

**TITLE 8. BUILDINGS AND HOUSING**  
**CHAPTER 3. HOUSING GENERALLY**  
**ARTICLE 4. FAIR HOUSING**

Current through the 1996 Session of the Georgia legislature

Table of Contents

- [8-3-200](#) . State policy; purposes and construction of article
- [8-3-201](#) . Definitions
- [8-3-202](#) . Unlawful practices in selling or renting dwellings; exceptions
- [8-3-203](#) . Unlawful denial of or discrimination in membership or participation in service or organization relating to selling or renting dwellings
- [8-3-204](#) . Discrimination in residential real estate related transactions; appraisals
- [8-3-205](#) . Permissible limitations in sale, rental, or occupancy of dwellings by religious organizations or private clubs; housing for older persons
- [8-3-206](#) . Powers and duties of administrator; housing and urban development programs of other agencies
- [8-3-207](#) . Educational and conciliatory activities; conferences; consultation as to extent of discrimination; reports
- [8-3-208](#) . Discriminatory housing practice complaint procedures
- [8-3-209](#) . Investigations; conciliation agreements; final report; procedure on breach of conciliation agreement; disclosure of investigative information; action for temporary relief; transmittal of information where basis for action believed to exist
- [8-3-210](#) . Procedure where local fair housing law applicable
- [8-3-211](#) . Procedure on filing of discriminatory housing practice complaint
- [8-3-212](#) . Subpoenas and discovery; penalties for violations
- [8-3-213](#) . State action for enforcement; fines; damages; civil action by local agency; administrative proceeding
- [8-3-214](#) . Orders of board of commissioners
- [8-3-215](#) . Appeal from order of board of commissioners; attorney's fees and costs
- [8-3-216](#) . Filing order of administrator or board of commissioners in superior court and judgment thereon
- [8-3-217](#) . Civil actions by aggrieved persons
- [8-3-218](#) . Civil actions by Attorney General
- [8-3-219](#) . Expediting of actions under Code Section 8-3-217 or 8-3-218
- [8-3-220](#) . Adoption of provisions in local ordinance
- [8-3-221](#) . Cooperation with federal and local agencies
- [8-3-222](#) . Coercion, intimidation, threats, or interference
- [8-3-223](#) . Compliance with federal law

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Research References: Schwemm, Robert G.; Housing Discrimination ; West Group, 1997.

Relman, John P.; Housing Discrimination Practice Manual; West Group, 1997.

### **8-3-200. State policy; purposes and construction of article**

(a) It is the policy of the State of Georgia to provide, within constitutional limitations, for fair housing throughout the state.

(b) The general purposes of this article are:

(1) To provide for execution in the state of policies embodied in Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988;

(2) To safeguard all individuals from discrimination in any aspect relating to the sale, rental, or financing of dwellings or in the provision of brokerage services or facilities in connection with the sale or rental of a dwelling because of that individual's race, color, religion, sex, disability or handicap, familial status, or national origin;

(3) To promote the elimination of discrimination in any aspect relating to the sale, rental, or financing of dwellings or in the provision of brokerage services or facilities in connection with the sale or rental of a dwelling because of a person's race, color, religion, sex, disability or handicap, familial status, or national origin; and

(4) To promote the protection of each individual's interest in personal dignity and freedom from humiliation and the individual's freedom to take up residence wherever such individual chooses; to secure the state against domestic strife and unrest which would menace its democratic institutions; to preserve the public safety, health, and general welfare; and to further the interests, rights, and privileges of individuals within the state.

(c) This article shall be broadly construed to further the general purposes stated in this Code section and the special purposes of the particular provision involved.

### **8-3-201. Definitions**

As used in this article, the term:

(1) "Administrator" means the administrator of the Commission on Equal Opportunity created under Article 2 of Chapter 19 of Title 45.

(2) "Aggrieved person" means any person who claims to have been injured by a discriminatory housing practice or who believes that he or she will be irrevocably injured by a discriminatory housing practice that is about to occur.

(2.1) "Board of commissioners" means the Board of Commissioners of the Commission on Equal Opportunity created by Code Section 45-19-23 or a panel of three members of said board.

(3) "Complainant" means the person, including the administrator, who files a complaint under Code Section 8-3-208.

(4) "Conciliation" means the attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, and the administrator.

(5) "Conciliation agreement" means a written agreement setting forth the resolution of

the issues in conciliation.

(6) "Covered multifamily dwelling" means a building which consists of four or more units and has an elevator or the ground floor units of a building which consists of four or more units and does not have an elevator.

(7) "Disability" means, with respect to a person:

(A) A physical or mental impairment which substantially limits one or more of such person's major life activities;

(B) A record of having such an impairment; or

(C) Being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance.

(8) "Discriminatory housing practice" means an act that is unlawful under Code Section 8-3-202, 8-3-203, 8-3-204, 8-3-205, or 8-3-222.

(9) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(10) "Familial status" means, with respect to a person:

(A) That the person is a parent of or has legal custody of one or more individuals who have not attained the age of 18 years and such individuals are being domiciled with such parent or legal custodian;

(B) That the person is the designee of a parent or other person having legal custody, with the written permission of the parent or other person, and that one or more individuals who have not attained the age of 18 years are being domiciled with such person; or

(C) That the person is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

(11) "Family" includes a single individual.

(12) "Person" means one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, or fiduciaries.

(13) "Respondent" means:

(A) The person or other entity or the state or local government or agency accused in a complaint of an unfair housing practice; and

(B) Any other person or entity identified in the course of an investigation and notified as required with respect to respondents so identified under subsection (d) of Code Section 8-3-207.

(14) "State" means the State of Georgia.

(15) "To rent" means to lease, to sublease, to let, and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

### **8-3-202. Unlawful practices in selling or renting dwellings; exceptions**

(a) Except as exempted by subsection (b) or (d) of this Code section or Code Section 8-3-205, it shall be unlawful:

(1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, disability, familial status, or national origin;

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, disability, familial status, or national origin;

(3) To make, print, or publish or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling, that indicates any preference, limitation, or discrimination based on race, color, religion, sex, disability, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination;

(4) To represent to any person because of race, color, religion, sex, disability, familial status, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available;

(5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, familial status, or national origin or with a disability;

(6) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of:

(A) That buyer or renter;

(B) A person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or

(C) Any person associated with that buyer or renter; or

(7) (A) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability of:

(i) That person;

(ii) A person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or

(iii) Any person associated with that person.

(B) For purposes of this paragraph, discrimination includes:

(i) A refusal to permit, at the expense of the person with disabilities, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter's agreeing to restore the interior of the premises

to the condition that existed before the modification, reasonable wear and tear excepted;

(ii) A refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or

(iii) In connection with the design and construction of covered multifamily dwellings for first occupancy after March 13, 1991, a failure to design and construct those dwellings in such a manner that:

(I) The public use and common use portions of such dwellings are readily accessible to and usable by persons with disabilities;

(II) All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by persons with disabilities in wheelchairs; and

(III) All premises within such dwellings contain the following features of adaptive design:

(a) an accessible route into and through the dwelling;

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

(c) reinforcements in bathroom walls to allow later installation of grab bars; and

(d) usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(C) Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically disabled people (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of subdivision (B)(iii)(III) of this paragraph.

(D) In regard to persons with disabilities, discrimination includes, in connection with the design and construction of covered multifamily dwellings for first occupancy after March 13, 1991, a failure to design and construct dwellings in such a manner that the dwellings have at least one building entrance on an accessible route, unless it is impracticable to do so because of the terrain or unusual characteristics of the site.

(b) (1) Nothing in this Code section, other than paragraph (3) of subsection (a) of this Code section, shall apply to:

(A) Any single-family dwelling sold or rented by an owner, if:

(i) Such private individual owner does not own more than three such single-family dwellings at any one time;

(ii) Such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds

from the sale or rental of more than three such single-family dwellings at any one time;

(iii) Such dwelling is sold or rented:

(I) Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person; and

(II) Without the publication, posting, or mailing, after notice, of any advertisement or written notice in violation of subsection (c) of this Code section; but nothing in this paragraph shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title; or

(B) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(2) In the case of the sale of any such single-family dwelling by a private individual owner not residing in such dwelling at the time of such sale or who was not the most recent resident of such dwelling prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any 24 month period.

(c) For the purposes of subsection (b) of this Code section, a person shall be deemed to be in the business of selling or renting dwellings if:

(1) He has, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein;

(2) He has, within the preceding 12 months, participated as agent, other than in the sale of his own personal residence, in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or

(3) He is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

(d) Nothing contained in this Code section shall require that a dwelling be made available for rental or lease to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

### **8-3-203. Unlawful denial of or discrimination in membership or participation in service or organization relating to selling or renting dwellings**

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings or to discriminate against such person in the terms or conditions of such access, membership, or participation on account of race, color, religion, sex, disability, familial status, or national origin.

#### **8-3-204. Discrimination in residential real estate related transactions; appraisals**

(a) As used in this Code section, the term "residential real estate related transaction" means any of the following:

(1) The making or purchasing of loans or providing other financial assistance:

- (A) For purchasing, constructing, improving, repairing, or maintaining a dwelling; or
- (B) Secured by residential real estate; or

(2) The selling, brokering, or appraising of residential real property.

(b) It shall be unlawful for any person or other entity whose business includes engaging in residential real estate related transactions to discriminate against any person in making available such a transaction or in the terms or conditions of such a transaction because of race, color, religion, sex, handicap, familial status, or national origin.

(c) Nothing in this article shall be construed to prohibit a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status.

#### **8-3-205. Permissible limitations in sale, rental, or occupancy of dwellings by religious organizations or private clubs; housing for older persons**

(a) Nothing in this article shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion or from giving preference to such persons unless membership in such religion is restricted on account of race, color, sex, handicap, familial status, or national origin. Nothing in this article shall prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(b) (1) As used in this subsection, the term "housing for older persons" means housing:

(A) Provided under any state or federal program that the administrator determines is specifically designed and operated to assist elderly persons as defined in the state or federal program;

(B) Intended for, and solely occupied by, persons 62 years of age or older; or

(C) Intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the administrator shall develop regulations which require at least the following factors:

- (i) The existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or, if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons;
- (ii) That at least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; and
- (iii) The publication of and adherence to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

(2) Nothing in this article limits the applicability of any reasonable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. The provisions in this article regarding familial status shall not apply with respect to housing for older persons.

(3) Housing shall not fail to meet the requirements for housing for older persons by reason of:

(A) Persons residing in such housing as of March 12, 1989, who do not meet the age requirements of subparagraph (B) or (C) of paragraph (1) of this subsection; provided, however, that new occupants of such housing meet the age requirements of subparagraph (B) or (C) of paragraph (1) of this subsection; or

(B) Unoccupied units; provided, however, that such units are reserved for occupancy by persons who meet the age requirements of subparagraph (B) or (C) of paragraph (1) of this subsection.

(4) Nothing in this article prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance.

### **8-3-206. Powers and duties of administrator; housing and urban development programs of other agencies**

(a) The authority and responsibility for administering this article shall be vested in the administrator of the Commission on Equal Opportunity.

(b) The administrator may delegate any of the administrator's functions, duties, and powers to employees of the Commission on Equal Opportunity or to boards of such

employees, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter under this article. Insofar as possible, conciliation meetings shall be held in the cities or other localities where the discriminatory housing practices allegedly occurred.

(c) All departments and agencies of state government shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this article and shall cooperate with the administrator to further such purposes.

(d) The administrator shall:

- (1) Make studies with respect to the nature and extent of discriminatory housing practices in representative communities, urban, suburban, and rural, throughout the state;
- (2) Publish and disseminate reports, recommendations, and information derived from such studies;
- (3) Cooperate with and render technical assistance to local and other public or private agencies, organizations, and institutions which are formulating or carrying on programs to prevent or eliminate discriminatory housing practices;
- (4) Administer the programs and activities relating to housing in a manner affirmatively to further the policies of this article;
- (5) Adopt, promulgate, amend, and rescind, subject to the approval of the Governor after giving proper notice and hearing to all interested parties pursuant to Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," such rules and regulations as may be necessary to carry out the provisions of this article;
- (6) Cooperate with the United States Department of Housing and Urban Development created by Section 10(b) of the Department of Housing and Urban Development Act of 1965 (79 Stat. 667) and with other federal and local agencies in order to achieve the purposes of Title VIII of the Civil Rights Act of 1968 (82 Stat. 81), as amended by the Fair Housing Amendments Act of 1988 (102 Stat. 1619), and to cooperate with other federal and local agencies in order to achieve the purposes of this article;
- (7) Accept gifts, bequests, grants, or other public or private payments on behalf of the state and pay such moneys into the state treasury;
- (8) Accept on behalf of the state reimbursement pursuant to Section 810 of the Civil Rights Act of 1968 (82 Stat. 85), as amended by the Fair Housing Amendments Act of 1988 (102 Stat. 1625), for services rendered to assist the United States Department of Housing and Urban Development; and
- (9) Maintain with the United States Department of Housing and Urban Development status as a "certified agency" under Section 810 of the Civil Rights Act of 1968 (82 Stat. 85), as amended by the Fair Housing Act of 1988 (102 Stat. 1625), and as provided by the rules and regulations of said department.

(e) In any case where the federal Department of Housing and Urban Development has initiated an investigation or any action or proceedings against any person relative to any

acts or omissions by such person which may be in violation of this article, the administrator shall have no authority to initiate or pursue against such person any investigation, civil action, or administrative enforcement covered by the provisions of this article with regard to the same acts or omissions or facts or circumstances to which the federal investigation or proceedings are applicable.

### **8-3-207. Educational and conciliatory activities; conferences; consultation as to extent of discrimination; reports**

The administrator shall commence such educational and conciliatory activities as in the administrator's judgment will further the purposes of this article. The administrator shall call conferences of persons in the housing industry and other interested parties to acquaint them with this article and the administrator's suggested means of implementing this article and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement. The administrator shall consult with state and local officials and other interested parties to learn the extent, if any, to which housing discrimination exists in this state, and whether and how enforcement programs might be utilized to combat such discrimination in connection with the administrator's enforcement of this article. The administrator shall issue reports on such conferences and consultations as the administrator deems appropriate.

### **8-3-208. Discriminatory housing practice complaint procedures**

(a) An aggrieved person may, not later than one year after an alleged discriminatory housing practice has occurred or terminated, file a complaint with the administrator alleging such discriminatory housing practice. The administrator, on the administrator's own initiative, may also file such a complaint. Complaints shall be in writing and under oath and shall contain such information and be in such form as the administrator requires. Upon the filing of a complaint under this subsection, the administrator shall serve notice upon the aggrieved person acknowledging the filing and advising the aggrieved person of procedural time limits and the choice of forums provided under this article.

(b) The administrator shall, not later than ten days after the filing of a complaint or the identification of an additional respondent under subsection (d) of this Code section, serve on the respondent a notice identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations under this article, together with a copy of the original complaint. Each respondent may file, not later than ten days after receipt of notice from the administrator, an answer to the complaint.

(c) Complaints and answers shall be verified and may be reasonably and fairly amended at any time.

(d) A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of an investigation, may be joined as an additional or substitute respondent upon written notice to such person from the administrator as

provided in subsection (b) of this Code section. In addition to meeting the requirements of subsection (b) of this Code section, the notice shall explain the basis for the administrator's belief that such person is properly joined as a respondent.

**8-3-209. Investigations; conciliation agreements; final report; procedure on breach of conciliation agreement; disclosure of investigative information; action for temporary relief; transmittal of information where basis for action believed to exist**

(a) The administrator shall investigate an alleged discriminatory housing practice and complete such investigation within 100 days after the filing of a complaint unless it is impracticable to do so. If the administrator is unable to complete the investigation within 100 days after the filing of a complaint, the administrator shall notify the complainant and respondent of the reasons for the failure to complete the investigation.

(b) During the period beginning with the filing of such complaint and ending with the filing of a charge or a dismissal by the administrator, the administrator shall, to the extent feasible, engage in conciliation with respect to such complaint. A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant and shall be subject to approval by the administrator. A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief. Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the administrator determines that disclosure is not required to further the purposes of this article.

(c) At the end of each investigation under this Code section, the administrator shall prepare a final investigative report containing the following:

- (1) The names and dates of contacts with witnesses;
- (2) A summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;
- (3) A summary description of other pertinent records;
- (4) A summary of witness statements; and
- (5) Answers to interrogatories.

A final report under this subsection may be amended if additional evidence is later discovered.

(d) Whenever the administrator has reasonable cause to believe that a respondent has breached a conciliation agreement, the administrator shall refer the matter to the Attorney General with a recommendation that a civil action be filed for the enforcement of such agreement.

(e) (1) Nothing said or done in the course of conciliation under this article may be made public or used as evidence in a subsequent proceeding under this article without the written consent of the parties concerned.

(2) Notwithstanding paragraph (1) of this subsection, the administrator shall make available to the aggrieved person and the respondent at any time upon request following completion of the administrator's investigation information derived from an investigation and any final investigative report relating to that investigation.

(f) (1) If the administrator concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the provisions of this article, the administrator may authorize a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint under this Code section. Upon such authorization, the Attorney General may commence and maintain such an action. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with Chapter 11 of Title 9, the "Georgia Civil Practice Act." The commencement of a civil action under this subsection does not affect the initiation or continuation of administrative proceedings under this Code section and Code Sections 8-3-213 and 8-3-214.

(2) Whenever the administrator has reason to believe that a basis may exist for the commencement of proceedings against any respondent under subsection (a) of Code Section 8-3-218 or for proceedings by any governmental licensing or supervisory authorities, the administrator shall transmit the information upon which such belief is based to the Attorney General, or to such authorities, as the case may be.

### **8-3-210. Procedure where local fair housing law applicable**

Wherever a local fair housing law provides rights and remedies for alleged discriminatory housing practices which are substantially equivalent, as certified by the Secretary of Housing and Urban Development as provided in Section 810 of the federal Fair Housing Amendments Act of 1988, to the rights and remedies provided under this article, the administrator shall notify the appropriate local agency of any complaint filed which appears to constitute a violation of the local fair housing law, and the administrator shall take no further action with respect to such complaint if the local law enforcement official has, within 30 days from the date the alleged offense was brought to his attention, commenced proceedings in the matter. In no event shall the administrator take further action unless the administrator certifies that, in the administrator's judgment under the circumstances of the particular case, the protection of the rights of the parties or the interests of justice require such action.

### **8-3-211. Procedure on filing of discriminatory housing practice complaint**

(a) The administrator shall, within 100 days after the filing of the complaint, determine based on the facts whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, unless it is impracticable to do so or unless the administrator has approved a conciliation agreement with respect to the complaint. If the administrator is unable to make the determination within 100 days after the filing of the complaint, the administrator shall notify the complainant and respondent in writing of the reasons for not doing so.

(b) (1) If the administrator determines that reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the administrator shall, except as provided in paragraph (3) of this subsection, immediately issue a charge on behalf of the aggrieved person.

(2) The charge shall consist of a short and plain statement of the facts upon which the administrator has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur, shall be based on the final investigative report, and need not be limited to the facts or grounds alleged in the complaint.

(3) If, after investigation, the administrator determines that the matter involves the legality of any state or local zoning or other land use law or ordinance, the administrator shall immediately refer the matter to the Attorney General for appropriate action instead of issuing such charge.

(c) If the administrator determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the administrator shall promptly dismiss the complaint. The administrator shall make public disclosure of each such dismissal. The administrator may not issue a charge under this Code section regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an act of Congress or a state law, seeking relief with respect to that discriminatory housing practice. After the administrator issues a charge under this Code section, the administrator shall cause a copy thereof to be served on each respondent named in such charge, together with a notice of opportunity for a hearing at a time and place specified in the notice, and on each aggrieved person on whose behalf the complaint was filed.

### **8-3-212. Subpoenas and discovery; penalties for violations**

(a) The administrator may issue subpoenas and order discovery in aid of investigations and hearings under this article. Such subpoenas and discovery may be ordered to the same extent and subject to the same limitations as would apply if the subpoenas or discovery were ordered or served in aid of a civil action in superior court in which the investigation is taking place.

(b) Witnesses summoned by a subpoena under this Code section shall be entitled to the same witness and mileage fees as witnesses in proceedings in superior courts. Fees payable to a witness summoned by a subpoena issued at the request of a party shall be paid by the party.

(c) (1) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if it is in such person's power to do so, in obedience to the subpoena or other lawful order under subsection (a) of this Code section, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$1,000.00.

(2) Any person who, with intent thereby to mislead another person in any proceeding under this article:

(A) Makes or causes to be made any false entry or statement of fact in any report, account, record, or other document produced pursuant to subpoena or other lawful order under subsection (a) of this Code section;

(B) Willfully neglects or fails to make or to cause to be made full, true, and correct entries in such reports, accounts, records, or other documents; or

(C) Willfully mutilates, alters, or by any other means falsifies any documentary evidence shall be guilty of a misdemeanor and shall be fined not more than \$1,000.00.

### **8-3-213. State action for enforcement; fines; damages; civil action by local agency; administrative proceeding**

(a) (1) When a charge is filed to initiate an administrative complaint under Code Section 8-3-208, a complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed may elect to have the claims asserted in that charge decided in a civil action brought by the Attorney General on behalf of the aggrieved person as provided under paragraph (2) of this subsection in lieu of a hearing under subparagraph (e)(1)(A) or (e)(1)(B) of this Code section. The election must be made not later than 20 days after the receipt by the electing person of service under Code Section 8-3-211 or, in the case of the administrator, not later than 20 days after such service. The person making such election shall give notice of doing so to the administrator and to all other complainants and respondents to whom the charge relates.

(2) If the administrator has been unable to obtain voluntary compliance or as a result of an investigation under Code Section 8-3-209 finds that there is reasonable cause to believe that a discriminatory housing practice has occurred, at the recommendation of the administrator, the Attorney General, after reviewing the administrator's findings and determining that such findings are well grounded in fact and warranted by law, shall bring an action in the name of the state on behalf of the aggrieved person to enforce the provisions of this article.

(3) If an election is made under paragraph (1) or (2) of this subsection, the administrator shall authorize and, not later than 30 days after the election is made, the Attorney General, after reviewing the administrator's charge and determining that such charge is well grounded in fact and warranted by law, shall commence a civil action on behalf of the aggrieved person seeking relief under this Code section in a superior court.

(b) Whenever an action filed in court pursuant to paragraph (2) of subsection (a) of this Code section or Code Section 8-3-217 or 8-3-218 comes to trial, the administrator shall immediately terminate all efforts to obtain voluntary compliance.

(c) (1) The court may impose the following fines if the respondent has been adjudged to have committed a discriminatory housing practice:

(A) Up to \$10,000.00, if the respondent has not previously been found guilty of committing a discriminatory housing practice;

(B) Up to \$25,000.00, if the respondent has been found guilty of committing one prior discriminatory housing practice within the preceding five years; or

(C) Up to \$50,000.00, if the respondent has been found guilty of committing two or more discriminatory housing practices within the preceding seven years.

(2) The court may award reasonable attorney's fees and costs to the administrator or aggrieved person in any action in which the administrator or aggrieved person prevails or to the respondent in any action in which the respondent prevails only upon a showing that the action is frivolous, unreasonable, or without foundation.

(3) In addition to the remedies set forth in paragraphs (1) and (2) of this subsection, the court may award actual damages and punitive damages to the aggrieved person.

Punitive damages awarded under this subsection may be awarded only when the evidence shows that the respondent's actions showed willful misconduct, malice, fraud, wantonness, oppression, or that entire want of care which would raise the presumption of conscious indifference to consequences or to the rights of the aggrieved party.

(d) Any local agency certified as substantially equivalent by the secretary of housing and urban development pursuant to Section 810 of the federal Fair Housing Amendments Act of 1988 may institute a civil action in any appropriate court, including superior court, if it is unable to obtain voluntary compliance with the local fair housing law. The agency need not have petitioned for an administrative hearing or exhausted its administrative remedies prior to bringing a civil action. The court may impose fines as provided in the local fair housing law.

(e) (1) If the administrator is unable to obtain voluntary compliance with this article and has reasonable cause to believe that a discriminatory housing practice has occurred:

(A) The administrator may institute an administrative proceeding under Chapter 13 of Title 50; or

(B) The person aggrieved may request administrative relief under Chapter 13 of Title 50 within 20 days after receipt of service of a charge filed under Code Section 8-3-211.

When an administrative hearing is to be instituted under subparagraph (A) or (B) of this paragraph, the administrator shall refer the case to the board of commissioners to conduct a hearing in accordance with this article. The board of commissioners shall designate a panel of three of its members, one of which must be an attorney licensed to practice law in the state, and that tribunal shall have all the power and authority granted to agencies in conducting hearings and rendering final orders under Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," including, but not limited to, subpoena power.

(2) Not more than seven working days after the case has been referred to the board of commissioners, the administrator shall serve on the respondent and the person aggrieved or the aggrieved person's attorney by registered or certified mail a written notice together with a copy of the complaint requiring the respondent to answer the charges contained therein at a hearing before the board of commissioners at a time and

place specified in the notice. Such notice must contain all general and specific charges against the respondent.

(3) The respondent shall serve an answer with the board of commissioners by registered or certified mail not more than 20 working days after receipt of the notice of hearing, which 20 working days may be extended by the board of commissioners in the board of commissioners' discretion for an additional time not to exceed ten working days. The respondent's answer must show by a certificate of service that the respondent has served a copy of the answer on the complainant or the complainant's attorney at the last known address of the complainant or the complainant's attorney where the complainant is represented by an attorney. Upon leave of the board of commissioners, the complainant may amend the charges contained in the notice of hearing. The respondent may amend an answer at any time prior to the hearing or, upon leave of the board of commissioners, may amend thereafter. No final order shall be issued unless the respondent has had the opportunity of a hearing on the charges contained in the notice of hearing or amendment on which the final order is based. If the respondent fails to answer the complaint, the board of commissioners may enter the respondent's default. Unless the default is set aside for good cause shown, the hearing may proceed under the available evidence.

(4) At any time after a notice of hearing is served upon a respondent, discovery shall be authorized in the same manner and fashion as discovery is permitted under Code Sections 9-11-26 through 9-11-37. Any order contemplated in Code Sections 9-11-26 through 9-11-37 may be issued by the board of commissioners. Judicial enforcement of any such order may be obtained by the complainant or respondent in the same manner as is provided for the enforcement of final orders in Code Section 45-19-40.

(5) A respondent who has filed an answer or whose default in answering has been set aside for good cause shown may appear at the hearing, may examine and cross-examine witnesses and the complainant, and may offer evidence. The complainant and, at the discretion of the board of commissioners, any other person may intervene, examine and cross-examine witnesses, and present evidence.

(6) Efforts at conference, conciliation, and persuasion shall not be received in evidence.

(7) Testimony taken at the hearing shall be under oath and shall be stenographically or otherwise recorded by a certified court reporter. After the hearing, the board of commissioners at the board of commissioners' discretion may take further evidence or hear arguments upon notice to all parties with an opportunity to be present.

(8) Except as otherwise specifically provided for in this article, all proceedings of the board of commissioners shall be conducted as provided for with respect to contested cases in Chapter 13 of Title 50.

### **8-3-214. Orders of board of commissioners**

(a) If the board of commissioners determines that the respondent has not engaged in a discriminatory housing practice, the board of commissioners shall state the board of commissioners' findings of fact and conclusions of law and shall issue a final order within 30 days after the hearing unless, for good cause shown, such time is extended by the board of commissioners, dismissing the complaint.

(b) If the board of commissioners determines that the respondent has engaged in a discriminatory housing practice, the board of commissioners shall state the board of commissioners' findings of fact and conclusions of law and shall issue a final order within 30 days after the hearing unless, for good cause shown, such time is extended by the board of commissioners, granting such relief as may be appropriate, which may include actual compensatory damages suffered by the aggrieved person and injunctive or other equitable relief and reasonable attorney's fees and costs. A prevailing respondent may be awarded reasonable attorney's fees and costs only upon a showing that the proceeding is frivolous, unreasonable, or without foundation. Attorney's fees may be awarded against a complainant or an aggrieved party if such party joined in the proceeding on its own as an intervening party.

(c) No order of the board of commissioners shall affect any contract, sale, encumbrance, or lease consummated before the issuance of such order and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the charge filed under this article. In the case of an order with respect to a discriminatory housing practice that occurred in the course of a business subject to licensing or regulation by a governmental agency, the administrator shall, not later than 30 days after the date of the issuance of such order, or, if such order is judicially reviewed, 30 days after such order is in substance affirmed upon review, send copies of the findings of fact, conclusions of law, and the order to that governmental agency and recommend to that governmental agency appropriate disciplinary action. In the case of an order against a respondent against whom another order was issued within the preceding five years under this Code section, the administrator shall send a copy of each such order to the Attorney General.

(d) If the board of commissioners finds that the respondent has not engaged or is not about to engage in a discriminatory housing practice, as the case may be, the board of commissioners shall enter an order dismissing the charge. The administrator shall make public disclosure of each such dismissal.

### **8-3-215. Appeal from order of board of commissioners; attorney's fees and costs**

(a) Any party to a hearing before the board of commissioners may appeal any adverse final order of the board of commissioners by filing a petition for review in the superior court in the county in which the alleged unlawful practice occurred or in the superior court of the residence of the respondent within 30 days of the issuance of the final order. The board of commissioners shall not be a named party. The administrator must be served with a copy of the petition for review. Within 30 days after the petition is served on the administrator, the administrator shall forward to the court a certified copy of the record of the hearing before the board of commissioners, including the transcript of the hearing before the board of commissioners and all evidence, administrative pleadings, and orders, or the entire record if no hearing has been held. For good cause shown, the court may require or permit subsequent corrections or additions to the

record. All appeals for judicial review shall be in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act"; provided, however, that if any provisions of Chapter 13 of Title 50 conflict with any provision of this article, this article controls.

(b) The court shall not substitute its judgment for that of the board of commissioners as to the weight of the evidence on questions of fact. The court may affirm a final order of the board of commissioners or remand the case for further proceedings. The court may reverse or modify the final order if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (1) In violation of constitutional or statutory provisions;
- (2) In excess of the statutory authority of the agency;
- (3) Made upon unlawful procedures;
- (4) Affected by other error of law;
- (5) Not supported by substantial evidence, which shall mean that the record does not contain such relevant evidence as a reasonable mind might accept as adequate to support said findings, inferences, conclusions, or decisions; or
- (6) Arbitrary, capricious, or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(c) If, upon judicial review of any order of the board of commissioners or in a proceeding in which a complainant seeks enforcement of a conciliation agreement, the court rules in favor of the complainant, then the court may in its discretion render an award of reasonable attorney's fees and costs of litigation in the superior court to the complainant. A prevailing respondent may be awarded court costs and reasonable attorney's fees only upon a showing that the action is frivolous, unreasonable, or without foundation.

### **8-3-216. Filing order of administrator or board of commissioners in superior court and judgment thereon**

Any person affected by a final order of the administrator or the board of commissioners may file in the superior court of the county of the residence of the respondent a certified copy of a final order of the administrator or of the board of commissioners unappealed from or of a final order of the board of commissioners affirmed upon appeal, whereupon said court shall render judgment in accordance therewith and notify the parties. Such judgment shall have the same effect and all proceedings in relation thereto shall thereafter be the same as though the judgment had been rendered in an action duly heard and determined by the court.

### **8-3-217. Civil actions by aggrieved persons**

(a) (1) An aggrieved person may commence a civil action in an appropriate superior court not later than two years after the occurrence or the termination of an alleged discriminatory housing practice or the breach of a conciliation agreement entered into under this article, whichever occurs last, to obtain appropriate relief with respect to such

discriminatory housing practice or breach of a conciliation agreement.

(2) The computation of such two-year period shall not include any time during which an administrative proceeding under this article was pending with respect to a complaint or charge under this article based upon such discriminatory housing practice. This paragraph does not apply to actions arising from a breach of a conciliation agreement.

(3) An aggrieved person may commence a civil action under this subsection whether or not a complaint has been filed under Code Section 8-3-208 and without regard to the status of any such complaint, but if the administrator has obtained a conciliation agreement with the consent of an aggrieved person, no action may be filed under this subsection by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such conciliation agreement.

(4) An aggrieved person may not commence a civil action under this subsection with respect to an alleged discriminatory housing practice which forms the basis of a charge issued by the administrator if the board of commissioners has commenced a hearing on the record under this article with respect to such charge.

(b) (1) The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order and may award to the plaintiff reasonable attorney's fees, court costs, actual damages, and punitive damages not to exceed penalties permitted by the federal Fair Housing Amendments Act of 1988, 42 U.S.C. Section 3601, et seq., as amended. Punitive damages may be awarded under this article only when the evidence shows that the respondent's actions showed willful misconduct, malice, fraud, wantonness, oppression, or that entire want of care which would raise the presumption of conscious indifference to consequences or to the rights of the aggrieved party.

(2) Where it is proved that the aggrieved party took an active part in the initiation, continuation, or procurement of civil proceedings against a respondent, the aggrieved party may be liable for abusive litigation as provided for in Article 5 of Chapter 7 of Title 51.

(c) Relief granted under this Code section shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving a bona fide purchaser, lessee, or tenant without actual notice of a complaint filed with the administrator or civil action under this Code section.

(d) Upon timely application, the Attorney General may intervene in such civil action if the Attorney General certifies that the case is of general public importance. Upon such intervention, the Attorney General may obtain such relief as would be available to the Attorney General under Code Section 8-3-218 in a civil action to which such Code section applies.

### **8-3-218. Civil actions by Attorney General**

(a) Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment

of any of the rights granted by this article or that any group of persons has been denied any of the rights granted by this article and such denial raises an issue of general public importance, the Attorney General may commence a civil action in any appropriate superior court.

(b) (1) The Attorney General may commence a civil action in any appropriate superior court for appropriate relief with respect to a discriminatory housing practice referred to the Attorney General by the administrator under paragraph (3) of subsection (b) of Code Section 8-3-211. A civil action brought under this paragraph may be commenced not later than 180 days from the date a reasonable cause determination is issued by the administrator.

(2) The Attorney General may commence a civil action in any appropriate superior court for appropriate relief with respect to breach of a conciliation agreement referred to the Attorney General by the administrator under subsection (d) of Code Section 8-3-209. A civil action brought under this paragraph may be commenced not later than the expiration of 90 days after the referral of the alleged breach under subsection (d) of Code Section 8-3-209.

(c) The Attorney General, on behalf of the administrator or other party at whose request a subpoena is issued under this article, may enforce such subpoena in appropriate proceedings in the superior court for the county in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(d) (1) In a civil action brought under subsection (a) or (b) of this Code section, the court:

(A) May award such preventive relief, including a permanent or temporary injunction, restraining order, or other order against the persons responsible for a violation of this article as is necessary to assure the full enjoyment of the rights granted by this article;

(B) May award such other relief as the court deems appropriate, including actual damages to persons aggrieved; and

(C) May, to vindicate the public interest, assess a civil penalty against the respondent:

(i) In an amount not exceeding \$50,000.00 for a first violation; or

(ii) In an amount not exceeding \$100,000.00 for any subsequent violation.

(2) In a civil action brought under subsection (a) or (b) of this Code section, the court in its discretion may allow the prevailing party reasonable attorney's fees and costs; provided, however, that a respondent may be awarded reasonable attorney's fees and court costs only upon a showing that the action is frivolous, unreasonable, or without foundation.

(e) Upon timely application, any person may intervene in a civil action commenced by the Attorney General under subsection (a) or (b) of this Code section which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person or a conciliation agreement to which such person is a party. The court may grant such appropriate relief to any such intervening party as is authorized to be granted to a plaintiff in a civil action under Code Section 8-3-217.

### **8-3-219. Expediting of actions under Code Section 8-3-217 or 8-3-218**

Any court in which a proceeding is instituted under Code Section 8-3-217 or 8-3-218 shall assign the case for hearing at the earliest practicable date and cause the case to be expedited.

### **8-3-220. Adoption of provisions in local ordinance**

A political subdivision of this state may adopt verbatim the laws against discriminatory housing practices cited in Code Section 8-3-202, 8-3-203, 8-3-204, 8-3-205, or 8-3-222 of this article as a local ordinance but may not expand or reduce the rights granted by this article.

### **8-3-221. Cooperation with federal and local agencies**

The administrator may cooperate with federal and local agencies charged with the administration of federal and local fair housing laws or ordinances and, with the consent of such agencies, utilize the services of such agencies and their employees. In furtherance of such cooperative efforts, the administrator may enter into written agreements with such federal or local agencies. All agreements and terminations thereof shall be published in the Official Compilation of the Rules and Regulations of the State of Georgia.

### **8-3-222. Coercion, intimidation, threats, or interference**

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of such person's having exercised or enjoyed, or on account of such person's having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this article.

### **8-3-223. Compliance with federal law**

Compliance with the provisions of the Fair Housing Amendments Act of 1988 (Pub. L. 100-430) shall be deemed compliance with the provisions of paragraph (7) of Code Section 8-3-201 and subparagraph (a)(7)(B) of Code Section 8-3-202. In addition, should any provision of this article relating to the treatment of persons with disabilities be in conflict with any provision of the Fair Housing Amendments Act of 1988, then the provisions of the latter shall prevail.