registered or certified mail. A complainant or an aggrieved person may  
12 amend the charge at any time prior to the predetermination interview ("PDI"). During  
13 the PDI, the complainant or aggrieved person is informed of the Division's determination  
14 as to whether no cause or reasonable cause was found. Thereafter, should the  
15 aggrieved person/complainant wish to add additional allegations, a ~~brand~~ new charge  
16 would have to be filed. In the event the charge is amended, the respondent shall be  
17 provided a copy of the amended charge and an opportunity to respond in writing  
18 consistent with the subsection. The charge may be withdrawn by the complainant at  
19 any time, except that the withdrawal of a charge filed by a Board member shall be  
20 consistent with the provisions of Subsections 16½-52(f) and (g), Broward County Code  
21 of Ordinances, as amended. The respondent shall preserve all records and other  
22 evidence which may relate to the subject matter of the charge until the charge has been  
23 resolved. The Division shall, to the extent possible, encourage parties to enter into  
24

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1 settlement agreements. Unless otherwise provided in the agreement, a settlement  
2 agreement shall not constitute an admission of unlawful discrimination.

3 (c) The investigation of a charge may be deferred where another complaint  
4 based on the same set of circumstances is or has been submitted to a local, state, or  
5 federal governmental agency with functions similar to the Division unless there is a  
6 written agreement between the County and the governmental agency that precludes  
7 more than one (1) investigation occurring at the same time, and the governmental  
8 agency has, pursuant to a written agreement, referred or deferred the charge or  
9 complaint to the Division for disposition. The investigation of a charge may also be  
10 deferred if the parties are willing to conciliate the charge and the Director determines  
11 that deferral will serve the best interest of the aggrieved person or complainant.

12 (d) The purposes of an investigation conducted under this section are:

13 (1) To obtain information concerning the events or transactions that relate to  
14 the alleged unlawful discriminatory practices identified in the charge;

15 (2) To document the policies or practices of the respondent involved in the  
16 alleged unlawful discriminatory practices raised by the charge; and

17 (3) To develop the factual data necessary for the Division to make a  
18 determination under this article concerning whether reasonable cause, or  
19 no reasonable cause, exists to believe that an unlawful discriminatory  
20 practice, as prohibited under Article II of this act, has occurred, and to take  
21 other actions as provided in this section.

22 (e) Unless otherwise deferred pursuant to subsection (c), the Division shall  
23 promptly investigate the allegations and complete its investigation within one hundred  
24 (100) days after the charge is filed. If the Division is unable to complete the

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1 investigation within one hundred (100) days, the Division shall inform the parties in  
2 writing and provide a reasonable estimate of the time needed for completion. If, upon  
3 completion of the investigation, the Division determines that there is no reasonable  
4 cause to believe that an unlawful discriminatory practice has occurred, the Division shall  
5 prepare and mail a notice of determination to the complainant and respondent within ten  
6 (10) calendar days of such determination, informing the parties of their right to proceed  
7 in a court of competent jurisdiction. The notice shall set forth the reason for the  
8 determination. A determination finding no reasonable cause or basis to believe that an  
9 unlawful discriminatory practice occurred shall have the effect of dismissing the charge.

10 (f) Requests for information.

11 (1) In connection with an investigation of a charge filed under Article II, the  
12 Division or its authorized agents may at any reasonable time request  
13 access to the premises, records, documents, individuals, and other  
14 possible sources of information which the Division determines to be  
15 relevant to the charge; to examine, record, and copy necessary materials;  
16 and to take and record testimony or statements of persons reasonably  
17 necessary to further the investigation of a charge. If a person fails to  
18 cooperate with the Division or its agents in the conduct of its investigation,  
19 or fails to permit access, examination, copying of documents, records, and  
20 other materials allowed by this section, the Division may apply to the  
21 Board for an order requiring cooperation with the Division and compliance  
22 with the Division's request for information or access, as permitted by this  
23 section. The Division may seek to enforce the Board's order in an  
24

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1 appropriate court if the person fails to comply with the Board's order.

2 Requests for information may be made by the following methods:

- 3 a. Oral interview;
- 4 b. Written interrogatories;
- 5 c. Requests for production of documents;
- 6 d. Request for entry upon land for inspection of records and the
- 7 conduct of interviews;
- 8 e. Requests for written statements or affidavits; and
- 9 f. Such other methods permitted under similar federal and state laws.

10 (2) In addition to a request for information pursuant to paragraph (1), the  
11 Division may also require a fact-finding conference with the complainant,  
12 aggrieved person, and respondent prior to issuing a determination on a  
13 charge of discrimination. A conference may be scheduled by the  
14 Division's investigator to define the issues raised by the charge, determine  
15 which facts or elements are undisputed, resolve any issues that may be  
16 resolved through this fact-finding stage, and to ascertain whether there is  
17 a basis for a negotiated settlement of the charge. However, the Division's  
18 authority to investigate a charge is not limited to the procedures described  
19 in paragraph (1) or this paragraph.

20 (3) Where the complainant fails to provide a necessary statement, fails or  
21 refuses to appear or be available for interviews or conferences, fails or  
22 refuses to provide necessary information requested by the Division, or  
23 otherwise refuses to cooperate to the extent that the charge is unable to  
24 be resolved, the Director of the Division shall dismiss the charge after

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1 providing written notice to the complainant of intent to dismiss the charge  
2 and after the complainant shall have failed to respond to such notice for  
3 ten (10) calendar days following receipt of the notice.

4 (4) In the event that the respondent or complainant fails to affirmatively  
5 respond to requests for information, appear at scheduled interviews or  
6 conferences, or otherwise fails or refuses to cooperate with the Division so  
7 that the charge is unable to be resolved, the Division may make an  
8 inference adverse to the respondent or complainant with respect to a  
9 determination of reasonable cause. No adverse inference shall be made  
10 where the respondent or complainant can demonstrate sufficient reason to  
11 the Division for not providing information, not appearing at scheduled  
12 interviews or conferences, or not cooperating with the Division's  
13 investigation. No adverse inference shall be made where the respondent  
14 or complainant can demonstrate that the requested information is not  
15 relevant or material to the charge, or is statutorily privileged information.  
16 The respondent or complainant, as applicable, shall be given reasonable  
17 notice, not to exceed thirty (30) calendar days, that the Division intends to  
18 make an adverse inference with respect to reasonable cause because of  
19 failure to provide information, failure to appear at scheduled interviews or  
20 conferences, or because of the respondent's or complainant's failure to  
21 cooperate with the investigation of the charge.

22 (g) After completion of its investigation conducted pursuant to this article, the  
23 Division shall issue a notice of determination containing the Division's decision as to  
24 whether or not there is reasonable cause to believe that an unlawful discriminatory

1 practice has occurred. The Division's determination shall be based solely on the facts  
2 concerning the alleged discriminatory practice provided by the complainant, the  
3 respondent, or otherwise discovered during the course of the Division's investigations of  
4 the charge. The notice of determination shall set forth the Division's findings and  
5 reasons for its determination. The Division shall provide a copy of its determination to  
6 the complainant, the aggrieved person, and the respondent.

7 (h) In cases where the complainant has dual-filed a charge with the Equal  
8 Employment Opportunity Commission ("EEOC") and the Division, and based on the  
9 totality of the factual circumstances revealed by the investigation, the Division  
10 determines there is no reasonable cause to believe that an unlawful discriminatory  
11 practice has occurred, the Division shall ~~close its case and~~ inform the parties of their  
12 rights to proceed in a court of competent jurisdiction. ~~However, if an aggrieved person's~~  
13 ~~complaint is based upon a category(ies) protected only by the Human Rights Act and~~  
14 Where the Division determines there is no reasonable cause to believe that an unlawful  
15 discriminatory practice has occurred, a complainant may, within twenty (20) calendar  
16 days after service of the notice of determination, request a redetermination by a  
17 member of the Board. A timely request for review pursuant to this section shall toll all  
18 time periods required under Articles I--V. The request for review shall be in writing and  
19 shall set forth the specific grounds upon which the complainant believes that there is  
20 reasonable cause to believe that an unlawful discriminatory practice has occurred.  
21 Upon receipt of a redetermination request, the Division shall transmit copies of the  
22 request for redetermination with a copy of its determination to a member of the Human  
23 Rights Board, selected by the Director in accordance with Section 16½-53, Broward  
24 County Code of Ordinances, as amended, to review the request for redetermination.

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1 Based on a review of the factual circumstances revealed by the Division's investigation  
2 along with all applicable federal, state, and local law, the Division's notice of  
3 determination, and the redetermination request, the Board member may:

- 4 (1) Determine that there is reasonable cause to believe that an unlawful  
5 discriminatory practice has occurred. The Board member shall provide a  
6 written decision stating with particularity the reason for overruling the initial  
7 decision of the Division. Within five (5) calendar days after receipt of the  
8 Board member's redetermination decision, the Division shall issue a notice  
9 of redetermination, which shall include a copy of the Board member's  
10 decision, to the complainant, aggrieved person, and respondent by regular  
11 mail. Thereafter, the Division shall proceed to file a formal complaint with  
12 the Board as provided in subsection (j) of this section;
- 13 (2) Direct that the charge be returned to the Division for further investigation,  
14 whereafter the Division shall notify the complainant, aggrieved person,  
15 and the respondent of this decision by certified mail or personal service.  
16 However, if the Division, upon receipt of the single Board member's return  
17 of the charge, conducts a ~~redetermination~~ further investigation and finds  
18 that there is still no reasonable cause to believe that an unlawful  
19 discriminatory practice has occurred, the Division shall reissue a notice of  
20 redetermination, which shall include a copy of the Board member's  
21 decision and its own redetermination, to the complainant, aggrieved  
22 person, ~~and respondent,~~ and Board member by certified mail; or
- 23 (3) Deny the redetermination request thereby upholding the initial  
24 determination of the Division which shall become the final order of the

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1 Board and shall be signed by the director as Clerk of the Board. A copy of  
2 the final order shall be mailed to the complainant, aggrieved person, and  
3 respondent.

4 (i) If, based on the totality of the factual circumstances revealed by the  
5 investigation, the Division determines that there is reasonable cause to believe that an  
6 unlawful discriminatory practice has occurred in cases where the aggrieved person has  
7 dual-filed a complaint with the EEOC, the Division shall, in addition to closing its case,  
8 inform the parties of their rights to proceed in a court of competent jurisdiction.  
9 However, if an aggrieved person's complaint is based upon a category(ies) protected  
10 only by the Human Rights Act, the Division shall issue a notice of determination,  
11 containing the Division's findings and reasons for its determination, and shall provide a  
12 copy by certified mail to the complainant, aggrieved person, and respondent within ten  
13 (10) calendar days of issuance.

14 (j) In the event the Division or a member of the Board determines, pursuant  
15 to subsections (h) or (i) regarding cases arising only under the Human Rights Act, that  
16 there is reasonable cause to believe a discriminatory practice has occurred, the Division  
17 shall file a formal complaint against the respondent with the Board within thirty (30)  
18 calendar days after the determination is made or the date on which the Director  
19 determines that conciliation efforts have failed. The Division shall serve a copy of the  
20 complaint upon the complainant, the aggrieved person, and the respondent.

21 (k) The respondent may file a written response with the Division in person or  
22 by registered or certified mail, no later than ten (10) calendar days after the complaint is  
23 served.

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1 (l) If the aggrieved person or respondent in an action brought only under the  
2 Human Rights Act is dissatisfied with the redetermination decision rendered by the  
3 assigned Board member pursuant to subsection (h), the aggrieved person or  
4 respondent may request a review of the redetermination decision by a hearing panel  
5 appointed pursuant to Section 16½-53, Broward County Code of Ordinances, as  
6 amended. The request shall be filed with the Division within twenty (20) calendar days  
7 of the receipt of the Division's redetermination notice. The Division shall mail to each  
8 hearing panel member a copy of the investigative report, and the notice of  
9 determinations issued by the Division, including the notice of redetermination. Unless  
10 the hearing panel grants the aggrieved person or the respondent a continuance for  
11 good cause, the hearing panel shall consider the redetermination at a meeting occurring  
12 not less than fifteen (15) calendar days nor more than ninety (90) calendar days from  
13 the date upon which the Division has provided the information required by this  
14 subsection to each member of the hearing panel. Participation in a hearing held to  
15 consider a case under this subsection shall be limited to the parties and appropriate  
16 staff from the Division and Office of the County Attorney. The hearing panel shall make  
17 a determination from the record as provided by the Division and shall not take testimony  
18 or evidence, except the hearing panel may permit the parties to make a statement of  
19 their respective positions regarding the redetermination decision or answer questions  
20 based on the record. After presentations permitted by the hearing panel, if any, are  
21 concluded, the hearing panel shall deliberate in the presence of the parties and decide,  
22 by a majority vote, whether there exists a substantial reasonable basis in fact and law,  
23 because of factual or legal errors made below, to overturn the redetermination decision.  
24 If the hearing panel overturns the redetermination so as to find that reasonable cause

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1 exists, the Division shall proceed in accordance with subsection (j) of this section. If the  
2 hearing panel upholds the redetermination decision that no reasonable cause exists, the  
3 Division shall provide notice of the decision to the parties by first class United States  
4 mail.

5 (m) Notwithstanding any provision of this section to the contrary, and only as  
6 to charges processed by the Division on behalf of the EEOC by virtue of the Division's  
7 status as a certified Fair Employment Practices Agency (FEPA), an aggrieved person or  
8 complainant may request that the Division transfer the charge to the EEOC for  
9 substantial weight review and the issuance of a Notice of Right to Sue after the Division  
10 has issued its initial determination concerning the matters contained in the charge. In  
11 the event a transfer is requested, neither the Division nor the Board shall take any  
12 action regarding the merits of the charge. The Division may also discontinue any active  
13 investigation of a charge after the complainant or the aggrieved person provides the  
14 Division with written notification that he or she has requested the issuance of a Notice of  
15 Right to Sue from the EEOC and the Division confirms there is a substantial likelihood  
16 such notice will be issued. The Division may, by rule, specify other circumstances in  
17 which a charge may be transferred to the EEOC for processing, as long as the  
18 proposed Division rule conforms with EEOC policies and procedures. The Division shall  
19 notify the complainant, the aggrieved person, and the respondent of the transfer to the  
20 EEOC.

21 Section 6. Section 16½-64.2, Article V, of the Broward County Code of  
22 Ordinances, is amended to read:

23 **Sec. 16½-64.2. Enforcement by private persons; administrative**  
24 **procedures; civil actions and relief.**

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1 (a) An aggrieved person may commence a civil action for an alleged  
2 discriminatory practice prohibited under Article II, in an appropriate court of competent  
3 jurisdiction after the occurrence or the termination of an alleged discriminatory  
4 employment or public accommodations practice, or the breach of a settlement  
5 agreement approved by either the Division or the Board, whichever occurs last, to  
6 obtain appropriate relief with respect to such discriminatory practice or breach. Such  
7 action must be commenced within four (4) years from the date of the discriminatory  
8 action.

9 (b) An aggrieved person may file a civil action only after he or she has filed a  
10 charge with the Division pursuant to this Article and at least one hundred eighty (180)  
11 calendar days have passed since such filing without a decision being issued by the  
12 Division; or the Division has rendered its decision on the charge and has issued a  
13 Notice of Right to Sue. An aggrieved person may not commence a civil action for  
14 private enforcement if a hearing panel has been assigned to commence a  
15 redetermination hearing with respect to the charge.

16 (c) Upon application by an aggrieved person alleging a discriminatory  
17 employment or public accommodations practice, the court may appoint an attorney for  
18 such person or authorize the commencement or continuation of a civil action under this  
19 section without the payment of fees, costs, or security if, in the opinion of the court, such  
20 person is financially unable to bear the costs of such action. This section shall not be  
21 interpreted to place any responsibility upon either the Division or the County Attorney to  
22 provide such representation.

23 (d) In a civil action commenced pursuant to this section, if a court finds that a  
24 discriminatory employment or ~~public accommodations~~ practice has occurred, the court

1 may issue an order prohibiting that practice and grant affirmative relief from the effects  
2 of that practice, including injunctive and other equitable relief; an award of back pay; an  
3 award of front pay if reinstatement is not practical; compensatory damages; an award of  
4 punitive damages; reasonable attorney's fees and costs; and any other remedy the  
5 court deems appropriate. However, in any action brought against a government or an  
6 agency thereof, the total recovery awarded for all claims shall be limited by applicable  
7 federal, state, or local law and shall not include attorney's fees. Further, no punitive  
8 damages may be awarded against such government or agency.

9 (e) If a court finds that a discriminatory public accommodations practice has  
10 occurred, it may, likewise, issue an order prohibiting that practice and grant affirmative  
11 relief from the effects of that practice, including injunctive and other equitable relief. No  
12 monetary damages will be awarded, but a reasonable attorney's fee may be awarded as  
13 provided for under this act.

14 Section 7. Section 16½-66, Article V, of the Broward County Code of  
15 Ordinances, is amended to read:

16 **Sec. 16½-66. Formal administrative complaint; general rules of procedure.**

17 (a) *Applicability.*

18 (1) Except as otherwise provided, the rules set forth in this section apply to all  
19 administrative proceedings of the Board, unless other rules are specifically  
20 provided in a different article of this act. The Board may adopt additional  
21 rules governing procedure, except that such rules shall not conflict with  
22 the provisions of this act.

23 (2) When the context requires, the terms "Board" and "hearing panel" shall be  
24 substituted for the other to effectuate the purposes of this act.

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1 (b) *Ex Parte Communications.* Except for ex parte applications for subpoenas  
2 pursuant to this act, no person shall make any ex parte communication, relative to any  
3 pending case before the Division or the Board, to any Board member, or at any stage of  
4 a proceeding after the filing of a charge or complaint, by any party to the proceeding, or  
5 by any person who has a direct or indirect interest in the proceeding, or by any  
6 authorized representative or counsel. Any violation of this section shall be reported, in  
7 writing, by the Board member affected; and the report, which shall include a description  
8 of the substance of the communication, any response, and a copy of any written  
9 communication, shall be part of the record.

10 (c) *Filing and Copies.*

11 (1) "Filing" or "file" with the hearing panel means actual receipt of a document  
12 by the Director at the Division's office; except that during the course of a  
13 hearing, a hearing panel may accept a document for filing, in which event  
14 the filing date shall be noted thereon by the chair of the hearing panel, and  
15 it shall be transmitted to the Director.

16 (2) Where any document other than a document pertaining to discovery is  
17 filed, the original document and four (4) copies shall be furnished to the  
18 Board or hearing panel. Only the original of documents pertaining to  
19 discovery shall be filed.

20 (d) *Proof of Simultaneous Service upon Other Parties.* Whenever any party  
21 files a document, that party shall simultaneously serve copies of such document upon  
22 the other parties to the proceeding. A signed certificate attesting to such service by mail  
23 or personal delivery shall be provided to the Board with the document at the time it is  
24

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1 filed. The certificate shall be taken as prima facie proof of such service in compliance  
2 with this section.

3 (e) *Service by Board.* Notices, decisions, orders, declaratory statements, and  
4 other substantive process and papers of the Board may be served personally or by mail.  
5 A return made and verified by the individual making such service and setting forth the  
6 manner of such service is proof of service, and a returned post office receipt, when  
7 certified mail is used, is proof of service. Service by mail shall be deemed completed  
8 upon mailing when adequately addressed.

9 (f) *Computation of Time Periods.*

10 (1) In computing any period of time referred to in this act, the rules of the  
11 Board, or contained in any order of the Board, the day of the act, event, or  
12 occurrence from which the designated time period begins to run shall not  
13 be included. The last day of the period so computed shall be included  
14 unless it is a Saturday, Sunday, or legal holiday observed by the state of  
15 Florida, in which event the time period shall run until the end of the next  
16 day which is neither a Saturday, Sunday, nor legal holiday observed by  
17 the state of Florida. All time periods are measured by calendar days  
18 except where working days are expressly indicated.

19 (2) Whenever a party has a right or is required to do some act or take some  
20 action within a prescribed period after the service of a notice or other  
21 paper upon that party, and such notice or paper is served by mail, three  
22 (3) calendar days shall be added to the prescribed period.

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1 (g) *Representation.*

2 (1) Any party shall have the right to appear in person, by counsel, or by other  
3 authorized representative. ~~The Division, subsequent to a finding of~~  
4 ~~reasonable cause and the initiation of an administrative proceeding before~~  
5 ~~the Board shall, with the consent of the complainant or aggrieved person,~~  
6 ~~represent the interests of the complainant or aggrieved person, as~~  
7 ~~applicable, if such individual is not represented by counsel or an~~  
8 ~~authorized representative.~~ A person does not have to be represented by  
9 an attorney to file a complaint or charge under Articles II or III, or to have  
10 any such complaint or charge adjudicated through a final order of the  
11 Board. ~~In any charge filed by the Division pursuant to Article III, the~~  
12 ~~aggrieved person may intervene as a party in the administrative~~  
13 ~~proceeding before the Board.~~

14 (2) An attorney or authorized representative for any party to a proceeding  
15 must file a notice of appearance. An attorney or authorized person who  
16 has filed an initial pleading shall remain the attorney or authorized  
17 representative of record and shall receive pleadings until notice of  
18 withdrawal is filed with the Division by the represented party or a motion to  
19 withdraw has been served on the represented party and approved by the  
20 Division or chair of the hearing panel.

21 (3) Notice of appearance by any successor or associated attorney or  
22 authorized representative shall be filed prior to, or concurrently with, the  
23 filing of any pleading with, or appearance before, the Division or chair of  
24 the hearing panel.

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- 1 (h) *Complaint.* A written complaint shall contain:
- 2 (1) The style of the proceeding, in the following or similar form:
- 3 "Broward County Human Rights Board
- 4 [Name(s)], BCHARB No \_\_\_\_\_
- 5 Complainant Complaint for
- 6 v. [category of action]
- 7 [Name(s)],
- 8 Respondent";
- 9 (2) The name, address, and telephone number of the complainant and
- 10 aggrieved person;
- 11 (3) The name, address, and telephone number of the respondent;
- 12 (4) All disputed issues of material fact, or a statement that there are none;
- 13 (5) A statement of the ultimate facts alleged, and the rules and statutory
- 14 provisions which entitle the complainant or aggrieved person to relief;
- 15 (6) Other information which the complainant or aggrieved person contends is
- 16 material; and
- 17 (7) A demand for the relief requested by the complainant or aggrieved person.
- 18 (i) *Answers.* Except as provided by an order, a respondent is not required,
- 19 but is permitted, to file an answer. A permissive answer, if any, shall be filed within
- 20 twenty (20) calendar days of service of the charge or complaint and shall either admit,
- 21 deny, or state lack of sufficient knowledge as to each allegation in the charge or
- 22 complaint. An answer may contain other information which the respondent contends is
- 23 material.
- 24

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- 1 (j) *Form of Documents.*
- 2 (1) All documents filed with the hearing panel should contain the following:
- 3 a. The title of the proceeding involved;
- 4 b. The docket, case, or file number, if any;
- 5 c. The name, address, and telephone number of the person filing the
- 6 document;
- 7 d. The signature of the person filing the document; and
- 8 e. The name of the party on whose behalf the document is filed.
- 9 (2) All documents filed under these rules should be printed, typewritten, or
- 10 otherwise duplicated in legible form on white paper of standard size.
- 11 Unless printed, the impression should be on one (1) side of the paper only
- 12 and lines should be double-spaced, except quotations of two (2) or more
- 13 lines, which should be single-spaced and indented.
- 14 (k) *Intervention.*
- 15 (1) The Director or a person whose substantial interests may be affected by
- 16 the determination of a charge or complaint may, by motion, request leave
- 17 to intervene in a proceeding.
- 18 (2) Motions to intervene must state with particularity the interests of the
- 19 intervenor which are subject to determination in the proceeding. A motion
- 20 to intervene must fully set forth the movant's interest and must be signed
- 21 by the movant.
- 22 (l) *Joinder of Parties.* If it appears that the determination of the rights of
- 23 parties in a proceeding before the Board will necessarily involve a determination of the
- 24 substantial interests of persons who are not parties, the hearing panel may, upon

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1 motion of a party, or upon its own motion, enter an order requiring that notice of the  
2 proceeding be given to the absent person, who may elect to join in the proceeding as a  
3 party complainant, a party respondent, or as an intervenor within the time required in  
4 the notice.

5 (m) *Friend of the Board.* A person who does not have party status but who  
6 wishes to participate in a proceeding may, by motion, request permission to participate  
7 as a friend of the Board. An order granting such a motion shall specify the degree of  
8 participation permitted.

9 (n) *Motions.*

10 (1) After a complaint is filed, a request for specific action shall be by motion.

11 (2) Written motions may be filed in the style provided in section (j). Oral  
12 motions made during a hearing and rulings thereon shall be made on the  
13 record. Motions shall specifically state the relief sought, and the grounds  
14 therefor, and may be accompanied by legal memoranda or affidavits.

15 (3) Any answering memoranda or affidavits shall be filed within ten (10)  
16 calendar days of service of the motion papers, unless the hearing panel  
17 directs otherwise.

18 (4) When a hearing is to be conducted by a hearing panel, all motions will be  
19 determined by the designated chair of the hearing panel.

20 (5) All motions, rulings, and orders thereon shall be part of the record of the  
21 proceeding.

22 (6) Motions made after issuance of a recommended order by a hearing panel,  
23 including motions for rehearing or reconsideration, are prohibited and shall  
24 not toll the time for taking other actions.

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1 (o) *Consolidation.* If separate complaints have been filed with the Division  
2 that involve similar issues of law, fact, or identity of a party, such matters may be  
3 consolidated for hearing.

4 (p) *Discovery.* Any party to a pending action shall be entitled to obtain  
5 discovery pursuant to and in accordance with the Florida Rules of Civil Procedure, but  
6 discovery may be limited in time, scope, and method by the hearing panel. Any  
7 discovery limitations imposed shall apply equally to all the parties to the administrative  
8 proceeding before the Board.

9 (q) *Prehearing Conference.* The hearing panel may order a prehearing  
10 conference in order to simplify issues and promote possible settlement of a matter. In  
11 furtherance of these goals, the hearing panel is authorized to enter prehearing orders  
12 which may include a requirement that the parties exchange lists of witnesses and  
13 exhibits. All matters settled, stipulated, or ordered at a conference shall be reduced to  
14 writing and made a part of the record. Prior to appearing at a conference, the parties  
15 may be ordered to provide a joint statement of relevant issues of law and fact, on which  
16 there is agreement and on which there is dispute, and to submit memoranda of law on  
17 those issues of law which are disputed. Upon request of any party, the hearing panel  
18 may, at any time prior to the issuance of a recommended order, assist the parties in  
19 reaching an amicable settlement of the issues raised by the charge or complaint. Any  
20 agreement produced from such efforts shall comply with the provisions of Section 16½-  
21 30.3 and Section 16½-64, Broward County Code of Ordinances, except any such  
22 agreement shall be signed by the chair of the hearing panel and shall be presented to  
23 the Board for approval.

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1 (r) *Subpoenas.*

2 (1) A party to an administrative proceeding involving an evidentiary hearing  
3 may file a written application for issuance of a subpoena. The application  
4 may be made ex parte and must state the name and address of the  
5 person whose attendance is requested and must describe with  
6 particularity any material to be produced. The application shall also  
7 specify the time and place that the witness is to appear. Discovery  
8 subpoenas shall not be issued in the absence of a motion and order  
9 permitting discovery. A subpoena pursuant to this subsection may be  
10 issued by the chair of the hearing panel or the Director.

11 (2) The requesting party is responsible for service of any issued subpoena.  
12 Service may be made by certified mail or in person by any person who is  
13 not a party and who is at least eighteen (18) years of age.

14 (3) A person served with a subpoena who opposes the issuance thereof may  
15 promptly, but in no event later than the time specified in the subpoena for  
16 compliance, file a motion in writing to quash or limit the subpoena, stating  
17 the grounds for the motion.

18 (s) *Witness fees.* Witness fees necessary and incident to a hearing shall be  
19 paid by the party at whose instance the witness is summoned. If the hearing panel  
20 directs that a witness be summoned, that witness's fees shall be paid by the Division.  
21 Witness fees shall be tendered, or a voucher submitted at the time of attendance. The  
22 fees allowed shall be the same as those allowed by the circuit courts of this state.  
23  
24

1 (t) *Transcript of Hearing.*

2 (1) The official transcript of a hearing shall be preserved by tape recording,  
3 shorthand, court reporter's notes, or other device.

4 (2) A party may request that the Division provide a court reporter for a hearing  
5 if the Division has not elected to do so. In such case, the requesting party  
6 shall be responsible for payment of the court reporter's per diem expense,  
7 and the original transcript prepared by the court reporter shall be filed with  
8 the Division.

9 (3) A party may request that all or part of the transcript of a hearing be  
10 transcribed into verbatim, written form. In such case, the requesting party  
11 shall be responsible for the cost of production of the transcription, except if  
12 the requesting party is a complainant or aggrieved person who is not  
13 represented by counsel or an authorized representative. In this latter  
14 situation, the Division shall order the transcript and provide a copy of such  
15 to the unrepresented individual at no cost.

16 (u) *Legal Advisor.* The Office of the County Attorney shall be the legal  
17 advisor to the Board, all hearing panels, and the Division, pursuant to this Aact and  
18 Section 2.10 of the Broward County Charter. In the event there arises a difference  
19 between the Division and the Board relating to the application, interpretation, or  
20 enforcement of any power, duty, or procedural provision of this act, the County Attorney  
21 shall not be prohibited from advising both the Division and the Board as to such matter,  
22 or from issuing any opinion resolving such matter. Any opinion of the County Attorney  
23 concerning the application, interpretation, and enforcement of the various provisions of  
24 this act shall be binding on the Division and the Board.

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1 (v) *Continuance of Hearings.* The continuance of an administrative hearing  
2 shall only be granted for good cause shown.

3 Section 8. Section 16½-67, Article V, of the Broward County Code of  
4 Ordinances, is amended to read:

5 **Sec. 16½-67. Hearing procedure.**

6 (a) *Assignment of Hearings.*

7 (1) Consistent with the provisions of Section 16½-53, Broward County Code  
8 of Ordinances, the chair of the Board shall appoint a member of a selected  
9 ~~hearing panel to serve as the chair of the panel~~ hearing panel shall be  
10 selected by the hearing panel.

11 (2) The chair of an assigned hearing panel shall preside over, and shall  
12 conduct, all hearings on the charges and complaints before it, except that  
13 evidentiary rulings ~~during an administrative hearing shall be made by the~~  
14 ~~County Attorney~~ shall be made by the hearing chair in consultation with  
15 the Office of the County Attorney in accord with subsection (h)(7).

16 (b) The final administrative hearing concerning a charge or complaint  
17 assigned to a hearing panel shall be commenced by the hearing panel, not less than  
18 sixty (60) or more than ninety (90) calendar days after the assignment of the hearing  
19 panel in accordance with established rules.

20 (c) The Division shall serve the complainant, aggrieved person, and  
21 respondent a notice of hearing by certified mail with a copy of the complaint.

22 (d) Notice of hearings shall incorporate and set out the following:

23 (1) The name of the complainant;

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underscored type are additions.

- 1 (2) The alleged charge and approximate date or dates of the commission of  
2 the discriminatory practices;
- 3 (3) The section of the code or law or regulation alleged to be involved;
- 4 (4) Notification as to the time, date, and place of the Board hearing;
- 5 (5) Notice that all parties may be represented by counsel or an authorized  
6 representative, and may bring all original documents and other data  
7 pertinent to the case; and
- 8 (6) That parties will be given a fair and reasonable opportunity to present  
9 relevant and material testimony and evidence.
- 10 (e) If the complainant or the aggrieved person fails to appear at the hearing,  
11 the hearing panel shall enter an order dismissing the charge or complaint. The order  
12 may be set aside by the hearing panel for good cause upon motion of the complainant  
13 or aggrieved person if filed not later than ten (10) calendar days after the date of the  
14 hearing. If the respondent fails to appear at the hearing, the hearing panel may enter  
15 an order providing relief to the complainant or aggrieved person after presentation of  
16 evidence or testimony in support of the charge or complaint by the complainant or the  
17 aggrieved person at the hearing. The order may be set aside by the hearing panel for  
18 good cause upon motion of the respondent filed not later than ten (10) calendar days  
19 after the date of the hearing.
- 20 (f) Testimony taken at the hearing shall be under oath or affirmation and  
21 recorded. The hearing panel shall keep a full record of the hearing, which record shall  
22 be kept by the Division and shall be public and open to inspection.
- 23 (g) The general procedure for hearings shall provide all parties the following  
24 rights:

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- 1 (1) To subpoena and examine witnesses;
- 2 (2) To introduce exhibits;
- 3 (3) To cross-examine opposing witnesses on any relevant matter even though
- 4 the matter was not covered under any direct examination;
- 5 (4) To impeach any witness regardless of which party first called such witness
- 6 to testify; and
- 7 (5) To rebut the evidence.
- 8 (h) *Evidence.*
- 9 (1) In any hearing before the hearing panel, irrelevant material shall be
- 10 excluded but other evidence of a type commonly relied upon by
- 11 reasonably prudent persons in the conduct of their affairs shall be
- 12 admissible whether or not such evidence would be admissible in a trial in
- 13 the courts of the state of Florida. Any part of the evidence may be
- 14 received in written form. Hearsay evidence may be used for the purpose
- 15 of supplementing or explaining other evidence, but it shall not be sufficient
- 16 in itself to support a finding unless it would be admissible over objection in
- 17 civil actions.
- 18 (2) Documentary evidence may be received in the form of a copy or excerpt if
- 19 the original is not readily available. Upon request, parties shall be given
- 20 an opportunity to compare the copy with the original.
- 21 (3) The rules of privilege shall be effective to the same extent that they are
- 22 now or hereafter may be recognized in civil actions.
- 23 (4) A written, printed, or visual communication, advertisement, or other form
- 24 of publication, written inquiry, or record, or other document purporting to

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1 have been made by a person is prima facie evidence that it was  
2 authorized by that person.

3 (5) If a complainant or aggrieved person fails to comply with a demand for  
4 discovery or fails to make a good faith effort to comply with the demand,  
5 the complainant's or aggrieved person's case shall be subject to dismissal.  
6 If a respondent fails to comply with a demand for discovery or fails to  
7 make a good faith effort to comply with the demand, such respondent's  
8 defenses shall be subject to being stricken in accordance with the Florida  
9 Rules of Civil Procedure.

10 (6) In any hearing conducted pursuant to a complaint of employment  
11 discrimination, the burden of proof and rebuttal will be determined in the  
12 same manner as that established for Title VII of the Civil Rights Act of  
13 1964, as amended, 42 U.S.C. Section 2000e-2.

14 (7) In all administrative hearings before a hearing panel, rulings relating to the  
15 introduction of evidence and objections raised by the parties shall be  
16 ~~made by the County Attorney~~ ruled upon by the panel chair. However,  
17 any party may appeal the ~~County Attorney's~~ chair's ruling to the panel  
18 which shall decide the matter by majority vote.

19 (i) *Introduction of Evidence; Rights of Parties at Hearing.*

20 (1) In any hearing involving a disputed issue of material fact, any party or any  
21 member of the hearing panel may call and examine and cross-examine  
22 witnesses and introduce documentary and other evidence into the record.  
23 A party shall, upon offering an exhibit into evidence at a hearing,  
24

1 simultaneously furnish copies to all other parties unless copies have been  
2 previously furnished.

3 (2) In any hearing not involving a disputed issue of material fact, any party  
4 may present written or oral evidence, if material, and may submit written  
5 statements.

6 (3) When a hearing is conducted, all parties may file proposed recommended  
7 orders with the hearing panel. The chair of the hearing panel shall set a  
8 reasonable time for filing proposed recommended orders. If a transcript of  
9 the hearing is in the process of being prepared for filing with the Division,  
10 and copies of such transcripts shall be provided to the hearing panel  
11 thereafter, then the time for filing proposed recommended orders shall be  
12 set for a reasonable time after the transcript has been provided to the  
13 hearing panel.

14 (j) *Recommended Orders.*

15 (1) When a hearing is conducted by a hearing panel, both parties shall submit  
16 a draft recommended order to the hearing panel. ~~¶~~The chair shall,  
17 thereafter, prepare a recommended order and file it, together with the  
18 record of the hearing, with the clerk. A copy of the recommended order  
19 shall be served upon each of the parties.

20 (2) The draft recommended order as well as the recommended order shall  
21 contain the time and place of the hearing; appearances entered at the  
22 hearing; issues; and proposed findings of fact, conclusions of law,  
23 interpretations of rules, and disposition. The proposed conclusions of law  
24 and interpretations of rules shall include reference, where appropriate, to

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1 prior relevant Board decisions, and if the proposed conclusions of law or  
2 interpretations of rules substantially diverge from such prior decisions, the  
3 rationale for the divergence shall be stated.

4 (3) Filing of a recommended order by a hearing panel shall have the effect of  
5 denying all pending motions unless resolved in the recommended order.

6 (4) If the hearing panel determines that the respondent has engaged in a  
7 discriminatory practice, the hearing panel shall state the findings of fact  
8 and conclusions of law and shall issue a recommended order requiring the  
9 respondent to cease and desist from the discriminatory practice and to  
10 take such affirmative action as in the judgment of the hearing panel will  
11 carry out the purposes of this chapter.

12 (5) Remedial measures which may be ordered under this act may include but  
13 are not limited to:

- 14 a. Hiring, reinstatement, or upgrading of employees with or without  
15 back pay;
- 16 b. Admission or restoration of individuals to union membership,  
17 admission to or participation in a guidance program, apprenticeship  
18 training program, on-the-job training program, or other occupational  
19 training or retraining program, with the utilization of objective criteria  
20 in the admission of individuals to such programs;
- 21 c. Admission of individuals to a public accommodation;
- 22 d. Sale, exchange, lease, rental, assignment, or sublease of housing  
23 accommodations to an individual;
- 24

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- 1 e. Extension to all individuals of the full and equal enjoyment of the  
2 advantages, facilities, privileges, and services of the respondent;  
3 f. Reporting as to the manner of compliance;  
4 g. Posting of notices in conspicuous places in the respondent's place  
5 of business indicating compliance with equal opportunity rules and  
6 regulations in the form prescribed by the Board and inclusion of  
7 such notices in advertising materials; and  
8 h. Payment to the complainant of actual damages for injury suffered  
9 as a direct result of a discriminatory practice, and any expense  
10 incurred by the complainant as a direct result of such discriminatory  
11 practice.

12 (6) In addition to any remedial measure ordered under paragraph (5), the  
13 prevailing charging party may be entitled to reasonable attorney's fees to  
14 be paid by the respondent as appropriate. The complainant or aggrieved  
15 person shall not be required to pay attorney's fees to a prevailing  
16 respondent; nor shall any award be made by a hearing panel or the Board  
17 requiring such payment.

18 (7) If a respondent is found by the Board to have engaged in a discriminatory  
19 practice while performing under a contract or subcontract with the County  
20 or another governmental entity within Broward County, or any agency  
21 thereof, and if the discriminatory practice was authorized, requested,  
22 commanded, performed, or knowingly or recklessly tolerated by the Board  
23 of Directors of the respondent or by an officer or executive agent acting  
24 within the scope of his or her employment, the Board shall so certify to the

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1 contracting agency. Unless the Board's finding of a discriminatory practice  
2 is reversed in the course of judicial review, the finding of discrimination is  
3 binding on the contracting agency.

4 (k) *Exceptions.*

5 (1) Any party may file written exceptions in response to a recommended  
6 order.

7 (2) Exceptions shall be filed within twenty (20) calendar days after service of  
8 the recommended order, unless otherwise allowed by the Board.

9 (3) Where exceptions have been filed by a party, any other party may file a  
10 written response within fifteen (15) calendar days after service of the  
11 exceptions. No other papers or documents may be filed unless allowed by  
12 the Board.

13 Section 9. SEVERABILITY.

14 If any portion of this Ordinance is determined by any Court to be invalid, the  
15 invalid portion shall be stricken, and such striking shall not affect the validity of the  
16 remainder of this Ordinance. If any Court determines that this Ordinance, or any portion  
17 hereof, cannot be legally applied to any individual(s), group(s), entity(ies), property(ies),  
18 or circumstance(s), such determination shall not affect the applicability hereof to any  
19 other individual, group, entity, property, or circumstance.

20 Section 10. INCLUSION IN CODE.

21 It is the intention of the Board of County Commissioners that the provisions of  
22 this Ordinance shall become and be made a part of the Broward County Code; and that  
23 the sections of this Ordinance may be renumbered or re-lettered and the word  
24

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1 "ordinance" may be changed to "section," "article," or such other appropriate word or  
2 phrase in order to accomplish such intentions.

3 Section 11. EFFECTIVE DATE.

4 This Ordinance shall become effective as provided by law.

5 ENACTED

6 FILED WITH THE DEPARTMENT OF STATE

7 EFFECTIVE

**PROPOSED**

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